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Chronological Table of Acts of the Governor-General in Council.

1883-1899.

[NOTE —(*a*) Where an Act has been repealed in part, and the residue has been subsequently repealed the latter repeal only has, as a rule, been noted.

(*b*) In the case of (1) Acts which have been wholly repealed or are spent, and (2) Acts which apply to the Straits Settlements only, and are therefore not in force within the present limits of British India, the entries in the third and fourth columns are printed in italics.]

Year.	Number.	Subject or short title.	Repeals, amendments, and references.
1883	I.	Local Self-government (Central Provinces).	Amended by XVI. of 1889, s. 41.
	II	Amending Act VI. of 1879 Elephants' Preservation),	
	III.	Repealing Act XXVII. of 1854 (Nazim of Bengal).	Rep. by XII. of 1891.
	IV.	Amending Act IV of 1879 (Railways).	Rep. by IX. of 1890.
	V.	Merchant Shipping	Rep. by Act XXI of 1903.
	VI.	Amending Act XII. of 1859 (Pilots).	Amend by Act I of 1903.
	VII.	Repealing Lower Burma Labour Law (Act III. of 1876).	Rep. by XII. of 1891.
	VIII.	Little Cocos and Preparis Islands Laws	Rep. in part by XII. of 1891.
	IX.	Tennancy (Central Provinces) ...	Rep. by XI. of 1898.
	X.	Bikrama Singh's Estates ...	Not reprinted.
	XI.	Amending Act XII. of 1875 (Reduction of Port dues, Bombay).	Rep. by X. of 1889.
	XII.	Pilots (Lower Burma) ...	Amended by Bur. Act V of 1908.
	XIII.	Indus Valley State Railway Lands.	Rep. in part by XII. of 1891.

Year.	Number.	Subject or short title.	Repeals, amendments, and references.
	XIV.	Local Boards (North-Western Provinces and Oudh.)	Rep. by U. P. Act 3 of 1900.
1883	XV.	Municipalities (North-Western Provinces and Oudh).	Rep by U. P. I. of 1900.
	XVI.	Protection of Inventions.	Rep. by V. of 1888.
	XVII.	Native Passenger Ships (amending Act VIII. of 1876).	Rep. by X. of 1887.
	XVIII.	Amending Cattle-trespass Act I. of 1871.	Rep. by I. of 1891.
	XIX.	Land Improvement Loans ...	Rep. in part by XII. of 1891. Amended, XVIII. of 1899. Rep. in part by Act 8 of 1906, by Act 16 of 1908; by Act 10 of 1914.
	XX.	District Boards (Punjab) ...	Amended by XII. of 1891. „ „ Pun. I. of 1905.
	XXI.	Emigration	Rep. by Act XVII. of 1907.
	XXII.	Tramways (Rangoon) ...	Rep. by Ben. Act V. of 1909.
1884	I.	Honorary Degrees, Calcutta, Madras, and Bombay Universities.	Rep. by VIII. of 1904.
	II.	Partition deeds (Madras) ...	Rep. in part by XII. of 1891. Short title given by Act 11 of 1901.
	III.	Criminal Procedure Code (Act X. of 1882) Amendment.	Rep. by V. of 1898.
	IV.	Indian Explosives Act, 1884	Rep. in part by X. of 1889. „ „ by XII. of 1891. „ „ by Act XII. of 1914.
	V.	Amending Chutia Nagpur Encumbered Estates Act (VI. of 1876).	Rep. in part by XII. of 1891. Rep. in part by I. of 1903.
	VI.	Island Steam-vessels ...	Rep. by Act I. of 1917.

Year.	Number.	Subject or short title.	Repeals, amendments, and references.
	VII.	Steam-ships	Rep. by Act XXI. of 1923.
	VIII.	Repealing Ben. Reg. XIX. of 1810 in the North-Western Provinces.	Rep. by XII. of 1891.
1884	IX.	Legal Practitioners (amending Act XVIII. of 1879).	Rep. in part by XII. of 1891. and II. of 1899 Rep. in part by X of 1914.
	X.	Burma Courts (amending Act XVII. of 1875).	Rep. by XI of 1889.
	XI.	Incumbered Estates (Sindh) (amending Act XX. of 1881).	Rep. by II. of 1906.
	XII.	Agriculturists' Loans ...	Am by Act IV of 1914; by Act 8 of 1906.
	XIII.	Municipalities Punjab ...	Rep. by XX of 1891
	XIV.	Validation of Settlement officer's Decisions (Punjab).	Rep. by XII. of 1891.
	XV.	Validation of Marriage Licenses	Rep. by II. of 1891.
	XVI.	Gaming (Burma)	Rep. by Bur. Act I. of 1899.
	XVII.	Municipalities (Burma) ...	Rep. by XIII. of 1898.
	XVIII.	Courts (Punjab)	Rep. by Punj, Act III of 1914 and Reg. 7 of 1901.
	XIX.	Water-works (Rangoon) ...	Rep. in part by XII. of 1891. Amended Bur, I. of 1900 and Bur Act II of 1907.
	XX.	Amending Salt Act (XII. of 1882)	Rep by XII of 1891.
	XXI.	Straits Settlements Emigration	Rep. by XII. of 1891.
1385	I.	Steam boilers and Prime-movers (Burma).	Rep by Bur Act II of 1910.
	II.	Negotiable Instruments ...	Rep. in part by XII. of 1891.
	III.	Transfer of Property ...	Amendment by Act XIV of 1897.

Year.	Number.	Subject or short title.	Repeals, amendments, and references.
	IV.	Additional Judicial Commissioner (Oudh).	Rep by XIV. of 1891.
	V.	Amending Indian Parts Act (XII. of 1875).	Rep. by X. of 1889.
	VI.	Amending Excise Act (XXII. of 1881).	Rep. by XII. of 1896.
	VII.	Panch Mahals Laws ...	Rep. in part by XII. of 1891.
1885	IX.	Amending Tariff Act (XI. of 1882), Excise Act (XXII. of 1881), Bengal Excise Act (Ben. Act VIII. of 1878), and Sea Customs Act (VIII. of 1878	Rep. in part by XII. of 1891 ; I. of 1903.
	X.	Amending Oudh Estates Act I. of 1869.	
	XI.	Amending Burma Municipal Act (XVII. of 1884).	Rep. by XIX. of 1888.
	XII.	See Passengers	Rep. in part by XII. of 1891.
	XIII.	Telegraphs	Amended by XI. of 1818. Amended by Act 7 of 1914.
	XIV.	Amending Burma Courts Act (XVII. of 1875) and Code of Civil Procedure (XIV. of 1882).	Rep. by XI. of 1889. by Act 14 of 1914.
	XV.	Amending Local Authorities Loan Act (XI. of 1879).	Rep. by Act IX of 1914.
	XVI.	Civil Courts, Central Provinces.	Rep. by II. of 1904.
	XVII.	Government Wards, Central Provinces	Rep. by XXIV. of 1899.
	XVIII.	Land Acquisition (Mines) ...	Amend by Act XXX. VIII of 1920.
	XIX.	Indian Securities	Rep. by XIII. of 1886.
	XX.	Postponing temporarily the operation of certain provisions of the Bengal Tenancy Act (VIII. of 1885).	Rep. by XII. of 1891.
	XXI.	Civil Courts, Madras ...	Rep. by Act XVII of 1914.

Year.	Number.	Subject or short title.	Repeals amendment, and references.
1886	I.	Lahore Tramways	
	II.	Income-tax	Rep. by Act VII of 1918.
	III.	Amending Ferries Act (XVII. of 1878)	Amending by Act V. of 1897. ... ...
	IV.	Amending Contract Act (IX. of 1872), s. 265.	Rep. in part by XII. of 1891.
	V.	Mirzapur Stone Mahal ...	Rep. in part by XII. of 1891. ... ...
	VI.	Births, Deaths, and Marriages Registration.	Rep. in part by II. of 1891 ; IX of 1911 XII. of 1891. Amended by XVI. of 1890. Amend by Act 38 of 1920.
	VII.	Registration m ...	Rep. by Act XVI of 1908.
1886	IX.	Deo Estate (Bengal).	
	XI.	Tramways ...	Rep. in part by IX. of 1890. Amended by Act V of 1911.
	XII.	Petroleum	Rep. by VIII. of 1899.
	XIII.	Securities	Rep. by Act X of 1920.
	XIV.	Rent, North-Western Provinces	Rep. by U. P. II. of 1901.
	XV.	Land-revenue, North-Western Provinces.	Rep. by X. of 1903,
	XVI.	Lower Burma Gaols Delivery ...	Rep. by XI. of 1889.
	XVII.	Jhansi and Morar ...	Rep. in part by XX. of 1890, s. 8, (2). Amended by XX. of 1890. a. 7.
	XVIII.	Amending Lunatic Asylums Act XXXVI. of 1858).	Bep. by Act IV of 1912.
	XIX.	Discharge by Lieutenant-Governor, North-Western Provinces, of certain functions of Governor-General in Council.	

Year.	Number.	Subject or short title.	Repeals, amendments References.
	XX.	Upper Burma Laws ...	Rop. by XIII. of 1898.
	XXI.	Oudh Wasikas	
	XXII,	Oudh Rent	Rep. in part by XII of 1891; U. P. IV. of 1901.
	XXIII.	Amending Dekkhan Agriculturists' Relief Acts, 1879 to 1882.	Rep. in part by XII. of 1891; XVI. of 1895. Amended by XII. of 1891; VI. of 1895.
	XXIV.	Glanders and Farcy (extending Act XX. of 1879 to Bombay Presidency.	Rep. by XXII of 1891.
	I	General Clauses	Rep. by X of 1897.
	II.	Amending See Customs Act (VIII. of 1878), Excise Act (XXII. of 1881), and Indian Tariff Act (XI, of 1882).	Rep. in part by XII, of 1891; VIII. of 1894, XII. of 1896.
	III.	Amending Indian Evidence Act (I. of 1872)	
1887	IV.	Indian Museum (Calcuttà) ...	Rep. by X. of 1910.
	V.	Amending Code of Criminal Procedure (X. of 1882).	Rep. by V. of 1898.
	VI.	Amending Indian Companies Act (VI, of 1882).	Rep. by Act VII of 1913.
	VII.	Suits Valuation ...	Rep. in part by XII. of 1891. Ammended by Act 38 of 1920.
	VIII.	Abolishing Military Courts of Requests.	Rep. by XII of 1891.
	IX.	Provincial Small cause Courts	Rep. in part by X. of 1888; IV., VI. and X. of 1914; XII. of 1891; U, P, II. of 1901; Act IX. of 1908. Amended by Act IX. of 1922; XI. of 1915.
	X.	Native Passenger Ships ...	Rep. by Act XXI of 1923.

Year.	Number.	Subject or short title.	Repeals, amendments, and references.
	XI.	Sindh-Pishin Railway ...	Amended by IX. of 1890.
	XII.	Civil Courts in Bengal, North-Western Provinces, and Assam.	Rep. in part by XII of 1821; VII of 1889; VIII. of 1890. XX. of 1890.
	XIII.	Electricity	Rep. by III of 1903.
	XV.	Indian Marine	Rep. by Act 21 of 1923.
	XV.	Burma Military Police	Rep. in part by XIII. of 1898. Amended by XIII. of 1898; Bur. III. of 1899; II. of 1901, III. of 1911.
	XVI.	Punjab Tenancy ...	Rep. in part by XII. of 1891; IV of 1914. Amended by XII. of 1891; Punjab Act II. of 1912; XIII. of 1900, Punjab Act III. of 1914. Amended by Act 18 of 1919; 38 of 1920.
	XVII.	Punjab Land-revenue	Rep. in part by XII. of 1891, and amended, XVII of 1896, XVi of 1919, Pun. II. of 1905; Pun. Act II of 1912. Amended, Pun. I. of 1899. Amended Act 38 of 1920; Pun. Act 3 of 1914; Pun. Act II of 1912 and Act IV of 1914.
	XVIII.	Allahabad University ...	Rep. by U. P. Act III of 1921.
1887	XIX	Administration of Estate of late King of Oudh.	Supplemented by XIV of 1888.
	XX.	Protection of Wild Birds and other Game.	Rep. by Act VIII of 1912.

Year.	Number.	Subject or short title.	Repeals, amendments, and references.
	XXI.	Inland Bonded Warehouse ...	Rep. by VIII of 1896.
1888	I	Stamps (amending Act I of 1879)	Rep by II of 1899.
	II	Customs--duty on Petroleum (amending Act XI of 1882).	Rep. in part by VIII of 1894.
	III	Police (amending Acts XXIV of 1859 and V of 1861 and Bom. Act VII of 1867).	Amended by XII of 1891. Rep. in pt. by Act X of 1914.
	IV.	Indian Reserve Forces.	
	V.	Inventions and Designs ...	Rep. by Act II of 1911.
	VI.	Imprisonment for Debt ...	Rep. by Act X of 1914.
	VII.	Amending Code of Civil Procedure, Acts.	Rep. in pt. by V of 1908; " Act IX of 1908. Rep. by Act XVI of 1908.
	VIII.	Tolls	Rep. in pt. by XII of 1891.
	IX.	Repealing Contagious Diseases Acts.	Rep. by XII of 1891.
	X.	Amending Code of Civil Procedure and Presidency Small Cause Courts Act, 1882.	Rep. by Act V of 1908.
	XI.	Telegraphs (amending Act XIII of 1885).	
	XII.	Supplementing the Bombay and Calcutta Municipal Acts.	Rep. in pt. by Ben. Act III of 1899.
	XIII.	Punjab Courts (amending Act XIII of 1884).	Rep. by Punj III of 1914.
	XIV,	Administration of Estate of late King of Oudh.	Not reprinted.
	XV.	Shan States (supplementing Act XX of 1886).	Rep. by XIII of 1898.
	XVI.	Repealing Act VII of 1867, and Madras Regulation XIV of 1832.	Rep by XII of 1891.

Year.	Number.	Subject or short title.	Repeals, amendments, and references.
1888	XVII.	Indian Marine (Amending Act XIV of 1887).	
	XVIII.	Financial Commissioner, Burma.	Rep. in pt. by XII of 1896; „ by XXXVIII of 1920; „ XIII of 1898; „ II of 1899; „ by IV of 1914.
	XIX.	Burma Municipalities (amending Act XVII of 1884).	Rep by XIII of 1898.
1889	I.	Metal Tokens	Rep. in pt. by V of 1898; by X of 1914.
	II.	Measures of Length.	
	III.	Lower Burma Village ...	Rep. Bur. VI of 1907.
	IV.	Indian Merchandise Marks	Amended by IX of 1891. Rep. in pt. by XVI of 1904.
	V.	Coroner of Madras ...	Rep. in pt. by XII of 1891; „ V of 1898. Amended by XII of 1891; „ I of 1903.
	VI.	Probate and Administration	Rep. in pt. by XII of 1891; „ XIII of 1898; „ II of 1899; „ XI of 1999. „ V of 1902; „ X of 1914 and XVII of 1919,
	VII.	Succession Certificate	Rep. in pt. by XIII of 1898. Restricted, VII of 1901
	VIII.	Amending Sea Customs Act, 1878, and Tariff Act, 1882.	Rep. in part by VIII of 1894.
	IX.	Kanungos and Patwaris, N.-W. P. and Oudh.	Rep. in pt. U. P. IV of 1906.

Year.	Number.	Subject or short title.	Repeals, amendments, and references.
1889	X.	Indian Ports	Rep. by Act XV of 1908.
	XI.	Lower Burma Courts ...	Rep. by VI of 1900.
	XII.	Amending Indian Merchandise Marks Act, 1889.	Rep. by XII of 1891.
	XIII.	Cantonments	Rep. by Act XV of 1910.
	XIV.	Indemnification of Certain Witnesaes Bombay.	Rep, by XVI of 1895.
	XV.	Indian Official Secrets ...	Rep by Act XIX of 1923.
	XVI.	Land-revenue (Central Provinces).	Rep. in pt. by XII of 1891 ; „ XII of 1898.
	XVII.	Tenancy Central Provinces) ...	Rep. by XI of 1898.
	XVIII.	Municipalities (Central Provinces).	Rep. by XVI of 1903
	XIX.	Village-Sanitation (Central Provinces).	Rep. by XI of 1902.
	XX.	Amending Act XXXVI of 1858 (Lunatic Asylums).	Rep. by Act IV of 1912.
1890	I	Revenue-recovery ...	Rep. in pt. XIII of 1914. Amended by Act IX of 1914.
	II.	Probate and Administration Act, 1890.	Rep. in pt. by III of 1913 ; and II of 1913.
	III.	The Indian Stampships Law Amendment Act.	Rep. by Act 21 of 1923.
	IV.	Amending Central Provinces Civil Courts Act, 1885.	Rep. by II of 1904.
	V.	The Forest Act, 1890. ...	Rep. in pt. by XII of 1891 ; „ X of 1914. „ Bur. IV of 1902.
	VI.	Charitable Endowments	Rep. in pt. XIII of 1898. Amended Act XXXVIII of 1920.

Year.	Number.	Subject or short title.	Repeals, amendments, and references.
1890	VII.	Comptoir National D'Escompte de paris.	
	VIII.	Guardians and Wards ...	Rep. in pt. by XIII of 1898, " XXIV of 1899; " VI of 1900. " V of 1908.
	IX	Indian Railways ...	Rep. in pt. by XIII of 1898; " XI of 1923, " " and amended, IX of 1896. Supplemented by IV of 1905. Amended Act XI of 1923 and XVIII of 1919.
	X.	Amending Act XXV of 1867 Printing Presses and Books.)	Rep. in pt, by XII of 1891.
	XI.	Prevention of Cruelty to Animals.	Amended Act XIV of 1917.
	XII.	Indian Tariff	Rep. by VIII of 1894.
	XIII.	Excise (Malt Liquors) ...	Rep. in part by XII. of 1914. Bur. Act V of 1904. E. B. & A. Act I of 1910.
	XIV,	Amending Petroleum Act, 1886 .	Rep. by VIII. of 1899.
	XV.	Amending Paper Currency Act, 1882.	Rep. by XXI. of 1896.
	XVI.	Amending Births, Deaths, and Marriages Registration Act, 1886.	Rep. in part XXXVIII. of 1923.
	XVII.	Indian Census	Rep. by I. of 1908.

Year.	Number.	Subject or short title.	Repeals, amendments, and references.
1890	XVIII.	Amending Indian Emigration Act, 1883.	Rep. by Act XVII of 1908.
	XIX.	Amending Indian Salt Act, 1882.	Rep. by Act X of 1914.
	XX.	The United Provinces Act, 1890.	Rep. in part by XII. of 1891. XII of 1896. II of 1899. U. P. V. of 1894, III of 1899. II of 1901. III of 1901. I of 1903.
1891	I.	Amending Cattle-trespass Act, 1871.	Rep. in pt. by XII of 1891.
	II.	Amending Indian Christian Marrirge Act, 1872.	Amended by XVIII. of 1920.
	III.	Amending Evidence Act, 1872, and Criminal Procedure Code, 1882.	Rep. in pt. by V of 1898; V of 1899. X of 1914.
	IV.	Amending Criminal Procedure Code, 1882	Rep. by V. of 1898.
	V.	The Indian Ports Act, 1891 ..	Rep by Act XV of 1908.
	VI.	Amending certain Acts respecting Indian Merchant Shipping.	Rep. by Act 21 of 1923.
	VII.	Amending Act X of 1841 ...	Rep. in part and amendment by XII of 1891.
	VIII.	Extending Indian Easements Act, 1882.	
	IX.	Amending Indian Merchandise Marks Act, 1889, and Sea Customs Act, 1878.	Rep. by Act X of 1914.
	X.	Amending Penal Code and Criminal Procedure Code, 1882.	Rep. in part by V. of 1898.
	XI.	Amending Indian Factories Act, 1881.	Rep. by XII of 1911.

Year.	Number.	Subject or short title.	Repeals amendment, and references.
1891	XII.	Repealing and Amending Act	Rep. in part by IX. of 1894; XII. of 1896; X. of 1897; V. of 1898; XI. of 1898; XIII. of 1898; II. of 1899; VIII. of 1899; XIII. of 1899; XXIV. of 1899; III. of 1900; VI. of 1900; VI. of 1901; I. of 1903; XVI. of 1903; II. of 1904; Bur. IV. of 1902; U. P. II. of 1901; Pun. II. of 1905; Reg. I. of 1899; Reg. I. of 1900; V. of 1908; XVI. of 1908; XV. of 1910; VIII. of 1919; III. of 1913; X. of 1914; IV. of 1922; XXXI. of 1920;
	XIII.	Amending Inland Steam-vessels Act, 1884.	Rep. by Act I. of 1917.
	XIV.	Oudh Courts	Rep. in part and amended, XVI. of 1897. Amend in U P. by Act II of 1917 and XXXV of 1920.
	XV.	Moorshedabad	Rep. in part by Act 25 of 1923.
	XVI.	Colonial Courts of Admiralty ...	Rep. in part VI. of 1900. Amended, VI. of 1900. Rep. in part by XI of 1923.
	XVII.	Deck and Load Lines ..	Rep by Act XXI of 1923.
	XVIII.	Bankers' Books Evidence ...	Amended, I. of 1893, XII. of 1900. Rep. in part by Act 10 of 1914.

Year.	Number.	Subject or short title.	Repeals, amendments References.
1991	XIX.	Amending Upper Burma Laws Act, 1886.	Rep. by XIII. of 1898.
	XX.	Punjab Municipalities ...	Rep. by Punjab Act III. of 1911.
	XXI.	Amending Lower Burma Municipal Act, 1884.	Rep. by XIII. of 1898.
	XXII.	Extending Inland Emigration Act, 1882.	Rep. by VII. of 1893.
1892	I.	Amending Indian Tariff Act, 1882.	Rep. by VIII. of 1894.
	II.	Validation of certain Marriages under Part VI. of Indian Christian Marriage Act, 1872.	Rep. in part by Act 14 of 1897.
	III.	Amending Rangoon Port Commissioners Act, 1879.	Rep. by Bur. IV. of 1905.
	IV.	Amending Bengal Court of Wards Act, 1879	Rep. in part by V. of 1897; I. of 1903.
	V.	Bengal Military Police ...	Rep. by Ben. Act I. of 1914 and E. B and Act III. of 1912.
	VI.	Amending Indian Limitation Act, 1877, and Civil Procedure Code, 1882.	Rep. by Act X of 1914.
	VII	Additional Civil Court for City of Madras.	Rep. in part by IV. of 1914; XVII. of 1914 and Mad. Act of 1916.
	VIII.	Tolls upon the Lansdowne Bridge.	
	IX.	Administration of Towns in Lower Burma.	Rep. by Ben. Act III. of 1907.
	X.	Levy of Rate on Private Estates under Government Management.	Rep. in part XIII. of 1898. X. of 1914.
1893	I	Extension of Bankers' Books Evidence Act, 1891.	Rep. in part by Act X. of 1914.
	II.	Estate of Porahat.	Rep. in part by I. of 1903.

Year.	Number.	Subject or short title.	Repeals, amendments, and references.
1893	III.	Special Tenancies, Punjab ...	Rep. in part by XIV. of 1896. XVII. of 1914.
	IV.	Partition	Rep. in part by Act X. of 1914.
	V.	Capital Sentences	Rep. by III. of 1900.
	VI.	Bonds of Bombay Municipality.	
	VII.	Amending Inland Emigration Act, 8832.	Rep. by VI. of 1901.
	VIII.	Amending Indian Coinage Act, 1870, and Indian Paper Currency Act, 1882.	Virtually Rep. by III. of 1905 ; III. of 1906.
	IX.	Amending Indian Tariff Act, 1882.	Rep. by VIII. of 1894.
	X.	Amending Excise Act, 1881 ...	Rep. by XII. of 1896.
	XI,	Tributary Mahals of Orissa ...	Rep. in part by I. of 1903.
1894	I.	The Land Acquisition Act, 1894	Rep in part and Amended Act X of 1914. Rep. Act IV of 1914. Amended by Act IX of 1910. Amended by Act XVII of 1919. Amended by Act XXXVIII of 1920. Amended by Act 19 of 1921. Amended by Act XXXVIII of 1923.
	II.	The Indian Ports Act (1899) Amendment Act, 1894.	Rep. by Act XV of 1908
	III.	The Indian Criminal Law Amendment Act, 1894.	Rep. in part by Act V. of 1898. „ Act X of 1914.
	IV.	The Amending Act, 1894 ...	Rep. in part by Act I of 1903.
	V.	The Civil Procedure Code, Amendment Act, 1894.	Rep. by Act V of 1908.

Year.	Number.	Subject or short title.	Repeals, amendments, and references.
1894	VI.	The Indian Stamp Act (1879) Amendment Act, 1894.	Rep. by Act II of 1899
	VII.	The Prisoners Act (1871) Amendment Act, 1894.	Rep. by Act III of 1900.
	VIII.	The Indian Tariff Act, 1894 ...	Rep. in part by Act X of 1914. „ Madras Act I f 1913. Amended by Act XIV of 1899. „ by Act XI of 1904. „ Act IX of 1903. „ Act XII of 1903. „ Ben. Act V of 1909. „ E. B. & A. Act I of 1910. „ U. P. Act IV of 1910. „ Punjab Act I of 1914. „ C. P. Act II of 1915. „ Act IV of 1916. „ Act XIII of 1916. „ Act VI of 1917. „ Act XIX of 1919. „ Act VII of 1920. „ Act VI of 1921.
	IX.	The Prisons Act	Rep. in part by British Act XIII of 1898. Amended by Act X of 1914. Amended by Act XIII of 1910.
	X.	The Criminal Procedure Code (1882) Amendment Act.	Rep. by Act V of 1898.
	XI.	The Lower Burma Village Act, (1889) Amendment Act.	Rep. by Burma Act VI of 1907.
	XII.	The Indian Articles of War Amendment Act, 1894.	Rep. by Act VIII of 1911.
	XIII.	The Amending Army Act 1894.	Rep. in part by Act of I 1903. „ by Act IV of 1904. „ by Act IV of 1912.
	XIV.	Municepalities Lower Burma (amending) Act XVII of 1884.	Rep. by Act XIII of 1898.

Year.	Number.	Subject or short title.	Repeals, amendments, and references.
1894	XV.	The Engineer's certificates validation Act, 1891.	Rep. in part by Act X of 1914.
	XVI.	Tariff (amending Act 8 of 1894).	Rep. by Act I of 1903.
	XVII.	The Cotton Duties Act, 1894 ...	Rep. by Act II of 1896.
1895	I.	The Presidency Small Cause Courts Act, 1895	Rep. by Act I of 1903 ; „ Act X of 1914.
	II.	The Burma Boundaries Act Amendment Act, 1895 ...	Rep. in part by Act XIII of 1898.
	III.	The Indian criminal Law Amendment Act, 1895	Rep. in part by Act VI of 1898. „ by Act V of 1900. „ by Act IV of 109. „ by Act X of 1914.
	IV.	The Criminal Proseders Code (1882) Amendment Act, 1895	Rep by Act of V of 1898.
	V.	The Cantonments Act Amendment Act, 1895	Rep. by Act XV of 1897.
	VI.	The Dekkhan Agriculturists' Relief Act, 1895	
	VII.	The Punjab Laws Act Amendment Act, 1895	Rep. in part by Punj. Act 2 of 1904. „ by Act A of 1908.
	VIII.	The Police Act (1861) Amendment Act, 1895	Rep. in part by Bur Act IV of 1899. „ by Reg VII of 1901
	IX.	The Extradition (India) Act, 1895	Rep. by Act XV of 1903.
	X.	The Indian Railway Companies Act, 1895	Rep. in part by Act X of 1914.
	XI.	The Pegu and Tenasserin Validation Act, 1895	
	XII	The Indian Companies (Memorandum of Association) Act, 1895	Rep. by Act VII of 1923.
	XIII.	The Civil Prosedore Code Amendment Act, 1895	Rep. by Act V. of 1908.
	XIV.	The Pilgrin Ships Act 1895. ...	Rep. by Act XXI of 1923.

Year.	Number.	Subject or short title.	Repeals, amendments, and references.
1895	XV.	The crown semts Act, 1895 ...	Rep. in part by Act X of 1914.
	XVI.	The Amending Act 1895 ...	Rep. in part by Act I of 1903.
	XVII.	The Marriage Validation (Bangalore) Act, 1895.	Amend by Act XXXVII of 1920. Rep. by Act XI of 1920.
	XVIII.	The Lower Burma Villages and Towns Law Amendment Act, 1895.	Rep. by Bur Act III of 1907. ... ...
	XIX.	The PunjabCourts (Amendment) Act, 1895	Rep. by Panj. Act III of 1914. ... ...
	XX.	Ex-King Thebaw's Act 1895.	
	XXI.	Laws Upper Burma, Shan States (Amending Act XX of 1886 and XV of 1888).	Rep by Act XIII of 1898.
1896	I.	The Indian Emigration Act (1883) Amendment Act, 1896.	Rep, by Act XVII of 1908.
	II.	The Cotton Duties Act, 1896	Rep. in part by Act X. of 1914. Amended by Act 1896. Amended by Act IV. of 1914 Amended by Act XXXVIII of 1920.
	III.	The Indian Tariff Act (1894) Amendment Act, 1896	Rep. by Act IV of 1916.
	IV.	The Indian Ports Act (1889) Amendment Act, 1896.	Rep. by Act XV of 1908.
	V.	The Foreign Jurisdiction and Extradition Act (1896) Amendment Act. 1896.	Rep. by Act XV of 1903.
	VI.	The Indian Penal Code Amendment Act, 1896.	
	VII.	The Presidency Small Cause Courts Act (1882) Amendment Act 1896.	Rep. by Act I of 1903.
	VIII.	The Inland Bonded Ware Houses Act, 1896.	Rep. in part by Act X of 1914. Rep. by Act IV. of 1914.

Year.	Number.	Subject or short title.	Repeals, amendments References.
1896	IX.	The Indian Railways Act (1890) Amendment Act, 1896.	Rep. in part by Act X. of 1914.
	X.	The Indian Volunteers Act Amendment) Act.	Rep. by Act XLIX of 1920.
	XI.	The Legal Practitioners Act.	Rep. in part by Act X of 1214. Rep. in part by Act XV. of 1914. ,, by Act XIII of 1898. ,, by Act V. of 1909. ,, by U. P. Act IV. of 1910.
	XII.	The Excise Act, 1896.	,, by Pun. Act I of 1914. ,, by C. P. Act II of 1915. ,, by Bur. Act III of 1904. ,, by Act VII of 1906.
	XIII.	The Criminal Procedure Code (1882) Amendment Act, 1896.	Rep. by Act V. of 1898.
	XIV.	Government Tenants, Punjab (Amending Act III of 1893).	Rep. by Act I of 1903.
	XV.	Glanders and Farcy (Amending Act XX of 1879).	Rep. by Act XIII. of 1899.
	XVI.	Post Office (Amending Act XIV of 1866).	Rep. by Act VI. of 1898.
	XVII.	The Punjab Land Revenue Amendment) Act, 1896.	
	XVIII.	The Punjab Municipalities (Amendment) Act. 1896.	Rep. Pun. Act III. of 1011.
	XIX.	The Central Provinces Additional Judicial Commissioner's Act, 1896.	Rep. by Act II of 1904.
	XX.	The Sind Incumbered Estates Act, 1896	Rep in part by Act II of 1906. Amended by Bur. Act II of 1919.

Year.	Number.	Subject or short title.	Repeals, amendments, and references.
1896	XXI.	The Indian Paper Currency Act Amendment Act, 1896.	Rep. by Act III of 1905.
1897	I.	The Public Servants (Inquiries) Act (1850) Amendment Act, 1897.	
	II.	The Criminal Tribes Act, Amendment Act, 1897.	Rep. by Act III of 1911.
	III.	The Epidemic Deseases Act, 1897.	Rep. in part by Act X of 1914. " Act XIII of 1898. Amended by Act XXXVIII of 1920.
	IV.	The Indian Fisheries Act, 1897.	Rep. in part by Act X of 1914.
	V.	The Amending Act, 1897.	Rep. in part by Act X of 1914. " Act IV of 1922. " Act VI of 1901. " Ben. Act V. of 1909 and E. B. and A, Act I of 1910.
	VI.	The Negotiable Instruments Act Amendment Act 1897.	Rep. in part by Act X. of 1914.
	VIII.	The Reformatory Schools Act, 1897.	Rep. in part by Act X of 1914. " Act IV of 1914. Act III of 1900.
	IX.	The Provident Funds Act. 1897.	Rep. in prrt by Act X of 1914. " Act XIII of 1898. Amended by Act XIV of 1919. Amended by Act XXXVIII. of 1920.

Year.	Number.	Subject or short title.	Repeals, amendments, and references.
			Rep. in part by Act X of 1914. „ Act I of 1903. „ Act XVII of 1914.
1897	X.	The General Clauses Act, 1897	Amended by XXIV of 1917. Amended by Act XVIII of 1919. Amended by Act XXXI of 1920. Amended by Act XI of 1923.
	XI.	The Bhopal Coinage Act, 1897	Rep. by Act I of 1903.
	XII.	The Local Authorities (Emergency) Loans Act.	Rep. by Act IX of 1919.
	XIII.	The Indian Stamp Act 1879) Amendment Act, 1897.	Rep. by Act II of 1899.
	XIV.	The Indian Short Titles Act	Rep. in pt. by Act of 1898. „ by Act VIII of 1898. „ by Act XIII of 1899. „ by Act II of 1900. „ by Act VIII of 1911. „ by Act X of 1914. „ by Act I of 1917. „ by Act VII of 1918. „ by Act IV of 1922. „ by Act XXI of 1923.
	XV.	The Cantonments Act, 1897.	Rep. by Act XV of 1910.
	XVI.	The Oudh Courts Act (1891) Amendment Act, 1897.	
1898	I.	The Stage-Carriages' Act Amendment Act, 1898.	Rep. in pt. by Act X of 1914.

Year	Number.	Subject or short title.	Repeals amendment, and references.
1898	II.	The Indian Paper Currency Act, 1898.	Rep. by Act VIII of 1900.
	III.	The Papers Act, 1898.	Rep. in pt. by Act XVII of 1898. „ by Act I of 1903. Amended by Act XXII of 1920
	IV.	The Indian Penal Code Amendment Act,	Rep in pt by Act X of 1914.
	VI.	The Indian Post Office Act,	Rep. in part by Act 13 of 1898. „ by Act II of 1903. „ by Act X of 1914. Amended by Act 3 of 1912, „ by Act XIV of 1914. „ by Act VI of 1921. „ by Act XV of 1921. „ by Act XII of 1922. „ by Act XIV of 1922.
	VII.	The Petroleum Act ...	Rep. by Act VIII of 1899.
	VIII.	The Indian Paper Currency Act Amendment Act, 1898.	Rep. by Act VIII of 1914.
	IX.	The Live Stock Importation Act, 1898.	Rep. fn pt. by Act X of of 1914.
	X.	The Indian Insolvency Rules Act 1398.	Rep. in pt. by Act X of 1914 „ by Act III of 1909.
	XI.	Central Provinces Tenancy Act, 1898.	Rep. by C. P. Act I of 1920.
	XII.	Central Provinces Land-Revenue Act, 1898.	

Year.	Number	Subject or short title.	Repeals, amendments, and references.
1898	XIII.	The Burma Laws Act, 1898.	Rep. in pt. by Act I of 1903. „ by Act IV of 1909. „ by Reg. IV of 1910. „ by Act IV of 1914 „ by Bur. Act. II of 1904. „ by Bur. Act III of 1905. „ by Bur. Act IV of 1909 by Bur. Act IV. of 1905. by Bur. Act IV. of 1902. by Bur. Act V. of 1909 by Reg. I. of 1907. by Bur. Act VI. of 1907 by Act IV. of 1922. by Act 38 of 1920.
1899	I.	The Indian Marine Act (1887) Amendment Act, 1899.	Rep. in part by Act X. of 1914.
	II.	The Indian Stamp Act 1899.	Amended by Act VI. of 1900. by Act X of 1914. by Act IV. of 1904 by Act XVIII. of 1919. by Act V, of 1906. by Act VI. of 1910. by Act I. of 1912. by Act IV. of 1914. by Act XI. of 1923. by Act XLIII of 1923.
	III.	The Presidency Small Cause Courts Act.	Rep in part by Act X. of 1919.
	IV.	The Government Buildings Act, 1899.	Rep. in part by Act X of 1919. Amended by Act XXXVIII. of 1920.
	V.	The Indian Evidence Act, 1899.	Rep. in part by Act X. of 1914.
	VI.	The Indian Contract Act.	
	VII	The Inland Steam Vessels Act (1884) Amendment Act, 1899.	Rep. by Act I. of 1917.
	VIII.	The Indian Petroleum Act, 1899.	Rep. in part by Act XI. of 1901. „ Act IV. of 1914.
	IX.	The Indin Arbitration Act, 1899.	Rep. in part by Act VII of 1913. Amended by Act VI. of 1900. „ U. P. Act I of 1912. „ Act XXXVIII. of 1920. „ Act XI. of 1923

Year.	Number.	Subject or short title.	Repeals, amendments, and references.
1899	X.	The carriers Act.	Rep. by Act IX. of 1908.
	XI.	The Court Fees Amendment Act, 1899.	Rep. by part by Act X. of 1914.
	XII.	The Currency Notes Forgery Act, 1899.	Rep. in part by Act X. of 1919.
	XIII.	The Glanders and Farcy Act, 1899.	Rep. in part by Act X. of 1914. Amended by Act XI. of 1901. „ XII of 1910. „ IX. of 1920 and Act XXXVIII. of 1920.
	XIV.	The Indian Tariff Amendment Act, 1899.	Rep. in part by Act X. of 1914.
	XV.	the Marriages Validation (Pudukotti and Travancore Act, 1899.	Rep. by Act XI. of 1901.
	XVI.	The Northern India Cannal and Drainage (Amendment) Act.	Rep. in part by Act XVII. of 1914.
	XVII.	The Indian Registration (Amendment) Act, 1899.	Rep. by Act XVI. of 1908.
	XVIII.	The Land Improvement Loans (Amendment) Act, 1899.	Rep. in part by Act X. of 1914.
	XIX.	The Currency Conversion (Army) Act, 1899.	Rep. in part by Act VII of 1900. Rep. in part by Act X of 1914.
	XX.	The Presidency Banks, Act.	Rep. by Act XLVII. of 1920.
	XXI.	The Central Provinces Tenancy (Amendment) Act, 1899.	Rep. by C. P. Act I. of 1920.
	XXII.	The Indian Comage and Paper Currency Act, 1899.	Rep. in part by Act III. of 1905. Rep. in part by Act III. of 1907.
	XXIII.	The Church of Scotland Kirk Sessions Act, 1899.	Rep. in part by Act X. of 1914.
	XXIV.	The Central Provinces Court of Wards Act, 1899.	Amended by C P. Act I. of 1915. „ by Act 38 of 1920
	XXV.	The Punjab Courts Act, 1899.	Rep. by Punjab Act 3 of 1914.

THE UNREPEALED ACTS

OF

THE GOVERNOR-GENERAL IN COUNCIL

—:o:—

ACT I. OF 1883.

The Central Provinces Local Self government Act, 1883.*

RECEIVED THE G.-G.'S ASSENT ON THE 12TH JANUARY 1883.

An Act to make better provision for Local Self-government in the Central Provinces.

Preamble.

WHEREAS provision has been made by the Central Provinces Land Revenue Act, 1881, for the appointment of mukaddams for the several villages in the territories administered by the Chief Commissioner of the Central Provinces ; and

Whereas provision has been made in the settlement records of the districts in those territories for the levy of rates for the maintenance of roads, schools, and the district-post, and it is proposed that the Government shall, from time to time, assign certain sums, or the income accruing from certain sources, for expenditure on objects tending to promote the welfare and improvement of the inhabitants of each of those districts ;

It is hereby enacted as follows :—

Preliminary.

Short title.

1. This Act may be called the Central Provinces Local Self-government Act, 1883.

Local extent.

It shall extend only to the territories for the time being administered by the Chief Commissioner of the Central Provinces ; and

Commencement.

it shall come into force at once.

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* This Act has been repealed except S. 41 (1) in taluqus of Nagor, Albaka and chèrla by Act I of 1909 S. 3 (2).

Definitions.

2. In this Act—

"Assistant Commissioner" includes an Extra Assistant Commissioner in any district where there is no Assistant Commissioner

"Financial year" means the year commencing on the 1st day April :

"Village" includes any tract of land which, at the last settlement of that land, has been recognized as a village, or which the Chief Commissioner may, from time to time, declare to be village for the purposes of the Central Provinces Land-revenue Act 1881 ; and

"Mukaddam" means the executive headman of a village appointed under that Act.

Formation of Local Administrative Areas

Aggregation of villages in circles and groups for purposes of local self-government.

3. (1) The Chief Commissioner shall, by order in writing, for the purposes of the local self-government of each district, aggregate several villages thereof in circles, and the circles in groups.

(2) There shall be excluded from the circles and groups formed under this section such portions of the district as are for the time being included in the limits of a military cantonment, or of a town having a municipal committee.

(3) The Chief Commissioner may, from time to time, by order in writing, vary any order made under this section.

Constitution of Local Administrative Bodies.

Establishment of local boards for groups and of district councils for districts.

4. There shall be established for each group of circles a local board having authority over that group, and for each district a district council having authority over the entire district, except such portions thereof as are for the time being included in the limits of a military cantonment or of a town having a municipal committee.

Constitution of local board.

5. The local board for a group of circles shall consist of—

(*a*) representative members, one or more for each circle being the mukaddam or mukaddams of a village o villages within that circle ;

(*b*) representatives, one or more, of mercantile classes or professions, resident within the area comprised in the group, and elected by, or appointed on behalf of, those classes or professions ; and

(*c*) such person or persons, if any, not exceeding in number one-third of the board, as the Chief Commissioner may, from time to time, appoint.

Constitution of district council.

6. The district council of a district shall consist of—

(*a*) representatives of groups of circles within the district, one or more for each group being a member or members of, and elected by, the local board for that group ;

(*b*) representatives, one or more, of mercantile classes or professions, resident within the district, and elected by, or appointed on behalf of, those classes or professions ; and

(*c*) such person or persons, if any, not exceeding in number one-third of the council, as the Chief Commissioner may, from time to time, appoint.

Power to set aside election or remove member in case of conviction of offence.

7. (1) If a person convicted by a Criminal Court of an offence, the commission of which, in the opinion of the Chief Commissioner, shows him to be unfit to be a member of a local board or district council, is elected as such member, the Chief Commissioner may declare his election void.

(2) If a member of such a board or council is so convicted of any such offence, the Chief Commissioner may declare his office to be vacant.

Incorporation of district council.

8. Every district council shall be a body corporate by the name of the district council of its district, shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, to transfer any moveable property, and, with the previous approval in writing of the Deputy Commissioner, any immoveable property held by it, and to contract and to do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name.

Duties of District Councils and Local Boards.

Matters to be administered by board and council.

9.* The following matters shall, subject to such exceptions as the Chief Commissioner may, from time to time, by order in writing, make, be under the control and administration of the district council and of the local boards within the areas subject respectively to their authority :—

* Vide S. 12 of Act 11 of 1902.

(*a*) The construction, repair, and maintenance of roads and other means of communication ;

(*b*) The management, maintenance, and visiting of schools, hospitals, dispensaries, markets, rest-houses, sarais, and other public institutions, and the construction and repair of all buildings connected with these institutions;

(*c*) The construction and repair of public wells, tanks, and water-works, the supply of water from them and from other sources, and the preservation from pollution of water for drinking and cooking puurposes ;

(*d*) The planting and preservation of trees on public grounds ;

(*e*) The establishment and maintenance of relief-works in time of famine or scarcity ;

(*f*) The establishment and management of pounds, including, where the Cattle-trespass Act, 1871, is in operation, all the functions of the Local Government and the Magistrate of the district under sections 4, 5, 6, 7, 12, 14, and 17, and clause (*a*) of section 18, of that Act ;

(*g*) The management of such public ferries as may be entrusted to their charge under section 7 A of the Northern India Ferries Act, 1878, as amended by this Act ;

(*h*) Any other local works or measures likely to promote the health, comfort, or convenience of the public ;

(*i*) The maintenance of any building or other property vested under this Act in the district council.

Relations of Local Boards to District Councils.

Duties of local board.

10. (1) A local board as the agent of, and subject to the control of, the district council, shall, within the area subject to its authority, have the control and administration of, and be responsible for, all the matters specified in section 9, except such of those matters as the district council may think fit to take under its direct control and administration, and such as the Chief Commissioner may have excepted by order under section 9.

(2) It shall be the duty of the district council to enforce the responsibility imposed on a local board by sub-section (1).

Reports, estimates, and accounts to be submitted by board to council.

11. Every local board small submit annually to the district council of its district, on or before such date as the council may appoint, in this behalf, a statement of the requirements, and an estimate of the probable expenditure, of the board for the coming financial year, and a report of its proceedings, and an account of its receipts and expenditure for the past financial year, and shall also submit to the council such other reports, if any, as the council may, from time to time, require.

Limits on expenditure of local board.

12 A local board shall not incur expenses or undertake liabilities to any amount exceeding the limit imposed by the district council of its district.

Power for council to reverse or vary resolution of board.

13. A district council may, by a mojority of two-thirds of its whole number, reverse or vary any resolution of a local board for an area within its district.

Power for council to provide for performance of duty in default of board

14. (1) If the local board makes default in the performance of any duty imposed on it by or under this Act, the district council may, by order in writing, fix a period for the performance of the duty.

(2) If the duty is not performed within that period, the council may appoint some person to perform it, and may provide for the expenses of, and incidental to, its performance out of the funds appropriated to or for the purposes of the local board.

Power to declare local boards independent.

15. (1) The Chief Commissioner may, from time to time, by notification in the official Gazette, declare any local board established under this Act to be an independent board, and may, in like manner, cancel such notification.

(2) A local board so declared shall, while the notification is in force, so far as may be, have, within the area subject to its authority, the powers, and perform the duties, of a district council under this Act, and shall cease to be the agent of, and under the control of, the district council.

School Committees.

Appointment of school committees.

16. (1) Every district council, and every local board as the agent of, and subject to the control of, its district council, may, from time to time, appoint school committees for the several schools under its control and administration, and shall, as far as may be practicable, conduct the management of any school for which such a committee has been appointed, through that committee.

(2) All school committees existing within the area subject to the authority of any district council or local board at the time that council or local board at the time that council or board comes into existence shall be deemed to have been appointed under this section.

Joint Committees.

Joint committee of two or more local boards.

17. (1) A local board may, from time to time, concur with any other local boards or an area or areas in the same district, in appointing, out of their respective bodies, joint committees for any purpose in which they are jointly interested, and in delegating to any such committee any power which might be exercised by either or any of the local boards, and in framing and modifying regulations as to the proceedings of any such joint committee.

(2) If any dispute arises between two or more local boards acting under this section, the decision thereon of the district council of their district shall be final.

Joint committee of two or more district councils.

18. (1) A district council may, from time to time, concur with any other district council or district councils in appointing, out of their respective bodies, joint committees for any purpose in respect of which they are jointly interested, and in delegating to any such committee any power which might be exercised by any or either of the district councils, and in framing and modifying regulations as to the proceedings of any such joint committee.

(2) If any dispute arises between two or more district councils acting under this section, the decision thereon of the Commissioner, if the councils are in the same division, or, if they are not in the same division, of the Chief Commissioner, shall be final.

Conduct of Business.

Chairman.

19. (1) Every district council and local board shall, from time to time, elect one of its members to be chairman for one financial year at all meetings at which he is present.

(2) If the chairman so elected dies, resigns, or becomes incapable of acting, the council or board shall elect another of its members to be chairman for the period during which the person so dying, resigning, or becoming incapable, would have been entitled to continue in office, and no longer.

(3) An eletion under the foregoing provisions of this section shall not be valid until it is approved, in the case of the chairman of a local board, by the Commissioner of the division, and, in the case of the chairman of a district council, by the Chief Commissioner.

(4) If when any meeting is held the office of chairman is vacant, or the chairman is absent from the meeting, the members present shall appoint one of their number to be chairman thereat.

Regulations as to meetings and proceedings.

20. (1) Every district council and local board may, from time to time, make regulations as to the time and place of its meeting, the conduct of proceedings at meetings, and the appointment, powers, and proceedings of committees:

(2) Provided that every regulation made under this section must be consistent with this Act, and with any rules made by the Chief Commissioner under this Act.

Officers and Servants.

Employment of officers and servants.

21. (1) Every district council may employ such officers and servants as may be necessary and proper for the efficient execution of its duties, and may assign to them such pay, leave, allowances, gratuities, and pensions, as it thinks fit.

(2) A local board may employ such officers and servants, and may assign to them such pay, leave, allowances, gratuities, and pensions, as the district council of its district thinks requisite and sufficient.

(3) In the case of an officer lent by the Government, the council or board may contribute to any leave, allowance, gratuity, or pension, which he may become entitled to in accordance with the rules for the time being in force.

(4) If, in the opinion of the Commissioner,

(*a*) the number of persons employed by a council or board under this section, or the pay, allowances, gratuities, or pensions, assigned by the council or board to those persons, or to any particular person, is or are excessive, or

(*b*) any such person is unfit for his employment,

the council or board shall, on the requirement of the Commissioner, reduce the number or remuneration, or, as the case may be, dismiss the unfit person.

Vesting of Property.

Power to vest property in district council.

22. The Chief Commissioner may, from time to time, by notification in the official Gazette, direct that any property, moveable or immoveable, which is vested in Her Majesty, and is situate in the Central Provinces, shall vest in any district council; and thereupon that property shall vest in that council for the purposes of this Act, subject to all rights over, and all debts, liabilities, and obligations (if any), affecting, that property.

Finance.

23. (1) There shall be formed for each district a fund to be called the district fund, and there shall be placed to the credit thereof—

Constitution, custody, and application of district fund.

(*a*) the nett proceeds (after deducting the expenses of collection) of all rates levied in accordance with settlement-records in that district for the maintenance of roads or schools ;

(*b*) such portion (if any) of the surplus of the rates so levied for the maintenance of the district post as the Chief Commissioner may, from time to time, assign in this behalf;

(*c*) the surplus accruing in that district under section 18 of the Cattle-trespass Act, 1871 ;

(*d*) the proceeds of public ferries payable into the district fund of that district under section 7A of the Northern India Ferries Act, 1878, as amended by this Act ;

(*e*) all sums assigned, from time to time, by the Chief Commissioner for expenditure on local works in that district, under section 5 of the Central Provinces Additional Rates Act, 1878, section 17, of the Northern India Ferries Act, 1878, or any enactment amending either of those Acts ;

(*f*) all such rents and profits accruing from nazal property in that district as the Chief Commissioner may, from time to time, direct to be paid to the district council,

(*g*) all sums contributed to the fund by the Government, local bodies, or private persons ; and

(*h*) all sums received by the district council in the execution of this Act.

(2) The district fund shall be vested in the district council ; and the balance standing to the credit of the fund shall be kept in the Government treasury of the district.

(3) The district fund shall be applicable to the payment, in whole or in part, of the charges and expenses incidental to the several matters specified in sections 9 and 21, within the area subject to the authority of the district council, and, with the sanction of the Chief Commissioner, outside of that area, and also to the following purposes—

(*a*) the payment of school inspectors and normal school teachers appointed and controlled by the Government and employed in the district, and the provision of scholarships and prizes for schools in the district ;

(*b*) the payment of subordinate medical officers (including vaccinators) appointed by the Government and employed in the district : and

(*c*) the expenses attending the audit of the accounts of the district council and of the local boards within the district.

Provided that the amount expended from the district fund in any financial year on primary education shall not be less than the estimated nett proceeds for that year of the rates levied in the district in accordance with the settlement records for the maintenance of schools.

(4) When a local board has been declared independent under section 15, such portion of the district fund as the Chief Commissioner may, from time to time, fix in this behalf shall, during its independence, be annually set apart and placed at its disposal, and shall, for the purposes of this Act, be treated as a separate district fund.

Annual estimates of income and expenditure.

24. (1) Every district council shall appoint a finance committee consisting of not less than three of its number.

(2) Every district council shall, on or before the prescribed day in each year, hold a meeting, at which the finance committee shall submit to the council, in such form as the Chief Commissioner may, from time to time, by rule prescribe, an estimate of the income and expenditure of the council for the next financial year.

(3) The district council shall consider the estimate, and may provisionally approve of it with or without modification.

(4) The district council shall, on or before the prescribed day, cause a copy of the estimate as provisionally approved by it to be sent to the Deputy Commissioner.

(5) The Deputy Commissioner may object to the estimate on the ground that any expenditure on salaries, works, or otherwise, proposed therein, appears to him to be unnecessary or excessive, or that any particular contained therein, appears to him to be erroneous, defective, or improper.

(6) If the Deputy Commissioner so objects, he shall signify his objections in writing to the district council : if he does not so object, he shall signify his approval in like manner.

(7) When the Deputy Commissioner signifies, under sub-section 6, objections to an estimate, the district council shall consider his objections, and either modify the estimate so as to remove them, or refer the estimate with the statement of objections, through the Deputy Commissioner, to the Commi-

ssioner and the Commissioner shall signify to the district council his approval of the estimate, with or without such modifications as may be needed to remove the objections wholly or in part, as he thinks fit.

(8) When the Deputy Commissioner or Commissioner has signified his approval of an estimate, or the district council has modified an estimate so as to remove the Deputy Commissioner's objections, no expenditure which is not provided for in the estimate as approved or modified shall be incurred during the year to which the estimate relates without the previous sanction of the Commissioner.

(9) "Prescribed day," for the purposes of sub-section (2) or sub-section (4) of this section, means such day as the Chief Commissianer may, from time to time, by rule prescribe for the purposes of that sub-section.

(10) When the Deputy Commissioner is a member of the district council, the Commissioner shall take the place of the Deputy Commissioner for the purposes of this section, and the reference under sub-section (7) shall be to the Chief Commissioner.

Annual accounts and audit.

25. Accounts of the receipts and expenditure of every district council shall be made up to the last day of every financial year, in such form as the Chief Commissioner, from time to time, prescribes, and shall be examined and audited as soon as may be after the end of each financial year by such persons as the Chief Commissioner, from time to time, appoints in this behalf.

Inspection of estimates and accounts.

26. The district council shall cause a copy of every estimate provisionally or finally approved under section 24, and of every account made up under section 25, to be kept at its office; and any person may at all reasonable times inspect any such estimate or account.

Publication of abstract of accounts.

27. An abstract of every annual account of a district council showing the income of the district fund under each head of receipts, the charges for establishment, the works under taken, the sums expended on each work, and the balance, if any, of the fund remaining unspent, shall be prepared by the district council in such form as the Chief Commissioner, from time to time, prescribes, and published annually in the English and Vernacular official Gazettes.

Control.

Deputy Comimssioner's power of supervision.

28. (*1*) The Deputy Commissioner of a district shall have power to supervise the proceedings of the district council, and of every local board, joint committee, or school committee in the district, and, in exercise of that power, may (among other things)—

(*a*) enter on and inspect, or cause to be entered on and inspected, any immoveable property occupied by the council, board, or committee, or any work in progress under its direction,

(*b*) call for and inspect any document which may be, for the purposes of this Act, in the possession, or under the control, of the council, board, or committee; and

(*c*) require the council, board, or committee to furnish such statements, accounts, and reports as he thinks fit.

(2) Where a joint committee is appointed by the district councils of several districts, the Deputy Commissioner of any of those districts may exercise a like power in respect of the proceedings of that committee; but if any difference arises between two or more Deputy Commissioners acting under this sub-section, it shall be referred, when the districts are in the same division, to the Commissioner, and, when the districts are not in the same division, to the Chief Commissioner, whose decision shall be final.

(3) The power given under this section to a Deputy Commissioner in respect of a local board or school committee may, with the sanction of the Chief Commissioner, be delegated by him to a subordinate not below the rank of an Extra Assistant Commissioner.

(4) When the Deputy Commissioner is a member of the district council, the powers given to him under this section shall, in respect of that council, vest in the Commissioner.

Power to suspend execution of orders, &c.

29. (1) If, in the opinion of the Deputy Commissioner, the execution of any order or resolution of a district council, local board, joint committee, or school committee, or the doing of any act which is about to be done, or is being done, in pursuance of, or under cover of, this Act, is likely to cause injury or annoyance to the public, or to any class or body of persons, or to lead to a breach of the peace, he may, by order in writing, suspend the execution or prohibit the doing thereof within his district.

(2) When a Deputy Commissioner makes any order under this section, he shall forthwith forward to the Commissioner a copy of the order, with a statement of the reasons for making it; and it

shall be in the discretion of the Commissioner to rescind the order, or to direct that it continue in force, with or without modification, permanently, or for such period as he thinks fit.

(3) The commissioner shall forthwith submit to the Chief Commissioner a report of every case occuring under this section, and the Chief Commissioner may rescind or modify any order made therein, and make in respect thereof any other order which the Commissioner could have made in respect of the same.

Extraordinary powers of Deputy Commissioner in case of emergency.

30. (1) In cases of emergency, the Deputy Commissioner may provide for the execution of any work, or the doing of any act, which a district council or local board is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act, with a reasonable remuneration to the person appointed to execute or to do it, shall be forthwith paid by the district council.

(2) If the expense and remuneration are not so paid, the Deputy Commissioner may make an order directing the person having the custody of the balance of the district fund to pay the expense and remuneration, or as much thereof as is possible, from that balance.

(3) The Deputy Commissioner shall forthwith report to the Commissioner every case in which he uses the powers given to him by this section.

Power to provide for performance of duties in default of district council.

31. (1) When the Chief Commissioner is informed, on complaint made or otherwise, that a district council has made default in performing any duty imposed on it by or under this Act, the Chief Commissioner, if satisfied after due inquiry that the district council has been guilty of the alleged default, may, by an order in writing, fix a period for the performance of that duty.

(2) If that duty is not performed within the period so fixed, the Chief Commissioner may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the district council.

(3) If the expense and remuneration are not so paid, the Chief Commissioner may make an order directing the person having the custody of the balance of the district fund to pay the expense and remuneration, or as much thereofas is possible, from that balance.

32. (1) If a district council or local board is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this Act or otherwise by law, or exceeds or abuses its powers, the Chief Commissioner may * by an order published, with the reasons for making it, in the local official Gazette, declare the council or board to be incompetent, or in default, or to have exceeded or abused its powers, as the case may be, and supersede it for a period to be specified in the order.

Power to supersede council or board in case of incompetency, default, or abuse of powers.

(2) When a district council or local board is so superseded, the following consequences shall ensue :—

(*a*) All members of the council or board shall, as from the date of the order, vacate their offices as such members ;

(*b*) All powers and duties of the council or board may, during the period of supersession, be exercised and performed by such person or persons as the Chief Commissioner from time to time appointe in that behalf ;

(*c*) Where a council is superseded, all property vested in it shall, during the period of supersession, vest in Her Majesty.

(3) On the expiration of the period of suspension specified in the order, the council or board shall be re-established by appointment or election, and the persons who vacated their offices under clause (*a*) shall not be deemed disqualified for appointment or election.

33. In all matters connected with this Act, the Commissioner shall have and exercise the same authority and control over the Deputy Commissioners subordinate to him, as he has and exercises over them in the general and revenue administration.

Powers of Commissioner.

Rules.

34. The Chief Commissioner may, from time to time, make rules consistent with this Act and with reference (if necessary) to the varying circumstances of different local areas—

Power of Chief Commissioner to make rules as to district councils, local boards, and school committees.

(*a*) as to the qualifications, mode, and time of election or appointment, term of office, and remuneration and allowances (if any) of members of district councils and local boards, and as to the filling of casual vacancies in such councils and boards, and as to the number of

* Certain words after this having been repealed by Act 4 or 1914 have been omitted,

the representative members for each circles or group of circles, and as to the number of the representatives of the mercantile classes or professions, to be elected or appointed to each local board or district council ;

(*b*) as to the appointment, powers, and duties of school committees. the term of office of members of such committees, and the mode of removing them ;

(*c*) as to the conduct of proceeding of district councils, local boards, and school committees, including the fixing of a quorum, the giving of the casting vote in cases of equal division, the minimum number of meetings to be held, and the maximum internal between successive meetings, the formation of committees other than school committees, and the delegation of powers to such committees ;

(*d*) as to the mode of entering into and executing contracts and transfers of property on behalf of district councils, and the authority on which money may be paid from the district fund ;

(*e*) as to the appointment and payment of auditors of the accounts of district councils and local boards ;

(*f*) as to the appointment of the district fund between the general purposes of the district and the purposes of particular parts of the district, and the appropriation of funds raised in a particular area to the purposes of that that area ; and

(*g*) generally, for the guidance of district councils, local boards, school committees, and Government officers in all matters connected with the administration of this Act, and for settling their relations to one another.

Procedure for making rules under section 34.

85. The Chief commissioner shall, before making any rules under section 34, publish, in such manner as may in his opinion, be sufficient for giving information to persons interested, a draft of the proposed rules, together with a notice specifying a date at or after which the draft will be taken into consideration ; and shall before making the rules, receive and consider any objection or suggestion which may be made by any peson with respect to the draft before the date so specified.

Exceptional Provision.

Power under special circumstances to except districts from operation of Act.

86. If the circumstances of any district or part of a district are, in the opinion of the Chief Commissioner, such that any of the provisions of this Act are unsuited thereto, he may, by order in writing, except the district, or part from the operation of

those provisions ; and thereupon those provisions shall, not apply to the excepted district or part, until again applied thereto by a subsequent order of the Chief Commisioner.

Supplemental Provisions.

Acquisition of land.

37. Where any land is required for the purposes of this Act, the Chief Commissioner may, on the request of the district council, proceed to acquire it under the provisions of the Land Acquisition Act, 1870 ; and, on payment by the district council of the compensation awarded under that Act, the land shall vest in the district council.

Penalty on member, officer, or servant being interested in contracts made with council, board, or committee.

38. If any member, officer, or servant of a district council, local board or joint committee appointed under this Act, is, otherwise than with the permission in writing of the Commissioner directly or indirectly interested in any contract made with that council, board, or committee, he shall be deemed to have committed an offence under the Indian Penal Code, section 168.

Publication of rules and orders.

39. (1) All rules and orders made by the Chief Commissioner under this Act shall be published in the official Gazette both in English and in such native languages as the Chief Commissioner may direct.

(2) The publication in the official Gazette of a rule purporting to be made by the Chief Commissioner under section 34 shall be conclusive evidence that it has been made as required by section 35.

Time for councils and boards coming into existence.

40. The several district councils, and local boards under this Act shall come into existenc at such time as the Chief Commissioner, by order, appoints in that behalf.

Rates payable under Settlement-record.

Confirmation and recovery of existing rates, and accounts of same.

41. (1) All rates for the maintenance of roads, schools, or the district post, for the payment of which provision "is mads in any settlement-record* shall be deemed to have been legally imposed, and shall be recoverable as if they were arrears of land-revenue payable directly to Government, and due on the land in respect of which they are payable.

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* In s. 41 (1) the words quoted have been substituted for the words "has been made in any settlement record previous to the passing of this Act," by Act XVI. of 1889, s. 41.

(2) An account of the gross receipts and of the charges (if any) of collection of all such rates in each district shall be kept by the Deputy Commissioner of that district, and shall be anually rendered by him to the district council of that district.

Powers of Chief Commissioner with respect to rates.

42. The Chief Commissioner may, from time to time, by notification in the official Gazette.

(*a*) prescribe in what instalments, and at what times, the rates referred to in section 41 shall be payable, and make rules for their collection by village-officers or others ; and

(*b*) exempt any land from liability to pay the whole or any part of any such rate, and vary or cancel any such exemption.

Amendment of the Northern India Ferries Act, 1878.

New section to follow section 7 of Act XVII of 1878.

43. After section 7 of the Northern India Ferries Act, 1878, the following shall be inserted, namely :—

7A, [*Printed in Vol. II, p.* 354.]

Amendment of sections 6 and 17 of same Act.

44. In seetion 6 af the same Act after the words "section 7," and in section 17 of the same Act, after the words "section 7." where they first occur, the following shall be inserted, namely : "and section 7A."

ACT II. OF 1883

The Elephants Preservation Act (1879) Amendment Act, 1883.*

RECEIVED THE G. G.'S ASSENT ON THE 26TH JANUARY 1883.

An Act to amend the Elephants Preservation Act, 1879.

Preamble.

Whereas is is expendient to amend the Elephants Preservation Act, 1879, in manner hereinafter appearing ; It is hereby enacted as follows :—

For section 4 of the said Act, the following shall be substituted, namely :—

[*Printed in Vol. II. p. 365.*]

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* Short title given by Act 14 of 1897.

ACT VI. OF 1883.

The Calcutta Pilots (Amending Act XII. of 1859).*

RECEIVED THE G. G.'S ASSENT ON THE 23RD FEBRUARY 1883.

An Act to give power to arrest persons whose evidence is needed under Act XII. of 1859.

Preamble.

Whereas it is expedient to empower the Judges holding trials under Act XII. of 1859 (*An Act to make better provision for the trial of pilots at the Presidency of Fort William in Bengal for breach of duty*) to arrest persons whose evidence is required on such trials; it is hereby enacted as follows :—

Addition to Act. XII. of 1859, after section 14.

1. The following section shall be inserted immediately arter section 14 of the said Act namely :—

"15. [*Printed in Vol. I., p.* 332.]

Commecement of Act.

2. This Act shall come into force on the first day of January 1884.

ACT VIII. OF 1883.

The Little Cocos and Preparis Islands Laws Act, 1883.

RECEIVED THE G. G.'S ASSENT ON THE 19TH APRIL 1883.

An Act to amend the law in force in the Little Cocos Island and Preparis Island.

Preamble.

Whereas the Little Cocos Island and Preparis Island have been transferred to the administration of the Chief Commissioner of Lower Burma† and attached to the Hanthawaddy District of the Pegu Division of British Burma;

And whereas the Little Cocos Island, when subject to the administration of the Chief Commissioner and Superintendent of the Andaman and Nicobar Islands, formed portion of a Scheduled District under the Scheduled Districts Act, 1874, and was subject to the operation of the Andaman and Nicobar Islands Regulation, 1876;

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* Short title given by Act I of 1903.

† Since Upper Burma was placed under the administration of the Chief Commissioner of Lower Burma, this officer is styled Chief Commissioner of Burma.—See Proclamation, dated Sep. 25, 1886, *Gazette of India*, 25th idem, Pt. I., p. 539.

And whereas it is expedient that the law in force in the Little Cocos Island and in the Preparis Island should be the same as that in the Hanthawaddy District of the Pegu Division of British Burma;

It is hereby enacted as follows :—

Short title and commencement.

1. This Act may be called the Little Cocos and Preparis Islands Laws Act, 1883: and it shall come into force on the passing thereof.

Declaration of laws to be in force in Little Cocos and Preparis Islands.

2 All enactments which, on the twenty-ninth day of November 1882, were in force in the Hanthawaddy District of the Pegu Division of British Burma, shall be deemed to have come into force in the Little Cocos and Preparis Islands on that day; and all enactments which, on that day, were in force in those Islands, and not in that District, shall be deemed to have been repealed on and from that day in those Islands.

3. *Provision as to pending proceedings.* [*Repealed by Act XII. of 1891, Sch. I.*]

Withdrawal of Little Cocos Island from Andaman and Nicobar Islands Regulation, 1876, and Scheduled Districts Act, 1874.

4. On and from the twenty-ninth day of November 1882, the Little Cocos Island shall be deemed to have been removed from the operation of the Andaman and Nicobar Islands Regulation, 1876, and have ceased to be a Scheduled District.

ACT XII. OF 1883.

The Lower Burma Pilots Act, 1883.

RECEIVED THE G.-G.'S ASSENT ON THE 29TH AUGUST 1883.

An Act to provide for the licensing and control of pilots in Lower Burma, and for investigating certain charges against them.

Preamble.

WHEREAS it is expedient to provide for the licensing and control of pilots in Lower Burma, and for investigating certain charges against them; It is hereby enacted as follows:—

Preliminary.

Short title.

1. (1) This Act may be called the Lower Burma Pilots Act, 1883.

Local extent.

(2) It extends to the territories for the time being administered by the "Local Government"* of Lower Burma;† and

Commencement.

(3) It shall come into force on such date as the "Local Government"* may fix in this behalf.

Definition of "port."

2. In this Act "port" means any port, or any part of a navigable river or channel, in which the Indian Ports Act, 1889,‡ is for the time being in force.

Licensing of Pilots.

Licencing of pilots.

3.§ The "Local Government"* may, from time to time, appoint, or cause to be appointed, competent persons for the purpose of examining the qualifications of persons desirous of acting as pilots at any port, and make rules—

(*a*) for the conduct of the examinations, and for the qualifications to be required ;

(*b*) establishing grades of pilots, and determining the duties which may be undertaken by pilots of each grade ;

(*c*) for the grant to qualified persons of licenses to act as pilots of any grade at any port ; and

(*d*) for the fees to be paid for the examinations and licenses.

No person to act as pilot except under license.

4. (1) A person shall not act as a pilot at any port, after such date as the "Local Government"* may fix in this behalf for that port, except as permitted by a license granted under section 3.

(2) Any person acting as a pilot in contravention of this section shall be punished, for every time he so acts, with fine which may extend to two hundred rupees.

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* The words within quotations have been substituted by Bur. Act V. of 1908.

† The territories are now known as Lower Burma—See Act XX. of 1886, s. 2 (*1*) (*b*). *infra*. And the Chief Commissioner is styled Chief Commissioner of Burma.—See Proclamation, dated Sep. 25, 1886. *Gazette of India*, 25th idem. Pt. I., p. 539.

‡ This Act has been substituted in s. 2 for Act XII. of 1875.—See Act X. of 1889, s. 2 (*3*) *infra*.

§ For rules under ss. 3, 5, 8, 10, 11, 16, and 18, see *Burma Gazette*, Dec. 22, 1888, Pt. I , p. 593.

Power to make rules to regulate conduct of pilots.

5.* (1) The "Local Government"† may, from time to time, by notification in the *Burma Gazette*, make rules to regulate the conduct of pilots licensed under this Act in all matters connected with the performance of their duties as such pilots.

(2) Any such rule may contain a provision that a pilot committing a breach of the rule shall be punished with imprisonment which may extend to one month, or with fine which may extend to two hundred rupees, or with both :

Provided that a prosecution shall not be instituted in respect of any such breach except by order of such officer as the "Local Government"† may, from time to time, appoint in this behalf.

Special Court.

Power to direct investigation by special Court into charges against pilots.

6. (1) If the "Local Government"† has reason to believe that there are grounds for charging any pilot licensed under this Act with incompetency or misconduct in the discharge of his duties as such pilot, or with any act or omission in breach of a rule made under section 5, and that the charge cannot be satisfactorily investigated by an ordinary Court, "the Local Government"† may direct that a special Court be constituted under this Act, at the port at which it will, "in the opinion of the Local Government"† be most convenient for the parties and witnesses to attend, and shall then send to the Court a statement of the grounds of the charge, and direct the Court to make an investigation into the charge.

(2) When the "Local Government"† directs an investigation under this section, "it"† may, if "it"† thinks fit, appoint a person to act as prosecutor in the investigation.

Constitution of Court.

7. Every Court constituted under section 6 shall consist of a president sitting with three assessors.

Appointment of president.

8.* (1) The president shall be such person as the "Local Government"† appoints in this behalf, either generally, or for any specified case.

(2) Every person so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code.

* For rules under ss. 3, 5, 8, 10, 11, 16, and 18, see *Burma Gazette*, Dec. 22 1888, Pt. I., p. 593.

† The words within quotations have been substituted by Pur. Act V of 1908.

Assessors.

*9. (1) The first assessor shall be a master of a sea-going vessel or a person who has served as an officer for not less than five years on a sea-going vessal and holds a masters' certificate of competency for sea-going vessels.

(2) The second assessor shall be a merchant, and the third assessor shall be a person who has personally exercised the calling of a pilot for not less than five years.

Appointment of assessors.

10.† (1) "The first assessor"‡ shall be appointed in each case by the "Local Government"‡ and shall be summoned by the president.

(2) The other assessors shall be summoned by the president in such manner as may be prescribed by rule, out of two lists, one of merchants, the other of pilots, to be, from time to time, prepared for the purpose, and published by the "Local Government"‡ in the Burma Gazette. If there are no such lists, or if it is impracticable to procure the attendance of two persons, one of whom is named in the list of merchants. and the other in the list of pilots, the other assessors or assessor, as the case may be, shall be appointed and summoned by the president.

Penalty for non attendance of assessor.

§10A. If any person who has been duly summoned as an assessor under section 10 shall without such excuse as the president may allow to be sufficient neglect or refuse to attend at the time appointed or to remain in attendance until the investigation shall be completed, it shall be lawful for the president to impose upon such person a fine which may extend to two hundred rupees for each such default.

If the president is a Magistrate, having jurisdiction in the district from whlch the assessor is summond, such fine shall be recovered by him ; in all other cases he shall transmit the order imposing the fine to the District Magistrate having Juridiction who shall thereupon cause such fine to be recovered as if it had been imposed by himself.

Fees to be paid to assessors.

11.* The assessors shall receive such fees as the "Local Government"‡ may from time to time, by rule, prescribe.

Copy of grounds of charge to be supplied to pilot.

12. Before any investigation under this Act is commenced, the special Court shall supply the pilot with a copy of the statement sent, under section 6, to the Court.

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* Section 9 has been substitued by Bur. Act V of 1908.

† For rules under ss. 3. 5. 8. 10. 11, 16, and 18, see *Burma Gazette*, Dec. 22, 1888. Pt. I , p. 593. [Vol. III.]

‡ The words within quotations have been substituted by Bur. Act V of 1908.

§ Section 10A has been added by Act V of 1908.

Person charged to be heard.

13. For purpose of an investigation under this Act, the special Court may summon the pilot to appear before it, and shall give him full opportunity of making a defence, either in person or otherwise.

Powers of the Court as to evidence, and regulating proceedings.

14. For the purpose of an investigation under this Act, the special Court shall, so far relates to compelling the attendance, and to the examination, of witnesses, the production of documents, and the regulation of the proceedings, have the same powers as are exercisable by the principal Court of original criminal jurisdiction for the place at which the investigation is made.

Court to report to Local Government.

15. On the completion of the investigation, the special Court shall send to the "Local Government"* a full report of the conclusions at which it has arrived. The report shall be in accordance with the opinion of the majority of the members of the Court, or, if the Court is equally divided, in accordance with the opinion of the president, and with the member with whom he concurs. In the latter case, any member who does not concur in the report may separately record his opinion.

Power of Local Government to make rules.

16.* (1) The "Local Government* may, from time to time, make rules to carry into effect the provisions of this Act with respect to the special Court, and in particular with respect to—

(*a*) the mode in which the president shall, under section 10, summon the assessors ;

(*b*) the amount of the fees to be paid to the assessors : and

(*c*) the procedure of the Court.

(2) All such rules shall be published in the British Burma Gazette, and shall thereupon have the force of law.

Power to cancel, suspend, or reduce Licenses.

Power to cancel, suspend or reduce licease for misconduct, &c.

17. The "Local Government"* may cancel or suspend, or reduce the grade of, any license granted to a pilot under this Act in the following cases, that is to say—

(*a*) if the pilot is found guilty by a Criminal Court of any offence punishable under section 5, or of any other offence the commission of which in the opinion of the "Local Government"* shows him to be unfit to discharge the duties of a pilot : or

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* The words within quotations have been substituted by Bur. Act V of 1908.

† See note † in page 21 supra.

(*b*) if, on cousidering a report submitted under section 15 of this Act, or transmitted uuder section 17 of the Indian Merchant Shipping Act, 1883, the "Local Government"* is of opinion that the pilot is incompetent, or has been guilty of any misconduct in the discharge of his duty as pilot, or of any breach of a rule made under section 5 of this Act.

Power to suspend license pending trial or investigation.

18.† When a prosecution has been instituted against a pilot under section 5, or an investigation has been ordered in respect of him under section 6, or an investigation affecting his conduct has been ordered under Chapter II. of the Indian Merchant Shipping Act, 1883, "the Local Government may suspend his license until the final orders of the Local Government in respect of the finedings on such trial or investigation have been communicated to the pilot or during such shorter priod as the Local Goverment may consider necessary.

" Provided that the order directing such temporary suspension may be cancelled at any time by the Local Goverment, or after the conclusion of the trial by the Magistrate, or after the conclusion of the investigation by the president of the special court but such Magistrate or president shall submit to the Local Goverment a special report stating his reasons for cancelling such order.*"—

Delegation of Functions of Local Government.

Power to delegate functions of Local Govenment.

19. The Local Government may, from time to time by notification in the *Burma Gazette*, delegate its functions under section 6, section 8, section 10, sub-sectlon (1), or section 18 to such person as it thinks fit.

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* The words within quotations have been substituted by Bur. Act V of 1908.

† For rules under ss. 3, 5, 8, 10, 11, 16 and 18, see *Burma Gazette, Dec.* 22, 1888, Pt. I, p. 593.

ACT XIII. OF 1883.

Indus Valley State Railway Lands.

RECEIVED THE G.-G'S ASSENT ON THE 12TH SEPTEMBER 1883.

An Act to declare the law in force in certain lands which have been or hereafter may be ceded by the Bhawalpur State fore occupation by the Indus Valley State Railway.

WHEREAS ACT X. of 1880 (*to declare the law in force in certain lands annexed to the Multan District*) provides that all enactments which, on the second day of September 1879, were in force in the Multan District, and not in force in the lands occupied by the Indus Valley State Railway, and the works, premises, and stations thereof, within the limits of the Bhawalpur State, which have been ceded to the British Government in full sovereignty by that State, and have been declared by the Governor-General in Council to be subject to the Lieutenant-Governorship of the Punjab, and have, by the Lieutenant-Governor of the Punjab, been annexed to the Multan District, shall be deemed to have come into force in the said lands on that day.

and whereas it is expedient to make like provision for certain other lands occupied by the same Railway, and the works, premises, and stations thereof, within the limits of the same State, which have, since the second day of September 1879, been ceded to the British Government in full sovereignty by the same State, and have been declared by the Governor-General in Council to be subject to the same Lieutenant-Governorship, and have, by the same Lieutenant-Governor, been annexed to the same District;

and whereas it is also expedient to make like provision for any lands to be hereafter occupied by the same Railway, and the works, premises, and stations thereof, within the limits of the same State, which may be ceded to the Bsitish Government in full sovereignty by the same State, and may be declared by the Governor General in Council to be subject to the same Lieutenant-Governorship, and may, by the same Lieutenant-Governor, be annexed to the same or some other district;

It is hereby enacted as follows :—

1. *Repeal of Act X of 1880.* [*Repealed by Act XII of 1891, Sch. I.*]

Law in force in Multan or other district to apply to ceded lands occupied by Indus Valley State Railway.

2. All enactments which, on the date on which any such lands, as are referred to in in the preamble to this Act, have been, or may herafter be, annexed to the Multan or any other district, were or shall be in force in that district, and not in the said lands, shall be deemed to have come, or, as the case may be, shall come, into force in the said lands on that date.

ACT XIX. OF 1883.

Land Improvement Loans.*

RECEIVED THE G.-G.'S ASSENT ON THE 12TH OCTOBER 1883.

An act to consolidate and amend the law relating to loans of money by the Government for agricultural improvements.

WHEREAS it is expedient to consolidate and amend the law relating to loans of money by the Government for agricultural improvements ; It is hereby enacted as follows :—

Short title.

1. (1) This Act may be called the Land Improvement Loans Act, 1883.

Local extent, Commencement.

(2) It extends to the whole of British India, but shall not come into force in any part of British India until such date as the Local Government† may by notification in the local official Gazette, appoint in this behalf.

Acts XXVI. of 1871 and XXI. of 1876 repealed.

2. (1) The Land Improvement Act, 1871, and Act XXI. of 1876 (*An Act to amend the Land Improvement Act*, 1871), shall except as regards the recovery of advances made before this Act comes into force and costs incurred by the Government in respect, of such advances, be repealed.

(2) When in any Act, Regulation, or Notification, passed or issued before this Act comes in force, reference is made to either of those Acts, the reference shall, so far as may be practicable, be read as applying to this Act or the corresponding part of this Act.

"Collector" defined.

3. In this Act, "Collector" means the Collector of land revenue of a ditrict, or the Deputy Commissioner, or any officer empowered by the Local Government by name or by virtue of his office to discharge the functions of a Collector under this Act.

Purposes for which loans may be granted under this Act.

4. (1) Subject to such rules as may be made under section 10, loans may be granted under this Act, by such officer as may, from time to time, be empowered in this behalf by the Local Govenment, for the purpose of making any improvement, to any person having a right to make that improvement, or, with the consent of that person, to any other person.

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* Declared to be inforce in the Sonthal Perganas, Reg 3. of 1872, s. 3, as ammended by Reg. 3 of 1899, s. 3. ; in Upper Burma by Act 13 of 1898 ; in British Beluchistan by Reg 2 of 1913 in the Angul District by Reg 3 of 1913, s. 3 ; in the Arakan Hill District by Reg 1 of 1916 s. 2.

† Certain words after this omitted by Act VIII of 1906.

(2) "Improvement" means any work which adds to the letting value of land, and includes the following, namely :—

(*a*) the construction of wells, tanks, and other works for the storage, supply, or distribution of water for the purposes of agriculture, or for the use of men and cattle employed in agriculture ;

(*b*) the preparation of land for irrigation ;

(*c*) the drainage, reclamation from rivers or other waters, or protection from floods or from erosion or other damage by water, of land used for agricultural purposes, or waste land which is culturable ;

(*d*) the reclamation, clearance, enclosure, or permanent improvement of land for agricultural purposes ;

(*e*) the renewal or reconstruction of any of the foregoing works, or alterations therein or additions thereto, and

(*f*) such other works as the Local Government,† may, from time to time, by notification in the local official Gazette, declare to be improvements for the purposes of this Act.

Mode of dealing with applications for loans.

5. (1) When an application for a loan is made under this Act, the officer to whom the application is made may, if it is, in his opinion, expedient that public notice be given of the application, publish a notice, in such manner as the Local Government may, from time to time, direct, calling upon all persons objecting to the loan to appear before him at a time and place fixed therein, and submit their objections.

(2) The officer shall consider every objection submitted under sub-section (1), and make an order in writing either admitting or overruling it :

Provided that, when the question raised by an objection is, in opinion of the officer, one of such a nature that it cannot be satisfactorily decided except by a Civil Court, he shall postpone his proceedings on the application until the question has been so decided.

Period for repayment of loans.

6. (1) Every loan granted under this Act shall be made repayable by instalments (in the form of an annuity or otherwise), within such period from the date of the actual advance of the loan, or, when the loan is advanced in instalments, "from the date of the advance of the last instalment actually paid"* as may, from time to time, be fixed by the rules made under this Act.

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* These words were substituted by Act XVIII. of 1899, S. 2, for the words "*from the date of the actual advance of the last instalment.*" They shall be deemed to have been substituted with effect from the commencement of the Act.

(2) The period fixed as aforesaid shall not ordinarily exceed thirty-five years.

(3) The Local Government* in making the rules fixing the period, shall, in considering whether the period should extend to thirty five years. or whether it should extend beyond thirty-five years, have regard to the durability of the work for the purpose of which the loan is granted, and to the expediency of the cost of the work being paid by the generation of persons who will immediately benefit by the work.

Recovery of loans.

7. (1) Subject to such rules as may be made under section 10, all loans granted under this Act, all interest (if any) chargeable thereon, and costs (if any) incurred in making the same, shall, when they become due, be recoverable by the Collector in all or any of the following modes namely :—

(*a*) from the borrower—as if they were arrears of land-revenue due by him ;

(*b*) from his surety (if any)—as if they were arrear of land-revenue due by him.

(*c*) out of the land for the benefit of which the loan has been granted—as if they were arrears of land-revenue due in respect of that land ;

(*d*) out of the property comprised in the collateral security (if any)—according to the procedure for the realization of land-revenue by the sale of immoveable property other than the land on which that revenue is due :

Provided that no proceeding in respect of any land under clause (*c*) shall affect any interest in that land which existed before the date of the order granting the loan, other than the interest of the borrower, and of mortgagees of, or persons having charges on, that interest, and, where the loan is granted under section 4 with the consent of another person, the interest of that person, and of mortgagees of, or persons having charges on, that interest.

(2) When any sum due on account of any such loan, interest, or costs, is paid to the Collector by a surety or an owner of property comprised in any collateral security, or is recovered under sub section (1) by the Collector, from a surety or out of any such property, the Collector shall, on the application of the surety or the owner of that property (as the case may be), recover that sum on his behalf from the borrower, or out of the land for the benefit of which the loan has been granted, in manner provided by sub-section (1).

* Certain words after this have been omitted having been repealed by Act VIII of 1906.

(3) It shall be in the discretion of a Collector acting under this section to determine the order in which he will resort to the various modes of recovery permitted by it.

Order granting loan conclusive on certain points.

8. A written order under the hand of an officer empowered to make loans under this Act granting a loan to, or with the consent of, a person mentioned therein, for the purpose of carrying out a work described therein, for the benefit of land specified therein, shall, for the purposes of this Act, be conclusive evidence—

(*a*) that the work described is an improvement within the meaning of this Act;

(*b*) that the person mentioned had, at the date of the order, a right to make such an improvement; and

(*c*) that the improvment is one benefiting the land specified.

Liability of joint borrowers as among themselves.

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

Power to make rules

10. The Local Government,* may, from time to time, by notification in the local official Gazette, make rules consistent with this Act to provide for the following matters, namely :—

(*a*) the manner of making applications for loans ;

(*b*) the officers by whom loans may be granted ;

(*c*) the manner of conducting inquiries relative to applications for loans, and the powers to be exercised by officers conducting those inquiries ;

(*d*) the nature of the security to be taken for the due application and re-payment of the money, the rate of interest at which, and the conditions under which, loans may be granted, and the manner and time of granting loans ;

(*e*) the inspection of works for which, loans, have been granted ;

(*f*) the instalments by which, and the mode in which, loans, the interest to be charged on them, and the costs incurred in the making thereof, shall be paid ;

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

(*g*) the manner of keeping and auditing the accounts of the expenditure of loans and of the payments made in respect of the same; and

(*h*) all other matters pertaining to the working of the Act.

Exemption of improvements from assessment to land-revenue.

11. When land is improved with the aid of a loan granted under this Act, the increase in value derived from the improvement shall not be taken into account in revising the assessment of land-revenue on the land :

Provided as follows :—

(1) Where the improvement consists of the reclamation of waste-land, or of the irrigation of land assessed at unirrigated rates, the increase may be so taken into account after the expiration of such period as may be fixed by rules to be framed by the Local Government.

(2) Nothing in this section shall entitle any person to call in question any assessment of land-revenue otherwise than as it might have been called in question if this Act had not been passed.

Certain powers of Local Government to be exercisible by Board of Revenue or Financial Commissioner.

12* The powers conferred on a Local Government by sections 4 (1), 5 (1) and 10 may, in a province for which there is a Board of Revenue or a Financial Commissioner, be exercised in the like manner and subject to the like conditions by such Board or Financial Commissioner, as the case may be : Provided that rules made by a Board of Revenue or Financial Commissioner shall be subject to the control of the Local Government.

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* Section 12 was repealed by Act XVI of 1908 but again has been added by Act 4 of 1914.

ACT XX OF 1883.*

Punjab District Boards.

RECEIVED THE G.-G.'S ASSENT ON THE OCTOBER 1883.

An Act to make better provision for local self-government in the Districts of the Punjab.

WHEREAS it is expedient to amend the law in force in the territories administered by the Lieutenant-Governor of the Punjab ‡ for the levy and expenditure of rates on land ; and whereas it is also expedient to provide for the constitution of district boards and local boards in those territories, and to define and regulate the powers to be exercised by those boards ;

It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title.

1. (*1*) This Act may be called the Punjab District Boards Act, 1883.

Extent.

(*2*) It shall extend only to the territories for the time being administered by the Lieutnant-Governor of the Punjab, and

Commencement.

(*3*) It shall come into force* in each district on such date at the Local Government, by notification, directs.

Repeal of Act V of 1878

2. From the date on which this Act comes into force in any diatrict, the Punjab Local Rates Act, 1878, shall be repealed throughout that district. But all rates imposed, sums credited to the Local Government,§ and notifications published under that Act, shall, so far as may be, be deemed to have been respectively imposed, credited, and published under this Act.

Definitions.

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

(*1*) "Land" means land assessed to the land-revenue, and includes land whereof the land-revenue has been wholly or in part released, compounded for, redeemed, or assigned.

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* Act XX, of 1883 has been brought into force in all dictricts, except Simla.

† For statements of Objects and Reasons, See Gazette of India, 1883 Pt. V. p. 464, for Proceedings in council, See *ibid*, Supplement. pp. 1161, 2087.

‡ There words should be read in the North West Fortier Province as referring to that Province, Vide Reg 7 of 1901.

§ In N. W. Province read "Chief Commissioner" Vide Reg 7 of 1908.

(2) "Land-revenue" includes trini or grazing-dues levied for grazing on Government lands under section 48 of the Punjab Laws Act, 1872.

(3) "Landholder" means any person responsible for the payment of the land-revenue, if any, assessed on land. It also includes the proprietor of land, the land-revenue of which has been wholly or in part released, compounded for, redeemed, or assigned,

(4) "Annual value" means—

(*a*) double the land-revenue for the time being assessed on any land, whether the assessment is leviable or not; or

(*b*) where the land-revenue has been parmanently assessed,

or has been wholly or in part compounded for or redeemed, double the amount which, but for such permanent assessment, composition, or redemption, would have been leviable; or

(*c*) where no land-revenue has been assessed, double the amount which would have been assessed if the average village-rate has been applied.

Provided that, in any tract in which, under the settlement for the time being in force, the improvement of the land due to canal irrigation has been excluded from account in assessing the land-revenue, and a rate has been imposed in respect of such improvement, that rate shall be added to the land-revenue for the purpose of computing the annual value.

(5) "Financial year" means the year commencing on the on the first day of April.

(6) "Prescribed day" means such day as the Local Government* may, from time to time, prescribe.

(7) "Notification" means a notification published in the official Gazette.

(8) "Notified" means notified in the official Gazette.

(9) "Deputy Commissioner", means the Deputy Commissioner of a district, and includes any officer specially appointed by the Local Government * to perform the functions of a Deputy Commissioner under this Act.

Powers exercisable from time to time.

4. All powers confered by this Act may be exercised from time to time as occasion requires.

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* In North western Province read "Chief Commissioner" Vide Reg VIII of 1901.

CHAPTER II.

OF THE LOCAL RATE ON LAND.

The Local rate.

5. (*1*) All land shall be subject to the payment of rate, to be called the local rate, not extending "ten pies" * for every rupee of its annual value.

(*2*) The proportion which the local rate shall bear to the annual value of land snall, except as provided in sub-section (*3*), be fixed for each district by the Local Government† by notification.

(3) The Local Government† may, by notification, delegate to the district board, subject to such restrictiont or conditions as it thinks fit, its powers under sub-section (2), and may, by notification, cancel or vary any such notification.

Road, school, and post cesses to merge in the rate.

6. From such date as may be notified in respect of each district by the Local Government,† all authorized rates and cesses for the maintenance of roads, schools, and district-post, shall merge in and become part of the local rate, and no rate or cess other than the local rate shall be thereafter leviable for those purposes.

Liability for local rate.

7. The landholder shall be liable for the local rate subject to the following provisos, namely :—

(*1*) where the landholder pays the land-revenue in kind to any assignee of revenue or any village-headman, the assignee of revenue or village-headman shall be liable for the payment of the local rate instead of the landholder, and no demand shall be made by any such assignee or village headman on the landholder in respect of the payment of the rate ; and

(*2*) where the Government† has, under any lease current at the time when this Act comes into force, paid the local rate on trini, it shall continue to pay the rate during the currency of the lease.

Powers to recover a share of the rate from occupancy-tenant.

8. When a local rate is payable by a landholder in respect of lands held by a tenant with a right of occupancy-holding at a favourable rent, the landholder may realize from the tenant a share of the rate, bearing the same proportion to the whole rate as the excess of the annual value over the rent paid by the tenant bears to half the annual value.

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* Substituted by Punjab 2 of 1906

† In North Western Provinces read "Chief Commissioner" Vide Reg. VIII of 1901.

9.* The proceeds of the local rate levied in each district, shall, except as provided in section 68, be allotted to the district board established for that district under this Act :

Appropriation of proceeds of local rate.

Provided that the Local Government† may direct that the whole or any portion of the net proceeds of the local rate levied within the limits of any municipality, notified area or military cantonment, after deducting the expenses of collection, shall be carried to the credit of the municipal or town fund, or made available for the purpose of public improvement in the cantonment or for carrying out therein any rules made under section 26 of the Cantonments Act, 1889

CHAPTER III.

OF DISTRICT AND LOCAL BOARDS.

A.—Constitution of District and Local Boards.

Establishment of district and local boards.

10. (1) The local Government shall, by notification establish a district board for each district.

(2) The Local Government may, by notification, establish a local board or local boards within the limits of any district, and may cancel or vary any such notification.

(3) A district board shall have authority throughout the district for which it is established, and a local board shall have authority throughout such portion of the district in which it is established, as the local Government may, by notifiation, direct :

Provided that a board shall not have authority over any portion of a district which is for the time being included in a military cantonment or a municipality.

Number and appointment or election of members.

11. (1) A district board or local board shall consist of such number of members, not less than six, as the Local Government† may fix in this behalf.

(2) The members may be appointed by the Local Government† either by name or by official designation, or may be elected in accordance with rules made by the Local Government† under this Act, or some may be appointed and some elected, as the Local Government† directs :

Provided that—

(*a*) when the Local Government† has directed that all or any proportion of the members shall be elected, it

* Section 9 has been substituted by Punj. Act II of 1906.

† In North Western Frontier Province read "Chief Commissioner," Vide Reg VII of 1901.

it shall not thereafter direct that they shall be appointed, unless a majority of the electors declare that they so desire.*

(*b*)* unless salaried officers of the Government are elected, not less than two thirds of the members of every board shall be persons other than salaried officers of the Government ; and

(*c*) not less than one-half of the members of the board shall be land holders in the district.

(3) When, under a direction issued under sub-section (*2*,) any places on a board are required to be filled by election, and a sufficient number of members is not elected, the Local Government† may fill those places by appointment.

Term of office of members.

12. (1) A member of a district board or local board, when appointed by virtue of an office, shall, unless and until the Local Government† otherwise directs, continue to be a member of the board while he continues to hold that office.

(2) The term of office of all other elected and appointed members respectively of a district board or local board shall be fixed by the Local Government† by rules made under this Act, and may be so fixed as to provide for the retirement of members by rotation, but shall not exceed three years.

(3) An outgoing member shall, if otherwise qualified, be again eligible for election or appointment.

Resignation of members.

13. A member of a local board or of a district board may resign by notifying in writing his intention to do so to the Commissioner‡ ; and, on the acceptance by the Commissioner‡ of such resignation, the member shall be deemed to have vacated his office.

Powers of the Local Government† as to removal of members.

14. The Local Government† may remove any member of a district board or local board—

(*a*) if he refuses to act, or becomes incapable of acting, or is declared insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as implies, in the opinion of the Local Government,† a defect of character which unfits him to be a member.

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* Certain words after this have been repealed by Act 38 of 1920.

† In the North-west Frontier Province read "Chief Commissioner" Vide Reg VII of 1901.

‡ Substituted by Act IV of 1914.

(*b*) if the has been declared by notification to be disqualified for employment in the public service ;

(*c*) if he being a member of a local board, without an excuse sufficient in the opinion of the Local Government,* neglects for more than three consecutive months to be present at the meetings of that board, or, being a member of the district board, without such sufficient excuse, neglects for more than six consecutive months to be present at the meetings of that board ;

(*d*) if his continuance in office is, in the opinion of the Local Government,* dangerous to the public peace or order ; or,

(*e*) when he is a salaried officer of the Government, if his continuance in office is, in the opinion of the Local Government,* unnecessary or undesirable.

filling of casual vacancies.

15. (1) When the place of an elected member of a local board or district board becomes vacant by the resignation or removal of the member or by his death, a new member shall be chosen in accordance with the rules made by the Local Government* under this Act to fill the place :

Provided that the Local Government* may direct in any such case that the vacancy shall be left unfilled.

(2) When the place of a member of a local board or district board appointed by name becomes vacant as aforesaid, the Local Government* may, if it thinks fit, appoint a new member to fill the place.

(3) A person chosen or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but hall be again eligible for election or appointment.

Incorporation of district boards.

16. Every district board shall be a body corporate by the name of the district board of its district, and shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, and, subject to any rules made by the Local Government* under this Act, to transfer any such property held by it, and to contract and do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name.

* In North-west Frontier Province read "Chief-Commissioner" Vide Reg VII of 1901.

Time for district and local boards coming into existence.

17. The several district boards and local boards constituted under this Act shall come into existence at such time as the Local Government may, by notification, fix in this behalf.

Chairman.

18. (1) A member of every district board or local board shall be elcted or appointed to be chairman of the board, and shall hold office for such term, not exceeding three years, as the Local Government* may, by a rule made under this Act, fix.

(2) The Local Government shall determine, as regards each board or as regards any class of boards, whether the chairman shall be a person appointed by virtue of his office or by name, or be elected.

Vice-chairman.

19. (1) A district board or local board may elect one of its members to be vice-chairman.

(2) A vice-chairman so elected shall hold office for such term as the board may, by rule, fix.

B—Duties of District and Local Boards

Duties of district board

20. (1) The following matters shall, subject to such exceptions and conditions as the Local Government* may make and impose, be under the control and administration of each district board within the area subject to its authority :—

(*a*) the management of all property vested in the district board ;

(*b*) the construction, repair, and maintenance of public roads and other means of communication ;

(*c*) the establishment, management, maintenance, and visting of public hospitals, dispensaries, sarais, and schools, and the construction and repair of all buildings connected with this institutions ;

(*d*) the training of teachers and the establishment of scholarships ;

(*e*) the supply, storage and preservation from pollution, of water for drinking, cooking, and bathing purposes ; and

(*f*) the planting and preservation of trees.

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* In the North-west Frontier Province read "Chief Commissioner,, vide Reg VII of 1901.

(2) The Local Government* may direct that any of the following matters shall subject to such exceptions and conditions as it may make and impose, be under the control and administration of a district board within the area subject to its authority.

(*g*) the management of any property vested in Her Majesty,

(*h*) the establishment, maintenance, visiting, and management of markets, rest-houses, encamping-grounds, and other public institutions and the construction and repair of all buildings connected with these institutions ;

(*i*) the construction and repair of embankments, and the supply, storage, and control of water for agricultural purposes ;

(*j*) the preservation and reclamation of soil and the drainage and reclamation of swamps ;

(*k*) the construction, repair, and maintenance of famine preventive works, and the establishment and maintenance of such relief-works, relief-houses, and other measures in time of famine or scarcity as may be entrusted to the charge of the board by the Local Governmet ;

(*l*) the registration of births, marriages, and deaths ;

(*m*) fairs and agricultural shows and industrial exhibitions ;

(*n*) the establishment and management of pounds, including, where the Cattle-trespass Act, 1871, is in force, such functions of the Local Government* and the Magistrate of the district under that Act as may be transferred to the board by the Local Government* ;

(*o*) the management of such public ferries as may be entrusted to the charge of the board under section 7A of the Northern Indian Ferries Act, 1878, as amended by this Act ;

(*p*) any other local works or measures likely to promote the health, comfort, convenience, and interests of the public or the agricultural or industrial prosperity of the country, and

(*q*) any other matters which the Local Government* may declare to be fit and proper matters to be taken under the control and administration of the board.

(3) The Local Government* may cancel or modify any direction given by it under sub-section (2).

* In North Western Frontier Province read "Chief Commissioner" Vide Reg. VII of 1901.

(*f*) A district board shall, so far as the fuuds at its disposal permit, make due provision for all matters placed under its control or administration by or under this section.

Duties of local board.

21. (1) The Local Government, or subject to the control of the Local Government, * a district board may direct that within the area subject to the authority of a local board, any matter placed under the control and administration of the district board by or under section 20 shall be transferred to the control and administration of the local board.

(2) A local board, as the agent of, and subject to the control of, the district board, shall, so far as the funds at its disposal permit, make due provision for all matters transferred to its control and administration under sub-section (1)

(3). It shall be the duty of the district board to enforce the responsibility imposed on a local board by sub-section (2).

Limits or expenditure of local boards.

22. Except as otherwise provided by this Act, a local board shall not incur expences or undertake liabilities to any amount exceeding the limit imposed by the district board of its district.

Power for district board to provide for performance of duty in default of local board.

23. (1) If s local board makes defult in the performance of any duty imposed on it by or under this Act, the district board may, by order in writing fix a period for the performance of the duty.

(2) If the duty is not performed within that period, the the district board may appoint some person to perform it, and may provide for the expenses of and incidental to, its performance out of the funds appropriated to or for the purposes of the local board.

C.—Joint Committees.

Joint Committees.

24. A district board may concur with any other district board, or with any municipal committee, or with any cantonment authority, or with more than one such board, committee, or authority, in appointing, out of their respective bodies, a joint committee for any purpose in which they are jointly interested, and for delegating to any such joint committee any power which might be exercised by either or any of the boards, committees, or authorities concerned, and in framing or modifying regulations as to the proceedings of any such joint committee, and as to the conduct of correspondence relating to the pupose of which the joint committee is appointed.

† In North West Frontier Province read "Chief Commissioner" Vide Reg VII of 1901.

D.—Conduct of Business.

Record and publication of proceedings.

25. (*1*) Minutes of the proceedings at each meating of a district or local board shall be drawn up and recorded in a book to be kept for the purpose, and shall be signed by the chairman of the meeting or of the next ensuing meeting and shall be published in such manner at the Local Government* may, from time to time, direct and shall, at all reasonable times and without charge, be open to the inspection of any inhabitant of the district who pay any rate or tax under this Act.

(2) A copy of every resolution passed by a local board at a meeting shall, within three days from the date of the meeting, be forwarded to the distrct board and to the Deputy Commissioner.

(3) A copy of every resolution passed by a district board at a meeting shall, within three days from the date of the meeting be forwarded to the Deputy Commissioner.

Power to make rules as to business and affairs.

26. Every district board, and every local board with the sanction of the district board, may make rules as to—

(*a*) the time and place of its meetings and the manner in which notice of meetings shall be given ;

(*b*) the conduct of proceedings at meetings and the adjournment of meetings.

(*c*) the custody of common seal and the purposes for which it shall be used ;

(*d*) the division of duties amongst its members ;

(*e*) the powers to be exercised by sub-committees or members to whom particular duties have been assigned ;

(*f*) the persons by whom receipts shall be granted for money received under this Act ;

(*g*) the duties, appointment, leave, suspension, and removcal of the officers and servants of the board ;

(*h*) the term for which the vice-chairman shall hold office ; and

(*i*) other similar matters :

Provided that every rule made under this section must be consistent with this Act and with any rules made by the Local Governmet* under this Act, and shall be published in such manner as the Local Government* may direct.

* In the North West Frontier Province read "Chief Commissioner" Vide Reg VII of 1901.

E.—Officers and Servants.

Employment of officers and servants.

27. (1) Subject to the provisions of this Act and to any rules which may be made under this Act in this behalf, every district board may employ and pay such officers and servants as may be necessary and proper for the efficient execution of its duties and of the duties of the local boards acting under it :

Provided that if, at any time, in the opinion of the Deputy Commissioner,

(*a*) the number of persons employed by a board under this section, or the remuneration assigned by the board to those persons, or to any of them, is excessive, or

(*b*) any such person is unfit for his employment, the board shall, on the requirement of the Deputy Commissioner, reduce the number, or remuneration, of those persons, or, as the case may be, dismiss the unfit person.

(2) The board may appeal against any requirement under this section to the Commissioner of the division, whose decision shall be final.

Pensions of Government officials serving boards.

28. In the case of a Government official, a district board may—

(1) if his services are wholly lent to it, contribute to his pension or gratuity and leave-allowances in accordance with the rules of the 'Civil Service Regulations" * for the time being in force ; and

(2) if he devotes only a part of his time to the performance of duties in behalf of the board, contribute to his pension or gratuity and leave allowances in such proportion as may be determined by the Government.

Pensions of servants of boards.

29. In the case of an officer or servant, not being a Government official referred to in section 28, a district board may—

(1) grant him leave-allowances and, if he is employed under the distric committee when this Act comes into force and not entitled to pension, or if his monthly pay is less than ten rupees, a gratuity ; and

(2) if empowered in this behalf by the Local Government—

* In ss. 28 and 29 the words quoted have been substituted for the words "Government Civil Pension and Leave Codes" by Act XII. of 1891, Sch. II.

(*a*) subscribe in his behalf for pension or gratuity and leave-allowances under the rules of the "Civil Service Regulations" *for the time being in force ; or

(*b*) purchase for him from the Government or otherwise an annuity on his retirement :

Provided that no pension, gratuity, leave-allowance, or annuity shall exceed the sum to which, under the "Civil Service Regulations" * for the time being in force, the servant would be entitled if the service had been service under the Government.

†(3) Nothing in this section or in section 37 contained shall be deemed to prohibit the establishment of a Provident Fund by officers or servants of a District Board, not being Government officials, or to debar a District Board, if otherwise expressly authorised by the Local Government in this behalf from contributing from the District Fund towords such Provident Fund at such rates and under such conditions as the District Board may, by rules to be confirmed by the "Local Government" fix and apportion for such purpose.

F.—Taxation and Finance.

Powers of taxation conferred on district boards.

30. Subject to any general rules or special orders which the "Local Government"‡ may make in this behalf, a district board may impose, in manner prescribed by section 31, such taxes as may be approved by the "Local Government" :§

Provided that no such tax shall be imposed in respect of any property subject to the local rate.

Procedure in imposing taxes.

31. (1) A district board may resolve, at a meeting, convened and constituted in such manner as the "Local Government"§ may prescribe, to propose the imposition of any tax under section 30.

(2) When a resolution has been passed under sub-section (1), the board shall publish a notice defining the class of persons or description of property purposed to be taxed, the amount or rate of the tax to be imposed, and the system of assessment to be adopted.

(3) Any person likely to be directly affected by the proposed tax, and objecting to the same, may within thirty days from the publication of the notice, send his objection in writing to the board, and the board shall, at [meeting convened and constituted as aforesaid, take his objection into consideration.

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* The words quoted were substituted by Act XII of 1891.

† Sub-section (3) has been added by Punjab Act I of 1905.

‡ The words within questions have been substituted by Act 38 of 1920.

§ In North West Frontier Province read "Chief Commissioner"—Vide Reg VII of 1901.

(4) If no objection is sent within the said period of thirty days or if the objections received, having been considered as deemed insufficient, the board may submit its proposal to the Local Government * with the objections (if rny) which have been sent in, and with its decision therein.

(5) The Local Government * on receiving proposals under sub-section (4), may sanction the same, or refuse to sanction them, or return them to the board for further consideration.

(6) When the proposals of a district board in respect of a tax have been sanctioned by the Local Government * the board may, at a meeting convened and constituted as aforesaid, direct the imposition of the tax in accordance with those proposals :

Provided that, in giving such direction, the board shall fix a date not less than one month from the date of the meeting on which the tax shall come into force.

(7) Every direction under sub-section (6) shall be notified, and notification shall be conclusive evidence tnat the tax has been imposed in accordance with law.

Reduction and abolition of tax.

32. The Local Government * may by notification, and the district board may, with tne sanction of the Local Government,* by a resolution passed at meeting convened and constituted as the Local Government* may prescribe, abolish or reduce any tax imposed under sections 30 and 31.

Levy of fees.

33. With the previous sanction of the Local Government,* or of such officer as the Local Government* may authorize in this behalf, a district board or local board may fix and levy school fees and fees for the use of, or benefits derived from, any of the works specified in section 20, clauses (*c*), (*e*), (*h*), (*i*), and (*j*), and fees at fairs, agricultural shows, and industrial exhibitions held under its authority.

Additional funds to be provided by the Government.

34. When the control and administration of any matter is by or under this Act transferred to a district board and at the time of the transfer the cost of that control and administration is defrayed from provincial revenue, the Local Government * shall, from time to time, allot to the district board such funds, or place at the disposal of tne board such sources of income, as may, in the opinion of the Local Government* and of the board, be sufficient for maintaining the control and administration of the said matter in the state of efficiency existing at the date of transfer.

* In the North West Frontier Province read ,'Chief Commissioner" Vide Reg VII of 1901.

35. There shall be formed for each district a fund, to be called the district fund, and there shall be placed to the credit thereof—

District fund.

(*a*) the balance (if any) of the allotments made for the district under section 7 of the Punjub Local Rates Act, 1878, and of the road and school cesses, which may be available for expenditure in the district on the day on which the district board comes into existence ;

(*b*) all proceeds or rates allotted to the district board under section 9 ;

(*c*) the proceeds of all taxes imposed in the district under sections 30 and 31 ;

(*d*) the amount of all fees leavied by the district board or by local boards in the district under section 33 ;

(*e*) all funds allotted to the district board and the income arising from all sources of income placed at its disposal under section 34 ;

(*f*) all rents and profits accruing from property vasted in the district board or managed by the district board or a local board in the district ;

(*g*) all sums contributed to the fund by Government or by any commitee, board, or private person ;

(*h*) all sums received by the district board or by a local board in the district in the discharge of functions exercised by it under this Act ; and

(*i*) the proceeds of all sources of income which the Local Government † may order to be placed at the disposal of the district board :

Provided that the Local Government † may revoke any order made under clause (*i*).

36. (1) The district fund shall be vested in the district board, and the balance standing at the credit of the fund shall be kept in the Government treasury or sub-treasury, or in the bank to which the Government treasury business has been made over, unless the Local Gavernment in any cases otherwise permits.

Vesting, custody, and investment of district fund.

(2) Subject to such rules as the "Local Government"* may make in this behalf, the district board may, with the previous sanction of the Local Government, invest any portion of the district fund in securities of the Government of India or such other

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

† In the North-West Frontier Province read "Chief Commission" vide Reg. VII of 1908.

securities as the "Local Government"* may approve in this behalf, and vary such investments for others of the same nature, or dispose of them. The income resulting from the securities, and the proceeds of the sale of the same, shall be credited to the district fund.

Application of district fund

37. (1) The district fund shall be charged with the payment of the expenses of the district-post, the payment of the expenses of pauper lunatics sent to public asylums from the area under the authority of the district board, the expenses incurred in auditing the accounts of the district boards and local boards, and such portion of the cost of the Provincial Deparments for education, sanitation, vaccination, medical relief, and public works as may be held by the Local Government * to be equitably debitable to the district board in return for services rendered to the board by those Departments.

(2) Subject to the charges specified in sub-section (1), and to such rules as the Local Government * may make with respect to the priority to be given to the several duties of the board or otherwise, the district fund shall be applicable to the payment, in whole or in part, of the charges and expenses incidental to the matters specified in sections 20, 27, 28, and 29, and to the provision of grants-in-aid to educational and medical institutions, within the area subject to the authority of the district board, and, with the sanction of the Commissioner, outside that area when such application of the fund is for the benefit of the inhabitants of that area.

Works or undertaking benefiting several districts.

38. In the case of works or undertakings which benefit more districts than one, when the district boards cannot agree, the Commissioner or Commissioners of the division or divisions, or when the districts are in different divisions, and the Commissioners cannot agree, the Local Govetnment * may determine what porportion of the expenses of the work or undertaking shall be borne by each of the district funds of the district benefited thereby ; and such porportion shall be payable out of the several district funds accordingly.

Annual estimates of income and expenditure of district boards.

39. (1) Every district board shall appoint a finance committee constituting of not less than three, of its members

(2) Every district board shall, on or before a prescribed day in each year hold a meeting at which the finance committee shall submit to the board an estimate of the income and expenditure

* In North-West Frontier Province read Chief Commissioner—vide Reg. VII of 1901.

of the board for the next financial year, in such form as the Local Government * may, by a rule made under this Act, prescribe.

(3) The board shall consider the estimate, and may provisionally approve of it with or without modification.

(4) The board shall, on or before a prescribed day, cause copies of the estimate, as provisionally approved by it, to be sent to the Deputy Commissioner.

(5) The Deputy Commissioner shall on or before prescribed day, signify in writing to the board his approval or disapproval of the estimate. When he disapproves of the estimate, he shall state the nature of his objection. The board shall then consider the matter, and either modify the estimate, so as to remove the objection, or refer it through the Deputy Commissioner to the Commissioner of the division. If the Commissioner concurs in the objection, he shall make such modification in the estimate as may, in his judgment, be necessary to remove the objection in whole or in part. If he does not concur in the objection, he shall pass the estimate, and his order shall be final and binding on the board.

(6) When the Deputy Commissioner has signified his approval of an estimate, or the board has modified an esmate so as to remove the Deputy Commissioner's objections, or when the Commissioner has passed orders as provided in sub-section (5), no expenditure which is not provided for in the estimate as approved or modified shall be incurred during the year to which the estimate relates without the previous sanction of the Deputy Commissoner.

(7) When the Deputy Commissioner is a member of the district board, the Commissioner and the Local Government * shall take the place of the Deputy Commissioner and the Commissioner † respectively for the purposes of this section.

Accounts of district boards

40. Accounts of the receipts and expenditure of every district board shall be made up periodically to such days and in such form as the Local Government * prescribes, and shall be examined and audited as soon as may be after they are so made up by such persons as the Local Government * appoints in this behalf.

Estimates and accounts of local boards

41. (1) Every local board shall submit annually to the district board of its district, on or before such date as the district board may appoint in this behalf, a statement of the requirements, and an estimate of the probable expenditure, of the local

* In North West Frontier Province read Chief Commissioner Vide Reg. VII of 1901

† In North- West Frontier Province read Revenue Commissioner.

board for the coming financial year, and shall submit, as often as the district board may require, accounts of its receipts and its expenditure.

(2) The district board shall signify in writing to the local board its approval or disapproval of an estimate submitted under this section, and powers similar to those conferred on the Deputy Commissioner and Commissioner by section 39, clauses (5) and (6), shall be exercised, in regard to the estimate, by the district board and the Deputy Commissioner, or (when the Deputy Commissioner is a member of the district board) the Commissioner, respectively :

Provided that, during the currency of any financial year, the Deputy Commissioner may sanction transfers of provision within the estimate finally approved, when inconvenience or undue delay would be caused by a previous reference to the district board.

(3) The district board shall make arrangements, subject to the approval of the Deputy Commissioner, for the examination and audit of accounts submitted to it under this section, and may arrange for the publication of such accounts.

Inspection of estimate of accounts.

42. Every district board shall cause a copy of every annual estimate provisionally or finally approved under section 39, and of every account made up under section 40, to be kept at its office ; and any person paying rates or taxes under this Act may, at all reasonable times, inspect any such estimate or account without payment of any fee.

Publication of abstract of accounts.

43. A statement of the accounts of a district board for each financial year, showing the income of the district fund under each head of receipt, the charges for establishment, the work undertaken, the sums expended on each work, and the balance, if any of the fund remaining unspent at the end of the year, shall be prepared by the board in such form as the Local Government * prescribes ; and an abstract of the same shall be published in the English and Vernacular official Gazettes, or in such other manner as the Local Government * may direct.

G.—Control.

Control of Commissioner and Deputy Commissioner over boards and joint committee.

44. (1) The Commissioner of the division, or the Deputy Commissioner of the district when he is not a member of the district board, may—

* In North West Frontier Province read Chief Commissioner—Vide Reg VII of 1901.

(*a*) enter on and inspect, or cause to be entered on and inspected, any immoveable property within the limits of the division or district respectively occupied by any local board, district board, or joint committee, or any work in progress within those limits under the direction of any such board or committee ;

(*b*) by order in writing call for and inspect any document in the possession or under the control of any such board or committee having authority within those limits ;

(*c*) by order in writing require any such board or committee to furnish such statements, accounts, reports, and copies of documents relating to the proceedings or duties of the board or committee, as he may think fit to call for ; and

(*d*) record in writrng, for the consideration of any such board or committee, any observations he may think proper in regard to the proceedings or duties of the board or committee.

(2) If any difference of opinion arises between officeres exercising the powers conferred by sub-secton (1), it shall be referred—

(*a*) if it arises between two or more Deputy Commissioners in the same division—to the Commissioner ; and

(*b*) if it arises between two or more Deputy Commissioner in different divisions or between two or more Commissioners—to the Local Government ;

and the decision therein of the Commissioner or of the Local Governmet, as the case may be shall be final.

Power to suspend action.

45. The Commissioner of the division or the Deputy Commissioner of the district may, by order in writing, suspend within the division or district respectively, the execution of any resolution or order of a district board or local board or joint committee, or prohibit the doing of any act within the said limits which is about to be done, or is being done, in pursuance of or under cover of this Act, if in his opinion the resolution, order, or act, is in excess of the powers conferred by law, the execution of the resolution or order, or the doing of the act, is likely to lead to a breach of the peace, or to cause injury or annoyance to the public or to any class or body of persons.

Extraordinary powers of Deputy Commissioner in case of emergency.

46. (1) In cases of emegency, the Deputy Commissioner may provide for the execution of any work, or the doing of any act, which a district board or local board is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing the work or of doing the act shall be forthwith paid by the district board.

(2) If the expense is not so paid, the Deputy Commissioner may make an order directing the person having the custody of the balance of the district fund to pay the expense, or so much thereof as is, from time to time, possible, from that balance in priority to all other charges against the same.

Power to provide for performance of duties in case of default of board.

47. (1) When the Commissioner, after due enquiry, is satisfied that a district board has made default in performing any duty imposed upon it by or under this Act he may, by an order in writing, fix a period for the performance of that duty, and, if it is not performed within the period so fixed, he may appoint some person to perform it, and may direct that the expense of performing it shall be paid, within such time as he may fix, by the board to that person.

(2) If the expense is not so paid, the Commissioner may make an order directing the person having the custody of the balance of the district fund to pay the expense, or so much thereof as is, from time to time, possible, from that balance in priority to all other charges against the same.

Power to invest other officers with power of control.

48. When the control and administration of any public work is, by or under this Act, transferred to a district board, and at the time of the transfer the cost of that control and administration is defrayed from provincial revenue, the Local Government may invest any officer with respect to that work with the powers of a Commissioner under section 44 or section 47, or with the powers of a Deputy Commissioner under section 46.

Report of action under preceding sections.

49. When the Commissioner makes any order under section 45 or section 47, he shall forthwith forward to the Local Government, and when the Deputy Commissioner makes any order under section 45 or section 46, or an officer empowered under section 48 makes any order under section 46 or section 47, he shall forthwith forward to the Commissioner, for submission to the Local

Government, a copy of the order, with a statement of the reasons for making it, and with such explanation, if any, as the board or committee concerned may wish to offer. The Local Government may thereupon confirm, modify, or rescind the order.

Powers of Local Government and its officers over boards.

50. (1) It shall be the duty of the Local Government and of all Commissioners and Deputy Commissioners acting under its orders to require that local the proceedings of district boards and boards shall be in conformity with law and with the rules in force thereunder.

(2) The Local Government may exercise all powers necessary for the purpose of sub-section (1), and may, amongst other things, by order in writing, annul any proceeding which it considers not to be in conformity with law and with the said rules.

(3) The Commissioner of the division and the Deputy Commissioner of the district may, within their jurisdiction, for the same purpose, exercise such powers as may be conferred upon them by rules made in this behalf by the Local Government.

Power of Local Government to supersede, in case of incompetency, persistent default, or abuse of powers.

51. If a district board or local board is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this or any other Act, or exceeds or abuses its powers, the Local Government may, * by notification, in which the reasons for so doing shall be stated, declare the board to be superseded.†

Consequences of supersession.

52. When a district board or local board is superseded under section 51, the following consequences shall ensue:—

(*a*) All members of the board shall, from the date of the notification, vacate their offices as such members:

(*b*) All powers and duties of the board may, until the board is re-constituted, be exercised and performed by such person as the Local Government ‡ appoints in that behalf:

(*c*) Where a district board is superseded, all property vested in it shall, until it is re-constituted, vest in Her Majesty.

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

† In North-West Frontier Province read "Chief Commissioner" vide Reg. VII of 1901.

Constitution of new board, and transfer of functions of superseded local board.

53. (1) When district board is superseded, the Local Government * shall, as soon as in its judgment conveniently may be, constitute another district board in its place.

(2) When a local board is superseded, the Local Government ‡ may either constitute another local board in its place, or transfer its fuctions to the district board or, by a notification under section 10, to any other local board.

Disputes.

54. (1) If any dispute, for the decision of which this Act does not otherwise provide, arises between two or more boards constituted under this Act, or between a municipal committee or cantonment authority and any such board, the matter shall be referred—

(*a*) to the Deputy Commissioner, if the local authorities concerned are in the same district;

(*b*) to the Commissioner or Commissioners of the division or divisions, if the local authorities concerned are in different districts; and

(*c*) to the Local Government *, if the local authorities concerned are in different divisions, and the Commissioners of those divisions cannot agree.

(2) The decision of the authority to which any dispute is referred under this section shall be final.

(3) If, in the case, mentioned in clause (*a*), the Deputy Commissioner is a member of one of the boards or committees concerned, his functions under this section shall be discharged by the Commissioner.

(4) "Local authority" in this section means a district board, local board, municipal committee, or cantonment authority.

Power of the Governor-General in Council and the Local Government to make rules.

55. So far as may be consistent with the provisions of this Act—

(1)† the "Local Government"‡ may—

(*a*) make general rules "in the case of taxes which, under rules made under clause (*a*) of sub section (3) of section 80A, of the Government of India Act, a local authority may be authorized to impose by any law made by the local legislature without the previous sanction of the Governor-General."‡ or special orders for the regulation of taxation under section 30; and

* In North Western Frontier Province read Chief Commissioner—Vide Reg. VII of 1901.

† Sub-clause (*b*) was removed from clause (1) and was inserted in clause (2) by Act IV of 1914.

‡ The words within quatations have been substituted by Act 38 of 1920.

(2) the Local Government* may, for any district or local board, or any class of such boards, make rules for—

(*b*) regulating the powers of district boards to make, vary, and dispose of investment,†

(*c*) dividing boards into classes, and fixing the powers of boards of each class;

(*d*) determining the mode and time of appointment or election of members of boards, the term of office, allowances (if any), and the qualifications and disqualifications of such members, and the qualifications and disqualification of voters, and generally for regulating all elections under this Act;

(*e*) regulating the powers of boards to transfer property;

(*f*) regulating the powers of boards to contract and do other things necessary for the purposes of their constitution and the mode of executing contracts;

(*g*) determining the intermediate offices, if any, through which corresponence between boards or members of boards and the Local Government * or its officers shall pass;

(*h*) determining the language in which business shall be transacted;

(*i*) the employment, payment, suspension, and removal of officers and servants under seetion 27;

(*j*) the appointment of the district fund between the general purposes of the district and the purposes of particular parts of the district;

(*k*) the application of district funds and the management and regulation of provident funds established under sub-section (3) of section 29;‡

(*l*) the form of estimates of income and expenditure under section 39;

(*m*) the form of accounts and the manner of periodical audit under section 40;

(*n*) the publication of abstracts of accounts under section 43;

(*o*) the preparation of plans and estimates for works which are to be partly or wholly constructed at the expense of boards, and as to the authority by which, and the conditions subject to which, such plans and estimates may be sanctioned;

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* In North-West Frontier Province read Chief Commissioner—Vide Reg. VII of 1901.

† Vide not † in page 50.

‡ Clause (*k*) has been substituted by Punj. Act I. of 1905.

(*p*) the powers of supervision to be exercised by Commissioners and Deputy Commissioners under section 50;

(*q*) the conduct of proceedings of boards, including the fixing of a quorum, the appointment or election of a chairman, and the term of office of a chairman and vice-chairman;

(*r*) the appointment and payment of auditors of the accounts of boards; and

(*s*) the guidance of district boards when suits or other proceedings are intended to be or have been instituted by or against them in Civil Courts; and

(*t*) generally determining the relations between district boards and local boards, and guiding boards and Government officers in all matters connected with the carrying out of the provisions of this Act.

All such rules and alterations of rules shall be notified, and no rules or alteration of rules under clause (2) (*d*) shall come into operation until three months after they have been notified.*

H.—Regulations.

Power to make regulations.

56. (1) Every district board or local board empowered in this behalf by the Local Government † may make regulations for carrying out all or any of the purposes of this Act.

(2) A regulation made under this section shall not have effect until it has been confirmed by the Local Government † and published in such manner and for such time as the Local Government † may direct.

Penalty for infringement of regulations.

57. (1) In making any regulation under section 56, a board may direct that a breach of the same shall be punished with fine which may extend to fifty rupees, and, in the case of a continuing breach, with a further fine which may extend to five rupees for every day during which the breach is continued after the offender has been convicted of such breach.

(2) In default of payment of any fine imposed under this section, the defaulter shall be liable to simple imprisonment for a term which may extend to eight days.

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* Certain words added by Act IV. of 1914 have been repealed by Act 38 of 1920.

† In North West Frontier Province read "Chief Commissioner—Vide Reg. VII of 1901.

58. (1) Prosecutions under this Act for breach of regulations may be instituted by any board, or by any person authorized by the board in this behalf.

Prosecutions.

(2) A Judge or Magistrate shall not be deemed to be, within the meaning of section 555 of the Code of Criminal Procedure, a party to, or personally interested in, any case under this section merely because he is a member of the board.

I.—Supplemental and Exceptional Provisions.

59. Every person shall be liable for the loss, waste, or misapplication of any money or other property belonging to the district board, if such loss waste, or misapplication, is a direct consequence of his neglect or misconduct while a member of a local board or of the district board, and a suit for compensation for the same may be instituted against him in such Court as the Local Government * directs, by the district board with the sanction of the Commissioner, or by the Secretary of State for India in Council.

Liability of members of boards.

60. (1) The Local Government * before making any rules under section 55 or section 67, and a district or local board, before making any regulations under section 56, shall publish, in such manner as the Local Government * may deem sufficient for giving information to persons interested, a draft of the proposed rules or regulations, together with a notice specifying a date on or after which the draft will be taken into consideration; and shall, before making the rules or regulations, receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

Procedure for making rules and regulations.

(2) Every such rule or regulation shall be published in the official Gazette in English and in such other language as the Local Government * directs, and such publication shall be conclusive evidence that the rule or regulation has been made as required by this section.

61. Where any land is required for the purposes of this Act, the Local Government * may at the request of a district board, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on the payment by the board of the compensation awarded under that Act, and of the charges incurred by the Government in connection with the proceedings the land shall vest in the board.

Acquisition of land

* In North West Frontier Province read "Chief Commissioner" Vide Reg. VII. of 1901.

Penalty on member, officer, or servant being interested in contracts made with a board or joint committee.

62. (1) If any member, officer, or servant of a district or local board or joint committee appointed under this Act, is, otherwise than with the permission in writing of the Commissioner, directly or indirectly interested in any contract made with that board or joint committee, he shall be deemed to have committed an offence under the Indian Penal Code, section 168.

(2) A person shall not, by reason of being a shareholder in, or a member of, any incorporated or registered company, be held to be interested in any contract entered into between the company and a board or committee ; but he shall not take part in any proceedings of the board or committee relating to any such contract.

Saving for Act XI of 1879

63. Nothing in this Act shall affect the Local Authorities Loans Act, 1879.

General powers of Local Government and Commissioners.

64. In all matters connected with this Act, the Local Government* shall have and exercise over Commissioners and Deputy Commissioners, and Commissioners shall have and exercise over Deputy Commissioners, the same authority and control as they respectively have and exercise over them in the general and revenue administration.

Contracts of local committees.

65. Every contract entered into, whether in its own name or in the name of the Government, by the committee appointed in a district under section 11 of the Punjab Local Rates Act, 1878, may be enforced by and against the district board constituted for that district under this Act, in like manner as it might have been by and against the committee if this Act had not been passed.

Government officers serving under committees to continue under board.

66. A Government officer employed under the committee appointed in a district as aforesaid at the time when a district board comes into existence for the district under section 17 of this Act shall be deemed to be similarly employed by the board, and shall not be dismissed from that employment without the sanction of the Local Government.*

Power of Local Government to except local area from operation of Act.

67. (1) If the circumstances of any district or part of a district are, in the opinion of the Local Government,* such that all or any of the provisions of this chapter are unsuited thereto, the Local Government* may, by notification in the official Gazette, except the district or part from the operation of those provisions ; and thereupon those provisions shall not apply to the excepted district or part until again applied thereto by a like notification.

* In North West Frontier Province read Chief Commissioner, Vide Reg VII of 1901.

(2) While any notification under this section is in force, the Local Government* may make rules to provide for any matter dealt with by the provisions to which the notification applies.

Committee to be constituted for district wholly excepted from Act

68 When a district is excepted, under section 67, from all the provisions of this chapter, a committee shall, except where the Local Government* for special reasons otherwise directs, be constituted for the control and administration in that district of the matters mentioned in section 20, or of such of them as the Local Government* may, from time to time, specify ; and the Local Government* shall, from time to time, determine the manner in which the members of the committee shall be appointed and removed, define the functions and authority of the committee, and place at its disposal, subject to such control as the Local Government* thinks fit,—

(*a*) the balance standing at the credit of the district fund at the time when the district is excepted or, as the case may be, the balance of the allotments made for the district under section 7 of the Punjab Local Rates Act, 1878, and of the road and school cesses, which may be available for expenditure in the district at that time ;

(*b*) all proceeds of rates which, but for the district being excepted, would be allotted to the district board under section 9 of this Act ; and

(*c*) such other sources of income mentioned in section 35 of this Act as the Local Government* thinks fit :

Provided that not less than one-half of the members of the committee shall be persons who own landed property, or reside or carry on trade or business in the district, and are not servants of the Government.

Power to direct that Act XX of 1856 shall cease to be in force.

69. (1) When any local area in which Act XX. of 1856 (*An Act to make better provision for the appointment and maintenance of Police Chaukidars in Cities, Towns Stations, Suburbs, and Bazars in the Presidency of Fort Williams in Bengal*) is in force is included in any local area over which a district board established under this Act has authority, the Local Government * may, by notification, direct that that Act shall cease to be in force in the local area so included, and that every panchayat constituted under that Act for that local area shall cease to exist.

(2) When a direction is issued under this section in respect of any local area in which the said Act XX. of 1856 is in force, the amount, if any, then available under section 36 of that Act for purposes of improvement in that local area, shall be expended therein by the Deputy Commissioner for such purposes.

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* In North West Frontier Province read Chief Commissioner, Vide Reg. VII of 1901.

CHAPTER IV.

SUPPLIMENTAL PROVISIONS AS TO TAXATION

Recovery of rates.

70. All rates and taxes imposed under this Act, and all arears of such rates and taxes, may be recovered as if they were arears of land-revenue.

Local rate or tax how to be assessed and collected.

71. (1) The Local Government* may, by notification, determine the persons by whom the local rate or any tax imposed under this Act shall be assessed and collected, and make rules for the assessment and collection of the rate or tax, and direct in what manner persons employed in the assessment or collection shall be remunerated.

(2) The provisions of section 60 shall apply to all rules made under this section.

Appeals.

72. (1) In matters connected with the assessment and collection of any rate or tax leviable under this Act, an appeal shall lie from the order of any person authorized under this Act to make assessments or collections to such person as the Local Government * appoints :

Provided that the appeal shall be presented within 30 days from the date of the order.

(2) The order passed on an appeal under this section shall be final.

Instalments of rates and taxes.

73. (1) The Local Government * may, by notification, prescribe by what instalments and at what times any rate or tax leviable under this Act shall be payable.

Provided that every instalment of the Local rate leviable under section 5 shall be payable with an instalment of the land-revenue.

(2) In any local area subject to the authority of district board the Local Government, may, by notification, delegate to the board, subject to such conditions it thinks fit, its powers under this section.

Power of Local Government to exempt from taxation.

74. The Local Government* may, by notification, remit or reduce any rate or tax imposed under this Act, or exempt any person or class of persons, or any description of property, wholly or in any part, from liability to any such rate or tax, and cancel any such remission, reduction, or examination.

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* In North West Frontier Province read "Chief Commissioner" Vide Reg. VII. of 1901.

Power to direct measurements.

75. When measurements are necessary for the assessment of the local rate or of any tax imposed under this Act, the Local Government* may, by notification, direct such measurements to be made.

Suits relating to rates and taxes under this Act cognizable by Courts having cognizance of suits for rent.

76. Suits for the recovery, from co-shares, tenants, or others, of any sum on account of any rate or tax imposed under this Act, and suits on account of illegal exaction of any such rate or tax, or for settlement of accounts connected therewith, shall, unless the Local Government* otherwise directs, be cognizable by the Courts which for the time being have conizance of suits for rent due on land.

Confirmation and recovery of existing rates.

77. All rates for the maintenance of roads, schools, or the district post, for the payment of which provision has been made in any settlement record previous to the paasing of this Act, or which have been habitually levied by Government, shall be deemed to have been and to be legally imposed, and to have been and to be legally recoverable as if they were arrears of land-revenue payable directly to Government and due on the land in respect of which they are payable.

CHAPTER V.

AMENDMENT OF THE NORTHERN INDIA FERRIES ACT, 1878.

Amendment of the Northern India Ferries Act.

78. After section 7 of the Northern India Ferries Act, 1878, the following shall be inserted, namely :—

"7A. [*Printed supra, p. 354.*]

Further amendment.

79. In secction 6 of the same Act, after the words "section seven", and and in section 17 of the same Act, after the words "section seven" where they first occur, the following shall be inserted, namely :—"and section 7A."

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* In North-West Frontier Province read "Chief Commissioner"—Vide Reg VII of 1901.

ACT II. OF 1884.

The Madras Partition-deeds (Validation) Act, 1884.*

RECEIVED THE G.-G.'S ASSENT ON THE 18TH JANUARY 1884.

An Act to give effect to certain unregistered instruments of partition relating to immoveable property in the Madras Presidency, and to remove doubts as to the titles conferred thereby.

WHEREAS it is expedient to give effect to certain unregistered instruments of partition relating to immoveable property in the Madras Presidency, and to remove doubts as to the titles conferred thereby ;

It is hereby enacted as follows :—

Certain unregistered instruments of partition to have same force and effect as registered instruments.

1. Notwithstanding anything contained in any Act to the contrary, instruments of partition relating to immoveable property in the Madras Presidency, which have been executed before the passing of this Act, and have not been registered, shall have the same force and effect as if they had been registerd under the law inforce at the time when they were executed :

Provided that this Act shall not—

(*a*) apply to any unregistered instrument of partition which has been superseded by an instrument of partition duly registered, or

(*b*) affect the title of a transferee for value in good faith of property, whether he has or has not had notice of an unregistered instrument of partition relating to that property, or

(*c*) affect any right established by a final decree of a Court of competent jurisdiction.

Compensation to person deprived of right owing to transfer under section 1, clause (b).

2. When any person to whom any right has accrued on the partition, or any person claming under that person has, by any such transfer as is mentioned in section 1, clause (*b*), been deprived of any right created by the partition, he shall be entitled to recover compensation in damages from any sharer who has directly or indirectly caused such privation of right, or, if the sharer is dead, from his assets :

Provided that suit be brought within three years from the date of the transfer.†

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* This title has been given by Act XI. of 1901.

† In s. 2, proviso, certain words, repealed by Act XII. of 1891, Sch. I., have here been omitted.

ACT IV. OF 1884*

Indian Explosives,

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

An Act to regulate the manufacture, possession, use, sale, transport, and importation of Explosives.

WHEREAS it is expedient to regulate the manufacture, possession, use, sale, transport, and importation of explosives ; It is hereby enacted as follows :—

Short title. **1.** (1) This Act may be called the Indian Explosives Act, 1884 ; and

Local extent. (2) It extends to the whole of British India.

Commencement. **2.** (1) This Act shall come into force on such day as the Governor-General in Council, by notification in the *Gazette of India*, appoints :

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

3. [*Repealed by Act* (*X.* of *1889*), *Sch. II*]

Definition. **4.** In this Act, unless there is something Repugnant in the subject or context,—

(1) "explosive"—

(*a*) means gunpowder, nitro-glycerine, dynamite, gun-cotton, blasting powders, fulminate of mercury or of other metals, coloured fires, and every other substance, whether, similar to those above-mentioned or not used or manufactured with a view to produce a practical effect by explosion, or a pyrotechnic effect ; and

(*b*) includes fog-signals, fireworks, fuzes, rockets, percussion caps, detonators, cartridges, ammunition of all descriptions, and every adaptation or preparation of an explosive as above defined :

(2) "manufacture" includes the process of dividing into its component parts, or otherwise breaking up or unmakingany explosive, or making fit for use any damaged explosive, and the process of re-making, altering, or repairing any explosive :

(3) "vessel" includes every ship, boat, and other vessel used in navigation, whether propelled by oars or otherwise :

(4) "carriage, includes any carriage, wagon, cart, truck, vehicle, or other means of conveying goods or passengers by land in whatever manner the same may be propelled :

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* The Act has been declared in force in the Santhal Parganas by Reg. 3 of 1872, s. 3, as amended by Reg. 3 of 1899, s. 3 ; in Upper Burma (except the Shan States), by Act 13 of 1898, s. 4.

(5) "master" includes every person (except a pilot or harbour-master) having for the time being command or charge of a vessel: provided that, in reference to any boat belonging to a ship, "master" shall mean the master of the ship:

(6) "import" means to bring into British India by sea or land.

Power to make rules as to licensing of the manufacture, possession, use, sale, transport, and importation of explosives.

5. (1) The Governor-General in Council may for any part of British India, and each Local Government, with the previous sanction of the Governor-General in Council, may for any part of the territories under its administration, make rules consistent with this Act to regulate or prohibit, except under and in accordance with the conditions of a license granted as provided by those rules, the manufacture, possession, use, sale, transport, and importation of explosives, or any specified class of explosives.

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

(*a*) the authority by which licenses may be granted;

(*b*) the fees to be charged for licenses, and the other sums (if any) to be paid for expenses by applicants for licenses;

(*c*) the manner in which applications for licenses must be made, and the matters to be specified in such applications;

(*d*) the form in which, and the conditions on and subject to which, licenses must be granted;

(*e*) the period for which licenses are to remain in force; and

(*f*) the exemption absolutely or subject to conditions of any explosives, from the operation of the rules.

(3) The authority making rules under this section may, by the rules, impose penalties on all persons manufacturing, possessing, using, selling, transporting, or importing explosives in breach of the rules, or otherwise contravening the rules:

Provided that the maximum penalty which may be imposed by any such rules shall not exceed—

(*a*) in the case of a person so importing or manufacturing an explosive, a fine which may extend to three thousand rupees;

(*b*) in the case of a person so possessing, using, or transporting an explosive, a fine which may extend to one thousand rupees.

(*c*) in the case of a person so selling an explosive, a fine which may extend to five hundred rupees; and

(*d*) in any other case, two hundred rupees.

Power of Governor-General in Council to prohibit the manufacture, possession or importation of specially dangerous explosives.

6. (1) Notwithstanding anything in the rules under the last foregoing section, the Governor-General in Council may, from time to time, by notification in the *Gazette of India*—

(*a*) prohibit, either absolutely or subject to conditions, the manufacture, possession, or importation of any explosive which is of so dangerous a character that, in the opinion of the Governor-General in Council, it is expedient for the public safety to issue the notification; and

(*b*) cancel any notification under this section.

(2) The officers of sea-customs at every port shall have the same power in respect of any explosive with regard to the importation of which a notification has been issued under this section and the vessel containing the explosive as they have for the time being in respect of any article the importation of which is prohibited or regulated by the law relating to sea-customs and the vessel containing the same: and the enactments for the time being in force relating to sea-customs or any such article or vessel shall apply accordingly.

(3) Any person manufacturing, possessing, or importing an explosive in contravention of a notification issued under this section, shall be punished with fine which may extend to three thousand rupees, and, in the case of importation by water, the owner and master of the vessel in which the explosive is imported shall, in the absence of reasonable excuse, can be punished with fine which may extend to three thousand rupees.

Power to make rules conferring powers of inspection, search, seizure, detention, and removal.

7. (1) The Governor-General in Council, or the local Government with the previous sanction of the Governor-General in Council, may make rules consistent with this Act authorizing any officer, either by name or in virtue of his office—

(*a*) to enter, inspect, and examine any place, carriage, or vessel in which an explosive is being manufactured, possessed, used, sold, transported, or imported under a license granted under this Act, or in which he has reason to believe that an explosive has been or is being manufactured, possessed, used, sold, transported, or imported in contravention of this Act or of the rules made under this Act;

(b) to search for explosives therein:

(*c*) to take samples of any explosive found therein on payment of the value thereof; and

(*d*) to seize, detain, remove, and, if necessary, destroy any explosive found therein.

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

Notice of accidents

8. Whenever there occurs in or about, or in connection with, any place in which an explosive is manufactured, possessed, or used, or any carriage or vessel either conveying an explosive, or on or from which an explosive is being loaded or unloaded, any accident by explosion or by fire attended with loss of human life or serious injury to person or property, or of a description usually attended with such loss or injury, the occupier of the place, or the master of the vessel, or the person in charge of the carriage, as the case may be, shall forthwith give notice thereof to the officer in charge of the nearest police-station.

Inquiry into accidents

9. (1) Whenever, in the opinion of a District Magistrate, Subdivisional Magistrate, or any other Magistrate specially empowered by the Local Government in this behalf, an inquiry is necessary into the cause of any accident of the description mentioned in section 8, he may either himself make the inquiry, or direct a Magistrate subordinate to himself to make the inquiry.

(2) Any Magistrate making an inquiry under this section shall, for the purposes of conducting the inquiry, have all the powers which he would have in holding an inquiry into an offence under the Code of Criminal Procedure.

(3) The powers conferrred on a Magistrate by this section may, in a Presidency-town, be exercised by the Commissioner of Police, as well as by any Magistrate specially empowered in this behalf under sub-section (1).

Forfeiture of explosives.

10. When a person is convicted of an offence punishable under this Act or the rules made under this Act, the Court before which he is convicted may direct that the explosive, or ingredient of the explosive, or the substance (if any) in respect of which the offence has been committed, or any part of that explosive, ingredient, or substance, shall, with the receptacles containing the same, be forfeited.

Disrtess of vessel.

11. Where the owner or master of a vessel is adjudged under this Act to pay a fine for an offence committed with, or in relation to, that vessel, the Court may, in addition to any other power it may have for the purpose of compelling payment of the fine, direct it to be levied by distress and sale of the vessel, and the tackle, apparel, and furniture thereof, or so much thereof as is necessary.

Abetment and attempts.

12. Whoever abets, within the meaning of the Indian Penal Code, the commission of an offence punishable under this Act, or the rules made under this Act, or attempts to commit any such offence, and in such attempt does any act towards the commission of the same, shall be punished as if he had committed the offence.

Power to arrest without warrant persons committing dangerous offences.

13. Whoever is found committing any act for which he is punishable under this Act or the rules under this Act, and which tends to cause explosion or fire in or about any place where an explosive is manufactured or stored, or any railway or port, or any carriage, ship, or boat, may be apprehended without a warrant by a police officer, or by the occupier of, or the agent or servant of, or other person authorized by the occupier of, that place, or by any agent or servant of, or other person authorized by, the railway administration or conservator of the port, and be removed from the place where he is arrested, and conveyed as soon as conveniently may be before a Magistrate.

Saving for manufacture, possession, use, sale, transport, or importation by Government.

14. Nothing in this Act shall apply the manufacture, possession, use, sale, transport, or importation of any explosive—

(*a*) by order of the Government, or

(*b*) by any person employed under the Government in the execution of this Act, or as a keeper of a magazine, artizan, soldier, sailor, policeman, or otherwise, or enrolled as a volunteer under the Indian Volunteers Act, 1869, in the course of his employment or duty as such.

Saving of Indian Arms Act, 1878

15. Nothing in this Act shall affect the provisions of the Indian Arms Act, 1878:

Provided that an authority granting a license under this Act for the manufacture, possession, sale, transport, or importation of an explosive, may, if empowered in this behalf by the rules under which the license is granted, direct, by an order written on the license, that it shall have the effect of a like license granted under the said Indian Arms Act.

Saving as to liability under other law.

16. Nothing in this Act or the rules under this Act shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or those rules, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or those rules:

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

Extension of definition of "explosive" to other explosive substances.

17. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, declare that any substance which appears to the Governor-General in Council to be specially dangerous to life or property, by reason either of its explosive properties or of any process in the manufacture thereof being liable to explosion, shall be deemed to be an explosive within the meaning of this Act; and the provisions of this Act (subject to such exceptions, limitations, and restrictions as may be specified in the notification) shall accordingly extend to that substance in like manner as if it were included in the definition of the term "explosive" in this Act.

Procedure for making, publication, and confirmation of rules.

18. (1) An authority making rules under this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made in such manner as the Governor-General in Council, from time to time, by notification in the *Gazette of India* prescribes.

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

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

(5) A rule made under this Act shall not take effect if it is made by the Governor-General in Council until it has been published in the *Gazette of India*, and if it is made by the Local Govrenment until it has been published in the local official Gazette.

(6) The publication in the Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made, and, if it requires sanction, that it has been duly sanctioned.

(7) All powers to make rules conferred by this Act may be exercised from time to time as occasion requires.

ACT V. OF 1884.

Chotia Nagpur Encumbered Estates (Amendment)Act.

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

An Act to amend the Chutia Nagpur Encumbered Estates Act, 1876.

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

Meaning of "section."

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

Addition to section 2 of Act VI. of 1876

2. To section 2 the following shall be added, namely :—

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

Amendment of section 3.

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

Addition to section 4.

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

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

Amendment of section 7.

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

Amendment of seection 12.

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

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

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

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

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

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

Amendment of section 17.

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

Amendment of section 18.

8. In section 18—

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

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

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

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

Addition to section 19

9. In section 19 after clause (*a*), the following shall be inserted, namely :—

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

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

ACT IX. OF 1884.

Legal Practitioners' Act, 1884

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

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

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

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

It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called "The Legal Practitioners' Act, 1884 ; "*

(2) It shall come into force at once.

Amendment of section 4 of Act XVIII. of 1879.

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

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

Addition of a proviso to section 13 of same Act.

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

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

Amendment of section 14 of same Act

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

Amendment of section 25 of same Act.

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

Amendment of section 27 of same Act.

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

Amendment of section 38 of same Act.

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

New section substituted for section 41 of same Act.

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

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

New section added to same Act.

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

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

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

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

ACT XII. OF 1884.

The Agriculturists' Loans Act.*

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

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

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

Short title. Commencement

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

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

Local extent.

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

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

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

Repeal of Act X. of 1879, and sections 4 and 5 of Act XV. of 1880.

3. (1) On and from the day on which this Act comes into force, the Northern India Takkavi Act, 1879, and sections 4 and 5 of the Bombay Revenue Jurisdiction Act, 1880, shall, except as regards the recovery of advances made before this Act comes into force, and of the interest thereon, be repealed.

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

Power for Local Government to make rules

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

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* The Act has been declared in force in Upper Burma (except the Shan States), by Act XIII of 1898, s. 4

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

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

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

Recovery of loans.

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

Liability of joint borrowers as among themselves.

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

ACT XIX. OF 1884.

Rangoon Water-Works Act, 1884.

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

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

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

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

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

It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title and commencement.

1. (1) This Act may be called Rangoon Water-works Act, 1884 ; and

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

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

Definition.

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

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

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

(3) "owner" includes—

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

(*b*) an agent of that person ; and

(*c*) a trustee for that person :

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

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

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

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

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

CHAPTER II.

VESTING OF PROPERTY.

Vesting of Royal Lake and cisterns, &c., in Committee.

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

(*a*) the Royal Lake at Rangoog; and

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

Provided as follows:—

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

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

CHAPTER III.

CONSTRUCTION AND MAINTENANCE OF WATER-WORKS.

Duty of Committe to contruct works for supply of water.

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

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

Duty of Committee to erect stand-pipes.

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

Power for Committee to execute works.

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

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

Power for Committee to break up streets.

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

CHAPTER IV.

SUPPLY OF WATER.

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

Right of occupier to certain supply of water for domestic purposes.

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

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

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

(*a*) three thousand gallons for every rupee paid to the committee for water-tax on account of such house or land for such quarter ; or

(*b*) a total quantity of four thousand five hundred and fifty gallons irrespective of the amount paid for water-tax for such quarter."

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

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

Right of occupier paying water-tax to have water brought into his house or land.

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

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

Construction of communication-pipes.

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

Inspection of works, pipes, and fittings before connection with service-pipes.

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

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

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

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

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

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

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

Power for officer of Committee to enter permises.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Duty of Committee to fix fire-plugs in mains.

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

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

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

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

Supply for other than domestic purposes.

Provided that—

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

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

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

E.—Pressure of Water supplied.

Pressure at which water must be kept.

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

CHAPTER.

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

Power for occupier of house to require owner to provide works for water-supply.

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

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

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

Power for occupier to make works in default of owner.

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

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

(*a*) a sum exceeding the amount of six months' rent ; or

(*b*) where the house or the land attached thereto does not abut upon a street in which there is a supply-main, the cost of connecting the house with a supply-main.

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

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

What works are sufficient for supply of water to house.

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

(*a*) two taps in the house :

(*b*) one tap in the cook-room of, or other building attached to, the house, and

(*c*) one tap in or near the stables or other out-houses belonging to the house :

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

Estimates and specification of work to be sent.

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

Power to refer to Committee.

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

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

Fee on reference.

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

Duty of owner to keep works in repair.

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

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

Power for owner to recover sums payable by occupier.

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

Saving of contracts between owners and occupiers.

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

CHAPTER VI.

RULES.

Power for Chief Commissioner to make rules.

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

(*a*) to prescribe the size and nature of the mains and pipes to be laid and the water-works to be constructed by the Committee for the supply of water under this Act;

(*b*) to prescribe the size and nature of the stand-pipes or pumps to be erected by the Committee under this Act, and the intervals at which they must be erected;

(*c*) to prescribe the mains or pipes in which fire-plugs are to be fixed, and the places at which keys of the fire-plugs are to be deposited, by the Committee under this Act;

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

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

Power for Committee to make rules.

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

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

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

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

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

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

Procedure for making rules.

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

(2) The publication shall be made—

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

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

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

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

Publication of rules.

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

CHAPTER VII.

ARREARS AND OFFENCES.

Arrears of water-rents.

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

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

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

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

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

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

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

Penalty for obstructing diverting or wasting water.

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

Penalty for unauthorized application of water.

36. If any person —

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

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

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

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

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

37. (**1**) If any person—

(*a*) bathes in, at, or upon any water-works, or washes, throws, or causes to enter therein, any dog or other animal. or

(*b*) throws any rubbish, dirt, filth, or other noisome thing into any water-works, or washes or cleanses therein any cloth, wool, leather, or skin of any animal, or any clothes or other thing, or

(*c*) causes the water of any sink, sewer, or drain, or of any steam-engine or boiler, or any other filthy water belonging to him or under his control, to turn or be brought into any water-works, or does any other act whereby the water in any water works is fouled, or likely to be fouled.

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

Prosecutions

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

ACT II. OF 1885.

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

An Act to amend the Negotiable Instruments Act, 1881.

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

Short title.

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

Amendment of section 7. Act XXVI. of 1881.

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

New section inserted after section 45 of the same Act.

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

"45A. [*Printed in Vol. II. p. 635.*]

A ddition to sections 61 and 64 of the same Act.

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

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

Addition to section 101 of the same Act.

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

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

Section inserted after section 104 of the same Act.

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

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

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

Amendment of section 109 of same Act

8. In the same Act, section 109—

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

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

Amendment of section 113 of same Act.

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

New chapter added to same Act.

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

CHAPTER XVII.

NOTARIES PUBLIC.

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

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

ACT III. OF 1885.

The Transfer of Property (Amendment) Act, 1885.

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

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

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

Amendment of section 1 of Act IV. of 1882.

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

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

Addition to same section.

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

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

Addition to section 4 of same Act.

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

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

Addition to section 6 of same Act

4. To section 6 of the said Act the following clause shall be added :—

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

Amendment of section 69 of same Act.

5. In section 69 of the said Act—

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

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

ACT VII. OF 1885.

The Panch Mahals Laws Act.

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

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

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

Short title.

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

Laws of Karia to apply.

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

Other laws repealed.

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

Pending proceedings.

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

Territory to cease to be scheduled district.

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

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

THE SCHEDULE.

ENACTMENTS EXCEPTED FROM THE OPERATION OF SECTION 2.

Acts of the Governor-General in Council.

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

Acts of the Governor of Bombay in Council.

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

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

ACT IX. OF 1885.

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

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

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

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

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

2.‡ [*Repealed by Act XII of 1896.*]

Amendment of section 18 of Bengal Act VII of 1878.

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

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

Amendment of sections 145 and 149 of Act VIII. of 1878.

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

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

Amendment of section 207 of the same Act.

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

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* This title was given by Act XIV. of 1897.

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

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

ACT X. OF 1885.

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

An Act to amend the Oudh Estates Act, 1869.

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

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

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

"Registered."

"Registered" means—

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

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

Saving of certain wills.

2. Nothing in section 1 shall affect any will—

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

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

ACT XIII. OF 1885.*

Indian Telegraph Act.

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

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

Preamble.

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

PART I.

PRELIMINARY.

Short title.

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

Local extent.

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

(*a*) all native Indian subjects of His Majesty in any place without and beyond British India,

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

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

Commencement.

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

Repeal and savings.

2. The Indian Telegraph Act, 1876, is hereby repealed.

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

Definitions.

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

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

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

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

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

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

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

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

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

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

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

PART II.

PRIVILEGES AND POWERS OF THE GOVERNMENT.

Exclusive privilege in respect of telegraphs and power to grant licenses.

4. (1) Within British India, the Governor-General in Council shall have the exclusive privilege of establishing, maintaining, and working telegraphs :

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

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

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

The word within quotations hsve been added by Act VII of 1914.

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

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

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

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

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

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

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

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

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

Power to establish telegraph on land of Railway Company.

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

Power to make rules for the conduct of telegraph

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

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

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

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

(*a*) the rates at which, and the other conditions and restrictions subject to which, messages shall be transmitted ;

(*b*) the precautions to be taken for preventing the improper interception or disclosure of messages ;

(*c*) the period for which, and the conditions subject to which, telegrams and other documents belonging to, or being in the custody of telegraph-officers shall be preserved ; and

(*d*) the fees to be charged for searching for telegrams or other documents, in the custody of any telegraph-officer.

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

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

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

(ii) when a servant of the person so licensed, or any other person, is punishable for the breach, one-fourth of the amounts specified in clause (1).

Revocation of licneses.

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

Government not responsible for loss or damage.

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

PART III.

POWER TO PLACE TELEGRAPH LINES AND POSTS.

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

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

Provided that—

(*a*) the telegraph-authority shall not exercise the powers conferred by this section except for the purpose of a telegraph established or maintained by the government, or to be so established or maintained ;

(*b*) the Government shall not acquire any right other than that of user only in the property under, over, along, across, in, or upon which the telegraph-authority places any telegraph line or post ; and

(*c*) except as hereinafter provided, the telegraph-authority sahll not exercise those powers in respect of any property vested in or under the control or management of any local authority, without the permission of that authority ; and

(*d*) in the exercise of the powers conferred by this section, the telegraph-authority shall do as little damage as possible ; and, when it has exercised those powers in respect of any property other than that referred to in clause (*c*), shall pay full compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers.

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

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

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

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

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

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

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

Power for local authority to require removal or alteration of telegraph-line or post.

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

Power to alter position of gas or water-pipes or drains.

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

Provided that—

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

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

Disputes between telegraph-authority and local authority.

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

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

Provisions applicable to other Property.

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

16. (1) If the exercise of the powsrs mentioned in section 10 in respect of property referred to in clause (*d*) of that section is resisted or obstructed, the District Magistrate may, in his discretion, order that the telegraph-authority shall be permitted to exercise them,

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

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

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

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

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

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

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

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

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

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

Provisions applicable to all Property.

Removal of trees interrupting telegraphic communication.

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

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

Telegraph-lines and posts placed before the passing of this Act.

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

Persons exercising legal right likely to damage telegraph or interfere with telegraphic communication to give notice.

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

* Sections 19A and 19B have been added by Act VII of 1914.

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

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

Power to canfer upon license powrs of telegraph authority under this Part.

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

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

Establishing, maintaining or working unauthorized telegraph.

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

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

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* See note under page 96.

† Section 20 has been substituted by Act VII of 1914.

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

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

PART IV.

PENALTIES.

Breach of condition of licence.

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

Using such telegraphs.

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

Opposing establishment of telegraphs on railway-land.

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

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

23. If any person—

(*a*) without permission of competent authority, enters the signal-room of a telegraph-office of the Government, or of a person licensed under this Act, or

(*b*) enters a fenced enclosure round such a telegraph-office in contravention of any rule or notice not to do so or

(*c*) refuses to quit such room or enclosure on being requested to do so by any officer or servant employed therein, or

(*d*) wilfully obstructs or impedes any such officer or servant in the performance of his duty,

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

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

Unlawfully attempting to learn contents of messages.

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

Intentionally damaging or tampering with telegraphs.

25. If any person, intending—

(*a*) to prevent or obstruct the transmission or delevery of any message, or

(*b*) to intercept, or to acquaint himself with, the contents of any message, or

(*c*) to commit mischief,

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

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

Injury to or interference with a telegraph line or post.

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

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

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

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

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

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

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

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

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

Telegraph-officer fraudulently sending messages without payment.

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

Misconduct.

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

Sending fabricated message.

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

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

Penalty.

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

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

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

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

Retaining a message delivered by mistake.

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

Bribery.

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

Attempts to commit offences.

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

PART V.

SUPPLEMENTAL PROVISIONS.

Power to employ additional police in places where mischief to telegraphs is repeatedly committed.

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

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

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

* Vide note † in page 100.

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

Application of Act to presidency-towns and Rangoon.

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

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

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

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

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

ACT XVIII. OF 1885.*

The Land Acquisition (Mines) Act.

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

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

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

Short title commencement, and local extent.

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

(2) It shall come into force at once.

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

Saving for mineral rights of the Government.

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

Declaration that mines are not needed.

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

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

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* Declared in force in—
(1) The Santhal Parganas (see Reg. III. of 1872, s. 3, as amended by Reg. III of 1886):
(2) Angul and the Khondmals (see Reg. I. of 1894, s. 3).

† See now Act I. of 1894.

‡ Corresponding with s. 6 of Act I. of 1894.

§ Corresponding with s. 11 of Act I. of 1894.

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

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

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

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

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

Notice to be given before working mines lying under land.

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

Power to prevent or restrict working.

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

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

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

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

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* Corresponding with s. 12 of Act I of 1894.

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

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

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

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

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

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

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

Mode of determining persons interested and amount of compensation.

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

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

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

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

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

Mining communications.

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

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

† See now Act I. of 1894.

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

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

Local Government to pay compensation for injury done to mines.

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

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

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

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

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

* See now Act I. of 1894.

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

Penalty for refusal to allow inspection.

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

If mines worked contrary to provisions of this Act, Local Government may require means to be adopted for safety of land acquired.

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

Construction of Act when land acquired has been transferred to a local authority or company

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

Pending cases.

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

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

† See now Act I. of 1894.

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

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

Definition of local authority and company.

16. In this Act—

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

(*b*) "company" means a compay registered under any of the enactments relating to companies from time to time in force in British India, or formed in pursuance of an Act of Parliament, or by Royal Charter or Letters Patent.

This Act to be read with Land Acquisition Act, 1870 §

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

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* Corresponding with s. 12 of Act I. of 1894.

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

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

§ See now Act I. of 1894.

‖ S. 11 corresponds with s. 11 of Act I. of 1894.
S 12 „ „ s. 13 „ „ „ „ „
S 13 „ „ s. 15 „ „ „ „ „
S. 14 „ „ s 12 „ „ „ „ „
S. 15 „ „ s. 18 „ „ „ „ „

ACT XXI. OF 1885.

The Madras Civil Courts Act, 1885.

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

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

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

Short title and commencement.

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

(2) It shall come into force at once.

Addition to section 5 of Act III. of 1873.

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

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

Addition to section 11 of the same Act.

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

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

Amendment of sections 22 and 23 of the same Act.

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

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

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

Amendment of section 28 of the same Act.

5. In section 28 of the same Act—

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

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

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

ACT III. OF 1886.

The Northern India Frries Act, 1878*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Printed in Vol II., 361.

ACT IV. OF 1886.

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

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

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

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

New section substituted for section 265, Indian Contract Act.

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

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

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

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* This title was given by Act V. of 1897.

ACT V. OF 1886.

The Mirzapur Stone Mahal Act, 1886.

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

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

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

Preliminary.

Short title and commencement.

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

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

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

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

Definitions.

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

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

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

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

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

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

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

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

Rights of the Government and the Public.

Right of the Government to levy duty.

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

Prohibition of levy of duty by proprietors.

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

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

Right of the public to quarry stone.

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

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

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

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

Rules.

Power to make rules.

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

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

(*b*) conflicting claims to exercise the right of opening a quarry or quarrying stone ;

(*c*) the conditions on the fulfilment of which a person is to acquire an exclusive right of opening a quarry, or quarrying stone, within certain local limits, and how that right may cease to exist ;

(*d*) the compensation to be paid for injury caused to crops or arable land by the quarrying, storing, or transport of stone, and the authority by which the compensation is to be determined ;

(*e*) the transport of stone ;

(*f*) the storing of stone ;

(*g*) the classification of stones, the rate or rates of duty to be paid in respect of each class of stone to the Government or to a farmer to whom the Government has leased the duties leviable thereon, and the time when, the place where, and the persons by whom, the duty is to be paid ;

(*h*) the exemptions from, or reductions of, duty to be allowed, the conditions to attach to those exemptions or reductions, and the consequences to ensue on the breach of any of those conditions;

(*i*) the custody and disposal of stone confiscated or seized under this Act ; and

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

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

Procedure for making rules.

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

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

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

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

Publication of rules.

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

Deferred operation of rules altering duty

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

Offences.

Penalties for evasion of duty.

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

Burden of proof as to payment of duty

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

Limitation for prosecutions.

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

Saving of prosecutions under other laws.

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

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

Arrest, Seizure, and Search.

Powers of officers.

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

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

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

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

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

Search-warrants.

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

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

Recovery of Duty.

Recovery of Duty.

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

Appeal and Revision.

Appeal and revision.

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

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

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

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

Miscellaneous.

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

Exemption of the inhabitants of the hills

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

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

THE SCHEDULE.

LANDS EXCLUDED FROM THE AREA COMPRISED IN THE DISTRICT OF MIRZAPUR.
(*See section 3, sub-section (1).*)

Pargana or tappa.	Village.	Remarks.
Kantit ...	Bajtha ...	These villages were transferred from the Allahabad district in 1840.
	Baghaura Rajman ...	
	Pali	
	Sumatia	
	Barha Khurd ...	
	Basaura	
	Chak Kothara	
	Chak Madari	
	Dogauli	
	Rasauli	
	Kothara	
	Ghunghuti	
	Hargarh	
Upraudh ...	Nairi Katari ...	These villages were transferred from the Allahabad district in 1861.
	Durjanipur ...	
	Deohat	
	Mahuat ..	
	Maheshpur ...	
	Katra Lahorya Dih ...	
	Bhainsaur	
	Mahagarhi	

ACT VI. OF 1886.

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

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

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

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

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

It is hereby enacted as follows:-

CHAPTER I.

PRELIMINARY.

Short title and commencement.

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

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

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

Local extent.

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

Definitions

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

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

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

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

Saving of local laws

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

Powers exercisable from time to time

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

CHAPTER II.

GENERAL REGISTRY OFFICES OF BIRTHS, DEATHS AND MARRIAGES.

Establishment of general registery officers and appointment of Registars-General.

6. (1) Each Local Government—

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

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

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

Indexes to be kept at general registry office.

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

Indexes to be open to inspection.

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

Copies of entries to be admissible in evidence.

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

Superintendence of Registrars by Registrar-General.

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

CHAPTER III.

REGISTRATION OF BIRTHS AND DEATHS.

A.—Application of this Chapter.

Persons whose births and deaths are registrable.

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

(*a*) in British India, the members of every race, sect, or tribe to which the Indian Succession Act, 1865, applies, and in respect of which an order under s. 332 of that Act is not for the time being in force, and all persons prosfessing the Christian religion ;

(*b*) in the dominions of Princes and States in India in alliance with Her Majesty, British subjects being members of a like race, sect, or tribe, or professing the Christian religion :

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

B—Registration Establishment.

Power for Local Government to appoint Registrars for its territorries.

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

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

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

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

Registrar to be deemed a public servant.

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

Power to remove Registrar.

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

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

Office and attendance of Registrar.

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

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

Absence of Registrar or vacancy in his office.

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

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

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

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

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

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

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

C.—Mode of Registration

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

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

Provided that—

(*a*) If he has reason to believe the notice to be in any respect false, he may refuse to register the birth or death until he receives an order from the Judge of the District Court directing him to make the entry and prescribing the manner in which the entry is to be made ; and

(*b*) he shall not enter in the register the name of any person as father of an illegitimate child, unless at the request of the mother and of the person acknowledging himself to be the father of the child.

Persons authorized to give notice of birth.

20. Any of the followiug persons may give notice of birth, namely—

(*a*) the father or mother of the child ;

(*b*) any person present at the birth;

(*c*) any person occupying, at the time of the birth, any part of the house wherein the child was born, and having knowledge of the child having been born in the house;

(*d*) any medical practitioner in attendance after the birth, and having personal knowledge of the birth having occurred ;

(*e*) any person having charge of the child.

Persons authorized to give notice of death.

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

(*a*) any relative of the deceased having knowledge of any of the particulars required to be registered concerning the death ;

(*b*) any person present at the death ,

(*c*) any person occupying, at the time of the death, any part of the house wherein the death occurred, and having knowledge of the deceased having died in the house ;

(*d*) any person in attendance during the last illness of the deceased ;

(*e*) any person who has seen the body of the deceased after death.

Entry of birth or death to be signed by person giving notice.

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

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

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

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

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

Grant of certificate of registration of birth or death

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

Duty of Registrars as to sending certified copies of entries in register-books to Registrar-General.

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

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

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

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

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

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

Searches and copies of entries in register-books.

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

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

Exceptional provision for registration of certain births and deaths.

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

D.—Penalty for False Information.

Penalty for wilfully giving false information.

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

E.—Correction of Errors.

Correction of entry in register of births or deaths.

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

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

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

CHAPTER IV.

AMENDMENT OF MARRIAGE ACTS.

Addition of new section after section 13, Act III. of 1872.

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

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

Amendment of the Indian Christian Marriage Act, 1872.

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

(*a*) at the end of section 3, the words "'Registrar-General of Births, Deaths, and Marriages' means a Registrar-General of Births, Deaths, and Marriages appointed under the Births, Deaths, and Marriages Registration Act, 1886," shall be added ;

(*b*) for the words "Secretary to the Local Government," wherever they occur, and for the words "Secretary to a Local Government" in section 79, the words "Registrar-General of Births, Deaths, and Marriages," shall be substituted ;

(*c*) [*Repealed by Act II. of 1891, s. 4* (2).]

(*d*) in section 81, after the words "Registrar-General of Births, Deaths, and Marriages," the words "in England" shall be added.

Addition of new section after section 8 of the Parsi Marriage and Divorce Act, 1865.

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

"8A. [*Printed in Vol. I, p.* 725.]

CHAPTER V.

SPECIAL PROVISIONS AS TO CERTAIN EXISTING REGISTERS.

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

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

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

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

Appointment of Commissioners to examine registers.

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

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

Duties of Commissioners

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

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

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

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

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

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

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

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

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

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

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

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

Constitution of additional commissioners for purposes of this chapter.

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

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

CHAPTER VI.

RULES.

Rules.

‡36. "(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—

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

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

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

(*a*) fix the fees payable under this Act ;

(*b*) prescribed the forms required for the purpose of this Act ;

(*c*) prescribe the time within which, and the mode in which, person authorized under this Act to give notice of a birth or death to a Registrar of Births and Deaths must give the notice,

(*d*) prescribe the evidence of identity to be furnished to a Registrar of Births and Deaths, by persons giving notice of a birth or death in cases where personal attendance before such Registrar is dispensed with,

(*e*) prescribe the registers to be kept and the form and manner in which Registrars of Births and Deaths are to register births and Deaths under this Act at the intervals at which they are to send to the Registrar General of Births, Deaths, and Marriages true copies of the entries of births and deaths in the registers kept by them ;

(*f*) prescribe the conditions and the circumstances on and in which Registrars of Births and Deaths may correct entries of births and deaths in registers kept by them ;

(*g*) prescribe the particulars which the descreptive list or lists to be prepared by the commissioners appointed under Chapter V. are to contain, and the manner in which they are to refer to the registers or records, or portions of registers or records, to which they relate ; and

(*h*) prescribe the custody in which those registers or records are to be kept.

(3) Every power to make rules conferred by this Act is subject to the condition of the rules being made after previous publication.

(4) All rules made under this Act shall be published in the local official Gazette and on such publication shall have effect as if enacted in this Act."

Notes.

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

ACT X. OF 1886.

The Indian Criminal Law Amendment Act, 1886.

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

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

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

It is hereby enacted as follows : —

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

Bombay District Police Act, 1867.

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

Indian Penal Code.

Amendment of sections 40 and 64 of the Indian Penal Code.

21. (1) In second clause of section 40 of the Indian Penal Code, between the figures "66" and "71" the figures "67" shall be inserted.

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

Amendment of section 75 of the Indian Penal Code.

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

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

Addition to section 216 of the Indian Penal Code.

23. After the first paragrah of section 216 of the same Code the following shall be inserted, namely :—

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

Substitution of new sections for section 225A of the Indian Penal Code, and repeal of section 651 of the Code of Civil Procedure.

24. (1) For section 225A of the same Code the following section shall be substituted, namely :—

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

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

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

Prisoners' Act, 1871.

25. [*Repealed by Act III. of* 1900.]

Act XI. OF 1886.

The Indian Tramways Act, 1886.

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

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

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

Preliminary.

Short title and commencement.

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

(2) It shall come into force at once.

Local Extent.

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

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

Definitions.

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

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

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

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

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

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

(*c*) if a local authority does not maintain and repair the road, and the road is vested in Her Majesty or maintained and repaired by the Government, then the Local Government :

(4) "circle," in relation to a local authority or road authority, means the area within the control of that authority :

(5) 'tramway' means a tramway having one, two, or more rails, and includes—

(*a*) any part of a tramway, or any siding, turn out connection, line, or truck belonging to a tramway ;

(*b*) any electrical equipment of a tramway ; and

(*c*) any electric supply—line transmitting power from a generating station or sub-station to a tramway, or from a generating station to a sub-station from which power is transmitted to a tramway"*

(6) "order" means an order authorising the construction of a tramway under this Act, and includes a further order substituted for, or amending, extending, or varying, that order :

(7) "promoter" means a local authority or person in whose favour an order has been made, and includes a local authority or person on whom the rights and liabilities conferred and imposed on the promoter by this Act, and by the order and any rules made under this Act as to the construction, maintenance, and use of the tramway, have devolved :

(8) "undertaking" includes all moveable and immoveable property of the promoter suitable to and used by him for the purposes of the tramway ;

(9) "carriage," in the case of a tramway on which steam-power or any other mechanical power or "electrical power"* is used, includes an engine worked on the tramway for the purpose of producing "or utilising"* that power :

(10) "toll" includes any charge leviable in respect of the use of a tramway ;

(11) "lessee" means a person to whom a lease has been granted of the right of user of a tramway and of demanding and taking the authorized tolls :

(12) "District Magistrate" includes an officer empowered by the Local Government by name or by virtue of his office to discharge within any local area all or any of the functions of a District Magistrate under this Act :

(13) "District Court" means a principal Civil Court of original jurisdiction, and includes a High Court having ordinary original civil jurisdiction :

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

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

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

Orders authorizing the construction of Tramways.

Application for and consent necessary to making of order.

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

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

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

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

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

Consent of local or road-authority not necessary in certain cases.

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

Procedure for making order.

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

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

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

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

Contents of order.

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

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

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

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

(*c*) the conditions subject to which roads may be opened and broken up for the purposes of the construction or maintenance of the tramway or any part thereof, and the method of, and materials to be used in. the reinstating of the roads, and the approval of the method and materials by the Local Government or the road-authority before the commencement of the work ,

(*d*) the conditions on which the tramway may be constructed over a bridge or across a railway or tramway when the carriage-way over the bridge is to form part of the tramway, or when the tramway is to cross a railway or another tramway on the level ;

(*e*) the space which shall ordinarily intervene between the out side of the carriage-way on either side of a road whereon the tramway is to be constructed, and,—

(*i*) in the case of a tramway having one rail, the rail of the tramway, or

(*ii*) in the case of a tramway having two or more rails, the nearest rail of the tramway,

and the conditions on which a smaller space may be permitted.*

(*f*) the gauge of tramway, the rails to be used, and the mode in which, and the level at which, they shall be laid and maintained ; and the adoption and appplication by the promoter of such improvements in the rails, and in their situation, and in the substructure upon which they rest, as the Local Government may, from time to time, require ;

(*g*) the portion of the road or roads traversed by the tramway to be kept in repairs by the promoter ; the maintenance by the promoter to the satisfaction of the Local Government or the road-authority, or both, of that portion of the road or roads ; and the liability of the promoter, on the requisition of the Local Government, from time to time to adopt and apply such improvements in the tramway as the Local Government may consider necessary or desirable for the safety or convenience of the public, and to alter the position or level of the tramway to suit future alterations in the road or roads ;

(*h*) the application of material excavated by the promoter in the construction or maintenance of the tramway ;

(*i*) the provisions of such crossings, passing-places, sidings, junctions, and other works, in addition to those specified in or authorized by the order, as may, from time

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

time, be neccessary or convenient to the efficent working of the tramway ;

(*j*) the powers which may, from time to time, be exercised by the Local Government, the local authority, the road authority, or any person in respect of sewers, drains, telegraph-lines, gas-pipes, water-pipes, or other things in or on land occupied by the tramway ; the notice (if any) to be given of the intended exercise of those powers : the manner in which the powers shall be exercised ; and the extent to which the tramway and the traffic thereon may be interfered with in the exercise thereof ;

(*k*) the conditions subject to which the promoter may, from time to time, interfere with, or alter or require the alteration of the position of, drains (not being sewers or main drains), telegraph-lines, gas-pipes, water-pipes, or other things as aforesaid ;

(*l*) the provision of a temporary tramway in place of a part of a tramway which has been removed, or of which the use has been discontinued, by reason of the execution of any work affecting a road along which the part of the tramway was laid, or by reason of the use of the road being interrupted by floods or other cause ;

(*m*) the motive-power to be used on the tramway, and the conditions on which steam-power or any other mechanical power or "electical power" may be used ;

(*n*) the nature, dimensions, fittings, appliances, and apparatus of the carriages to be used on the tramway, and the inspection and examination thereof by officers of the Local Government or the local authority, and the liability of the promoter or lessee, on the requisition of the Local Government, from time to time, to adopt and apply such improvements in the carriages, and in the fittings, appliances, and apparatus, as the Local Government may consider necessary or desirable for the safety or convenience of the public ;

(*o*) the traffic which may be carried on the tramway, the traffic which the promoter or lessee shall be bound to carry, and the traffic which he may refuse to carry, the tolls to be leviable by the promoter or lessee, and the periodical revision thereof by the Local Government ; and the regulation of the traffic and of the levy of the tolls ;

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

(*p*) the use of the tramway free of toll by the local authority, with its own carriages, for specified purposes, during specified hours, with power to the local authority to make such sidings and other works as may be necessary for communication between its premises and the tramway ;

(*q*) the conditions subject to which the promoter may transfer the undertaking, or any part thereof, by sale, mortgage, lease, exchange, or otherwise ; and the conditions subject to which the local authority may be the transferee ;

(*r*) the performance by the Local Government or by the local authority or road-authority of any work required by the Act or the order to be done by the promoter ; and

(*s*) the penalty to be incurred by the promoter or lessee for failure to observe any condition or direction contained in the order, and the application of the penalty when recovered.

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

(4) The order shall imply the condition—

(*a*) in the case of a tramway of which a local authority is the promoter, that a lease thereof shall be granted only in manner by this Act provided ; and

(*b*) in the case of a tarmway of which a local authority is not the promoter, that a lease thereof shall be only of the right of user and of demanding and taking the authorized tolls, and shall not confer or impose on the lessee any of the powers or duities of the promoter in respect of the construction or maintenance of the tramway.

Further order.

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

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

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

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

Power to authorize joint work by local authorities.

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

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

Cessation of powers given by an order.

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

(*a*) does not, within the time specified in the order, substantially commence the construction of the tramway, or

(*b*) having commenced the construction, suspends it without a reason sufficient in the opinion of the Local Government to warrant the suspension, or

(*c*) does not, within the time specified in the order, complete the tramway, and open it for public traffic,

the following consequences shall ensue :—

(i) the powers given by the order to the promoter for constructing the tramway and otherwise in relation thereto shall, unless the Local Government, by special direction in writing, prolongs the time or condones the suspension, cease to be exercised, except as to so much of the tramway as is then completed ;

(ii) as to so much of the tramway as is then completed, the Local Government may either permit, or refuse to permit, the powers given by the order to continue ;

(iii) if the Local Government refuses to permit the powers to continue, then so much of the tramway as is then completed may be dealt with, under the provisions of this Act relating to the discontinuance of tramways, as a tramway of the working whereof the discontinuance has been proved to the satisfaction of the Local Government.

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

Construction and Maintenance of Tramways.

Mode of formation of tramway.

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

Inspection of tramway before opening.

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

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

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

Traffic on Tramways.

Rights of promoters and the public over tramways.

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

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

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

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

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

Tolls leviable by promoter or lessee.

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

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

Carriage of dangerous or offensive goods.

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

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

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

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

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

Licenses to use Tramways.

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

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

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

(*a*) the license shall be for a period not less than one year or more than three years from the date of the license, but the Local Government may in its discretion renew it ;

(*b*) the license shall be to use the whole of the tramway for the time being opened for public traffic, or such part or parts of the tramway as the Local Government, having regard to the cause for granting the the license thinks fit ;

(*c*) the license shall specify the number of carriages which the licensee shall run upon the tramway, the mode in which, and times at which, the carriages shall be run the tolls to be paid to the promoter or lesse by the licensee for the use of the tramway, and the tolls, being those for the time being leviable by the promoter or lessee, which the licensee may demand and take for the use of his carriages ;

(*d*) the licensee and his officers and servants shall permit one person, duly authorized for that purpose by the promoter or lessee, to travel free of toll in or upon each carriage of the licensee run upon the tramway for the whole or any part of a journey ;

(*e*) any provision of this Act, or of the order or rules made under this Act relating to the functions of a servant of a promoter or lessee, shall be construed, so far as may be, as referring to a servant of the licensee ; and

(*f*) the Local Government may revoke, alter, or modify the license for any cause sufficient in its opinion to warrant the revocation, alteration, or modification thereof.

License to give to promotor or lessee an account of traffic.

18. A license shall, on demand, give to an officer or servant authorized in that behalf by the promoter or lessee an exact account in writing, signed, by the licensee, of the number of passengers, or number or quantity of goods, conveyed by any and every carriage used by him on the tramway.

Discontinuance of Tramways.

Cessation of powers of promoter and lessee on discontinuance of tramway.

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

Power of road-authority on cessation of powers of promoter.

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

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

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

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

Insolvency of Promoter.

Proceedings in case of insolvency of promoter.

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

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

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

Purchase of Tramway.

Future purchase of undertaking by local authority.

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

(*a*) within such limits of time as may be specified in this behalf in the order, or

(*b*) if a time was not specified in the order, then within six months after the expiration of a period of twenty-one years from the date of the order, and within six months after the expiration of every subsequent period of seven years, or

(*c*) within two months after the publication of a notification under section 19, or within six months after the publication of a notification under section 21,

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

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

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

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

Working of Tramway owned by Local Authorities.

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

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

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

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

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

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

Rules.

Power to make rules.

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

(*a*) as to the form in which an application for an order shall be made;

(*b*) as to the cost to be paid by an applicant in respect of an order, and the time when and the place where, those costs shall be paid ;

(*c*) as to the payment of money or lodgment of securities, by way of deposit, by the applicant for an order before the order is published under section 6, sub-section (4), or a further order is made under section 8, the investment of money so paid ; this disposal of interest or dividends from time to time accruing due or money or securities so paid, lodged, or invested the application of the money or securities, or the produce thereof, to the discharge of any liability incurred by the promoter ; and the forfeiture, repayment, or return of the money or securities ;

(*d*) as to the plans and sections of any works to be deposited by applicants for orders or by promoters ;

(*e*) for regulating the use of steam-power or any other mechanical power or "electrical power"* on a tramway;

(*f*) as to any matter specified in section 7, sub-section (2), clauses (*c*), (*d*), (*e*), (*j*), and (*k*), as a matter which may be provided for in an order, when that matter has not been so provided for, or has not, in the opinion of the Local Government, been effectually so provided for ;

(*g*) as to the periodical submission, by promoters, lessees and licensees, of accounts of traffic and receipts to the Local Government or as that Government directs, and as to the forms in which those accounts are to be submitted ;

(*h*) as to the accidents of which report is to be made to the Local Government or as that Government directs ;

(*i*) as to any matter respecting which rules may be made under this section by local authority or a promoter or lessee ; and

(*j*) generally, as to any other matter or thing in respect of which it may seem to the Local Government to be expedient to make rules for carrying out the purposes of this Act,

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

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

(*a*) the rate of speed to be observed in travelling upon a tramway within the circle of the local authority ;

(*b*) the use of animal power on the tramway ;

(*c*) the distances at which carriages using the tramway are to be allowed to follow one after the other ;

(*d*) the stopping of carriages using the tramway, and the notice to be given to the public of their approach ;

(*e*) the manner in which carriages using the tramway after sunset and before sunrise are to be lighted ;

(*f*) the traffic on roads along or across which the tramway is laid ;

(*g*) the number of passengers which may be carried in any carriage ;

(*h*) the licensing and control of drivers; conductors, and other persons having charge of the carriages of the promoter or lessee or a licensee ; and,

(*i*) generally, the mode of use of the tramway.

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

(*a*) for preventing the commission of any nuisance in or upon any carriage, or in or against any permises, belonging to him ; and

(*b*) for regulating the travelling in any carriage belonging to him.

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

Power to impose penalty by rule.

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

(*a*) if the authority making the rule is the Local Government, to two hundred rupees, and

(*b*) if that authority is a local authority or a promoter or lessee, to twenty rupees ;

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

(*c*) if the authority making the rule is the Local Government, to fifty rupees and

(*d*) if that authority is a local authority or a promoter or lessee, to five rupees,

for every day after the fiirst during which the breach continues.

Procedure for making, and publication of, rules.

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

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

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

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

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

Offences.

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

27. If a promoter—

(*a*) constructs or maintains a tramway otherwise than in accordance with the order, or

(*b*) opens the tramway for traffic, or permits it to be so opened, before it has been inspected and certified in manner required by section 12, or

(*c*) fails to observe any requirement or condition of the order for neglect or breach whereof no penalty has been expressly provided in the order,

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

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

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

Penalty for obstructing promoter in exercise of his powers.

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

Penalty for interfering with tramway.

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

(*a*) interferes with, removes, or alters any part of a tramway constructed under this Act, or of the works connected therewith, or

(*b*) places or throws upon or across any such tramway any wood, stone, refuse, or other thing, or

(*c*) does anything in such a manner as to obstruct any carriage using any such tramway, or

(*d*) abets within the meaning of the Indian Penal Code the doing of, or attempts to do, anything mentioned in clause (*a*), clause (*b*), or clause (*c*),

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

Penalty for using tramway with carriage having flange-wheels.

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

Penalty for evading payment of proper toll.

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

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

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

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

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

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

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

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

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

Saving of prosecutions under other laws.

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

Settlement of Differences.

Differences between promoters or lessees and authorities.

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

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

(2) Where the difference is—

(*a*) between the promoter or lessee on the one hand and the Local Government, either as such or as the road-authority, on the other, or

(*b*) between the promoter on the one hand and the local authority on the other with respect to the sums to be paid by the local authority for an undertaking or part of an undertaking which that authority has required the promoter to sell under section *22*,

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

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

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

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

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

Recovery of Tolls.

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

36. Any of the following moneys, namely, any rent due to a local authority from a lessee, any penalty recoverable from a promoter or lessee under an order, any sum payable by a promoter

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

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

Recovery of tolls from licensees.

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

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

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

Recovery of tolls from passengers.

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

Savings.

Promoter to have right of user only.

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

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

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

Saving of power over roads traversed by tramways.

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

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

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

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

Supplemental Provisions.

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

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

Want of funds not a sufficient reason for default.

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

Power to exempt from municipal taxation.

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

Application by local authorities of local funds to tramways.

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

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

Rxtension of Act to existng tramways.

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

Prohibition of construction of tramways except under this Act.

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

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

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

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

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

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

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

49. [*Repealed by Act IX. of 1890, s. 2 and sch.*]

Powers of Local Government exerciseable from time to time.

50. All powers conferred by this Act on a Local Government may be exercised from time to time as occasion requires.

ACT XVII. OF 1886.

The Jhansi and Morar Act, 1886.

RECEIVED THE G.-G.'S ASSENT ON THE 17TH. SEPTEMBER 1886.

An Act to annex the Town and Fort of Jhansi and certain adjacent Territory to the Jhansi District, and for certain other purposes.

Short title and Commencement.

1. (1) This Act may be called the Jhansi and Morar Act, 1886 ; and

(2) It shall come into force on a date* to be appointed in this behalf by the Lieutenant-Governor of the North-Western Provinces, which date is in this Act referred to as the Commencement of this Act.

PART I.

WHEREAS, since the begining of march, 1886, the town and fort of Jhansi have been ceded to the British Government in full sovereignty by his Highness the Maharaja Scindia in exchange for the cantonment of Morar, which has been ceded to His Highness in full sovereignty by the British Government ;

and whereas the town and fort of Jhansi have been declared by the Governor-General in Council to be subject to the Lieutenant-Governorship of the North-Western Provinces ;

And whereas it is proposed that certain lands adjacent to the Jhansi district should be ceded to the British Government in full sovereignty by His Highness in exchange for certain other lands to be ceded to his Highness in full sovereignty by the Britssh Government ;

And whereas it is expedient that the town and fort of Jhansi, and the lands to be ceded to the British Government, should be annexed to the Jhansi district, and that the law in force therein should be the same as the law in force in that district;†

It is hereby enacted as follows :—

Annexation of ceded lands to Jhansi district.

2. The town and fort of Jhansi, and the lands which may be ceded to the British Government in accordance with the proposal referred to in the preamble to this Part, shall, in the case of the town and fort, from the commencement of this Act, and, in the case of any of the lands, from the date of the cession thereof, be deemed to be part of the Jhansi district.

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* The Act came into force on Dec 15, 1886.—See *N. W. P. and Oudh Gazette* (*Extraordinary*) dated Dec. 14, 1886

† The portion which has been repealed by Act XX. of 1890, s. 8 (2), has been omitted.

Assimilation of law in force in ceded lands to law in force in Jhansi district.

3. All enactments which, at the commencement of this Act, or at the date of the cession of any of the land referred to in the last-foregoing section, are or shall be in force in the Jhansi district, and not in the town and fort of Jhansi, or in those lands, shall then come into force in the town and fort, or in those lands, as the case may be.

4. [*Repealed by Act XXX. of 1890, s. 8 (2).*]

Validation of acts done since the beginning of March 1886.

5. All acts of executive authority, proceedings, decrees and, sentences which have been done, taken, or passed in or with respect to the town and fort of Jhansi since the begining of March, 1886, and before the commencement of this Act, by any officer of the Government, or by any person acting under his authority or otherwise in pursuance of an order of the Government, or which have been or shall be ratified by the Lieutenant-Governor of the North-Western Provinces, shall be as vaild and operative as if they had been done, taken, or passed in accordance with law; and no suit or other proceeding shall be maintained or continued against any person whatever on the ground that any such acts, proceedings, decrees or sentences, where not done, taken, or passed in accordance with law.

PART II.

AND whereas it is expedient that decrees and orders passed by the Civil and Revenue Courts of his Highness in cases which would have been cognizable by the Civil and Revenue Courts of the Jhansi district under the Code of Civil Procedure or the Jhansi Courts Act, 1867,* or the North-Western Provinces Rent Act, 1881, if the territory ceded by His Highness had been part of the Jhansi district at the time of the institution of the cases, should be capable of being executed as if they had been made by the Courts of the Jhansi district;

And whereas the period of limitation prescribed for suits in the territories of His Highness is twelve years, and it is expedient that persons having just claims which, but for the cession of territory, they might have enforced in the Courts of His Highness, should not be debarred from enforcing those claims by reason of a shorter period of limitation being prescribed for any class of suits by the law in force in the Jhansi district;

And whereas it is expedient that suits pending in the Courts of his Highness, and left undetermined by those Courts by reason of cession of territory, should be continued in the Courts of the Jhansi district;

* Act XVIII. of 1867 has been repealed by Act XX. of 1890, s. 5. (2), *Infra*.

And whereas it is expedient to remove doubts as to the effect of the law in force in the Jhansi district, with respect to registration and stamps, on documents and instruments to which, at the time of their execution, the law of His Highness applied, and the law of British India did not apply ;

It is hereby further enacted as follows :—

Execution of decrees of Gwalior Courts.

6. (1) An application for the execution of a decree or order passed by a Civil or Revenue Court of His Highness in any such case as is referred to in the first clause of the preamble to this Part may, with the previous sanction of the Deputy Commissioner,* be made to any Court in the Jhansi district subordinate to the Court of the Commissioner† which may be specified by the Deputy Commissioner† in that behalf in his order giving the sanction.

(2) If in any case the Depty Commissioner* is of opinion that for special reasons the sanction ought to be withheld or ought to be granted subject to conditions, he may either withhold his sanction, or permit, the application to be made on any conditions which, in the circumstances, he deems it proper to impose ; but in either of those cases he shall record the reasons in writing.

(3) The fact that an application is barred by the Indian Limitation Act, 1877, may be sufficient cause for withholding sanction to the making of the application, but in any case in which the holder of the decree or order has been debarred from enforcing it by reason of the cession of the town and fort of Jhansi to the British Government, and to which the Deputy Commissioner* sees fit to apply the provisions of that Act, the Deputy Commissioner* shall, in computing the period of limitation, exclude therefrom the time which has elapsed between the cession of the town and fort and the commencement of this Act.

(4) Subject to revision by the Commissioner of the Jhansi Division,‡ an order of the Deputy Commissioner* sanctioning or refusing to sanction the making of an application under this section, or imposing conditions with respect thereto, shall be final.

Extension of period of limitation for certain suits.

7. (1) Notwithstanding anything in the Indian Limitation Act, 1877, or in any other enactment, the Deputy Commissioner* may, within such term, not exceeding two years from the Commencement of this Act, as the Local Government may prescribe in this behalf, admit any suit of a nature cognizable by the Courts of British India, which, if there had not been a cession

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* *Read* District Judge—See Act XX. of 1890, s. 7, *Infra.*

† The reference now applies to the Civil Courts established in the Jhansi District under Act XII. of 1887.—Act XX. of 1890, s. 7, *infra.*

‡ *Read* High Court.—See Act XX. of 1890, s. 7, *infra.*

of territory, and the suit had been instituted in a Court of His Highness having jurisdiction with respect thereto, would not be liable to be dismissed by that Court by reason of its being barred by any law of limitation.

(2) In the computation of the period of limitation for a suit referred to in sub-section (1), which the plaintiff has been debarred from instituting by reason of the cession of the town and fort of Jhansi to the British Government, there shall be excluded from the period the time which has elapsed between the cession of the town and fort and the commencement of this Act.

(3) Subject to revision by the Commissioner of the Jhansi Division,* and order of the Deputy Commissioner † admitting or refusing to admit a suit under sub section (1) shall be final.

Continuance of pending suits.

8. An original suit pending in a Court of His Highness, and left undetermined by that Court by reason of cession of territory, may be continued, under the law of limitation applicable to that Court, but otherwise in accordance with the law and procedure of British Indian Courts, in any Court in the Jhansi district subordinate to the Court of the Commissioner‡ which the Deputy Commissioner† may appoint in that behalf.

Saving in favour of unregistered documents and unstawped instruments.

9. The provisions of the law of British India with respect to the consequences of documents being unregistered or instruments being unstamped shall not apply to any document or instrument which may have been executed before a date to be prescribed in this behalf by the Local Government, and to which the law of His Highness applied, and the law of British India did not apply at the time of its execution.

PART III.

AND WHEREAS it is expedient that traders and others who were entitled, immediately before the cession of the cantonment of Morar, to institute certain suits in, or make applications for or with respect to the execution of certain decrees to, a Civil Court at Morar, should be enabled to institute those suits in, and make those applications to, the Civil Courts at Jhansi and Agra, and at any other place from time to time appointed in this behalf by the Governor-General in Council, and the period of limitation in these case should be extended ;

It is hereby further enacted as follows :—

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* *Read* High Court—See Act XX of 1890, s. 7, *infra*.

† *Read* District Judge—See Act XX of 1890, s. 7, *infra*.

‡ The reference now applies to the Civil Courts established in the Jhansi District under Act XII. of 1887—See Act XX. of 1890, s. 7, *infra*.

Suits for debt formerly cognizable in Morar Court to be cognizable in Courts at certain other places.

10. (1) Any person who, at the date of cession of the cantonment of Morar, was entitled to institute in a Civil Court at Morar a suit of any of the descriptions referred to in articles 50 to 54 (both inclusive) or articles 56 to 64 (both inclusive) or articles 66 to 75 (both inclusive) of the second schedule to the Indian Limitation Act, 1877,* or to make to any such Court an application for or with respect to the execution of a decree in any such suit, may institute the suit or make the application, in any Civil Court at Jhansi or Agra, or other place appointed in that behalf by the Governor-General in Council, which would have jurisdiction in the suit to be instituted, or, as the case may be, would have had jurisdiction in the suit in which the decree to be executed was passed, if the cause of acction had arisen within the local limits of its jurisdiction.

(2) Notwithstanding anything in any enactment or notification to the contrary, any Civil Court at Jhansi or Agra, or other place aforesaid, in which any such suit or application as is referred to in sub-section (1) is instituted or made, shall, subject to the provisions of that sub-section, have jurisdiction to dispose of it.

(3) In computing the period of limitation for any suit or application referred to in this section, the time which has elapsed between the date of the cession of the cantonment of Morar and the commencement of this Act shall be excluded.

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* See now Act IX of 1908.

ACT XIX. OF 1886.

The Lieutenant-Governor's Functions, N.-W. Provinces

RECEIVED THE G.-G 'S ASSENT ON THE 24TH SEPTEMBER 1886.

An Act to legalize the discharge by the Lieutenant-Governor of the North-Western Provinces of certain functions of the Governor General in Council.

WHEREAS certain functions which are, by enactments in force in the North-Western Provinces, assigned to the Governor-General in Council are, in practice, discharged by the Lieutenant-Governor of those provinces, and it is expedient that these functions should continue to be so discharged, and that their discharge in the past should be legalized ;

And whereas the functions assigned to the Governor-General in Council by Regulation LII. of 1803* (*for establishing a Court of Wards in the Provinces ceded by the Nawab Vazir to the Honourable the English East India Company*), which Regulation was extended to the Conquered Provinces by section 29, Regulation VIII., 1805,† and to the Province of Benares by section 2, Regulation VI., 1822,* were, up to the twenty-second day of December 1873, discharged by the Lieutenant-Governor of the North-Western Provinces, and it is expedient that their discharge by the said Lieutenant-Governor up to that date should be validated ;

It is hereby enacted as follows :—

Transfer to Lieutenant-Governor of certain functions of Governor-General in Council.

1. The sections of the enactments in the schedule to this Act which are specified in the third column of that schedule shall have effect, and, so far as may be necessary to validate anything heretofore done under them by the Lieutenant Governor of the North-Western Provinces, shall be deemed to have had effect as if the Lieutenant-Governor of the North-Western Provinces were therein referred to instead of the Governor-General in Council.

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* Ben. Regs, LII. of 1803 and VI. of 1822 were repealed in the N.-W P. by Act XIX. of 1873.

† Ben. Reg. VIII. of 1805 has been repealed by Act XIX. of 1873.

Validation of exercise by Lieutenant-Governor of functions of Governor-General in Council under Regulation LII. of 1803.

2. Sections 3, 7, 9, and 17 of Regulation LII, of 1803,* shall be deemed to have had effect in the North-Western Provinces as if the words, "or the Lieutenant-Governor of the North-Western Provinces," had been inserted in those sections after the words, "Governor-General in Council," wherever the latter words occur.

THE SCHEDULE.

(*See Section 1.*)

(*a*) *Bengal Regulations.*

Number and year.	Subject.	Sections.
1	2	3
V. of 1799 ...	To limit the interference of the Zila and City Courts of Diwani Adalat in the execution of wills and administration to the estates of persons dying intestate.	7.
IX. of 1833 ...	For (*among other matters*) the more extensive employment of native agency in the Revenue Department.	16, 17, and 25.

(*b*) *Act of the Governor-General in Council.*

Number and year.	Subject.	Section.
XII. of 1856 ...	To amend the law respecting the employment of amins by the Civil Courts in the Presidency of Fort William.	2.

* Ben. Regs. LII. of 1803 and VI. of 1822 were repealed in the N.-W. P. by Act XIX. of 1873.

ACT XXI. OF 1886.

The Oudh Wasikas Act, 1886.

RECEIVED THE G.-G'S ASSENT ON THE 24TH SEPTEMBER 1886.

An Act to declare certain allowances collectively known as Oudh Wasikas to be pensions within the meaning of the Pensions Act, 1871,

Whereas, on the death of Her Highness the Bahu Begam, His Highness the Nawab Vazir of Oudh delivered to the British Government a sum of money with intent that the interest accruing thereon should, in compliance with the wishes of Her Highness the Bahu Bahu Begam as expressed in a Deed of Deposit executed by her in the year 1813, be applied by the British Government to the payment of certain pensions, which pensions are known as the Amanat Wasikas;

And whereas in the year 1813 the said Government guaranteed the payment of certain pensions to persons connected with the khas mahal of Her Highness the Bahu Begum, which pensions are knows as the Zamanat Wasikas;

And whereas, in the years 1814, 1825, and 1838, loans, known respectively as the 1st, 3rd, and 6th Oudh loans, were made by the rulers of Oudh to the Honourable the East India Company with intent that the interest accruing thereon should be applied by the said Government to the payment of certain pensions, which pensions are known as the Loan Wasikas;

And whereas the Amanat, Zamanat, and Loan Wasikas, have been regarded as pensions to which the Pensions Act, 1871, applies, and rules respecting them have been made and published under section 14 of that Act;

And whereas, since the making and publication of the rules, doubt has been expressed whether the said wasikas are pensions within the meaning of the Pensions Act, 1871;

And whereas it is expedient to declare them to be pensions within the meaning of that Act;

It is hereby enacted as follows :—

Short title.

1. This Act may be called the Oudh Wasikas Act, 1886.

Application of Act XXIII. of 1871 to Wasikas.

2. The allowances respectively known as the Amanat Wasikas, the Zamanat Wasikas, and the Loan Wasikas, within the meaning of the Pensions Act, are pensions 1871, and that Act shall apply to them as if they were pensions of the classes referred to in sections 4 and 11 of that Act.

ACT XXII OF 1886.

The Oudh Rent Act, 1886.

RECEIVED THE G.-G.'S ASSENT ON THE 1ST OCTOBER 1886.

An Act to consolidate and amend the Law relating to Rent in Oudh.

Whereas it is expedient to consolidate and amend the law relating to rent in Oudh and to other matters connected therewith ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title, extent, and commencement.

1. (1) This Act may be called the Oudh Rent Act, 1886.

(2) Save as provided thereby, it shall extend to the territories for the time being comprised in the Province of Oudh ; and

(3) It shall come into force on the first day of January 1887.

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

Repeal.

2. (1) The Oudh Rent Act, XIX. of 1868, is hereby repealed, but all notifications published and rules made under that Act shall, so far as may be, be deemed to have been published and made under this Act.

(2) The following enactments also are hereby repealed, namely :—

(*a*) section 40 of the Oudh Civil Courts Act, XXXII. of 1871 ;

(*b*) sections 23 and 24 of the Oudh Laws Act, XVIII. of 1876 ; and

(*c*) section 1 of Act XIV. of 1878.

(3) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

Definitions.

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

(1) " Court " means any judicial officer presiding in a Court of Revenue for the disposal of matter under this Act :

(1A)* " Board " means the Board of Revenue :

(2) " suit " means a suit under this Act : ...

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* Cl. (*1A*) has been inserted by Act XX. of 1890, s. 44 (*1*), printed *infra*.

(3) " land " includes the ungathered produce of land, whether spontaneous or not, and whether growing in earth or in water, but shall not include land for the time being occupied by dwelling-houses or manufactories, or appurtenant thereto, so long as that land is not let to agricultural tenants :

(4) " revenue " means money payable to the Government on account of land : in sections 34 and 35 it means land-revenue only:

(5) "rent" means the money or the portion of the produce of land, payable on account of the use or occupation of land, or on account of any right in land, or on account of the use of water for irrigation :

(6) "proprietor" does not include an under-proprietor ; and where there are two private rights of property, one superior and the other subordinate, in the same land "proprietor" means the holder of the superior right only :

(7) "proprietary right" means a proprietor's right in land :

(8) "under-proprietor" means any person possessing a heritable and transferable right of property in land for which he is liable " or but for a contract or decree would be liable"* to pay rent :

(9) "under proprietary right" means an under-proprietor's right in land :

(10) "tenant" means any person, not being an under-proprietor, who is liable to pay rent ; and in the following portions of this Act, namely, sections 12A* 13, 14, 15, 17, 18, 29, 30A, 32A, 32B, 53, "sub sections (2),* 54, 55, 56, 59, 60, 61, 62, 108, 126, 138, "and 141"* but in no others, the expression "tenant" shall be held to include a thikadar or person to whom the collection of rents in a village or portion of a village has been leased by the landlord :

(11) "landlord" means any person to whom an under-proprietor or a tenant is liable to pay rent :

(12) "representative" means an heir or any other person taking by operation of law or by will a beneficial interest in the property of a deceased person, and includes the guardian of a minor and the legal curator of a lunatic or idiot :

(13) "prescribed" means prescribed by rules made by this Act"*

(14) "registered" means registered under any Act for the time being in force for the registration of documents ;

(15) "signed" includes marked, when the person making the mark is unable to write his name : and

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* The words within quotations have been substituted by Act IV of 1921.

† Cl (13) has been substituted for the original by Act XX. of 1890, s. 44 (2), *infra*.

(16) "value," used with reference to a suit, means the amount or value of the subject-matter of the suit.

"(17) Sir means—

Land which for the seven years inmmediately preceding the passing of this Act had been continuously dealt with as sir within the distribution of propietary or under propietary profts and classes ;

(*b*) land which for the seven years immediately preceding the passing of this Act had been continuously cultivated by the proprietor or under proprietor himself, or by his servants, or by hired labour ;

(*c*) Land which at the commencement of the Oudh Rent (Amendment) Act, 1921 was being cultivated by the proprietor or under proprietor himself, or by his servants, or by hired labour, and which was recorded as Khudkhust of the proprietor or under proprietor in the agricultural year immediately preceding the agricultural year in which the Oudh Rent Act (Amendment Act) 1921 came into force ;

(*b*) land which has been continuously cultivated by the proprietor or under proprietor himself, or by his servants or by hired labour for a period of ten years, commencing at the time after the commencement of the Oudh Rent Act (Amendment) Act, 1921,

Provided firstly, that the area of *sir* which may be acquired in a village by a proprietor or under proprietor under clause (*d*), when added to the area which is the *sir* of the proprietor or under proprietor under clauses (*a*) (*b*), and (*c*), shall not exceed, in the aggregate, one tenth of such portlon of the total cultivated area of the village as is proportionate to the extent of his proprietary or under proprietary right in the village.

Provided, secondly, that land which was recorded as *sir* at the last settlement prior to the passing of this Act and has been continuously so recorded since, shall be presumed to be land of the class mentioned in clause (*a*) till the contrary is proked.

Provided thirdly, that land which is *sir* under clauses (*a*), (*b*), (*c*) or (*d*) shall cease to be *sir* when it becomes the subject of an expropietary tenancy ;

Provided fourthly that if an exproprietary tenant regains his proprietary or under proprietary right in the land held by him as exproprietary tenant the land mentioned in the third proviso shall again become his sir.

(18) "Statutory tenant" means a tenant to whom section 36 or section 35 applies.

Explanation—A person who succeeds as an heir of a statutory tenant under section 48 shall not be deemed to be a statutory tenant unless he has obtained a *patta* from the landlord or has remained in occupation of the holding for three years after the

expiration of the period for which he is entitled to retain occupation of the holding under section 48.

Provided that when a holding is held by two or more co-tenants no person who succeeds as an heir of any such co-tenant under section 48 shall be deemed to be a statutory tenant of the holding unless he has obtained a patta from the land lord, or has remained in occupation of the holding for three years after the expiration of the period for which the heir of the last surviving co-tenant is entitled to retain occupation of the holding under section 48.

(9) Statutory period means the period of 10 years referred to the section 36 or section 37.

(20) Agricultural year means the year unknowing on the first day of duly and ending an the thirteeth day of June."

Restrictions on exclusion of Act by agreement.

4 (4) Nothing in any contract made between a landlord and a tenant before or after the passing of this Act shall entitle a landlord to eject a tenant or enhance his rent otherwise than in accordance with the provisions of this Act " as amended by the Oudh Rent (Amendment) Act, 1921."*

(2) Nothing in any contract made between a landlord and a tenant after the passing of this Act shall take away or limit the right of a tenant, as provided by this Act " as amended by the Oudh Rent (Amendment) Act, 1921."* to make improvements and claim compensation for them.

(3) Where land not previously cultivated has been or is hereafter let by a landlord to a tenant, either after being reclaimed by or at the expense of the landlord or for the purpose of being reclaimed by the tenant, nothing in this section shall be construed to affect the conditions of any contract relating to that land until fourteen years have elapsed from the date on which the land was first brought under cultivation.

(4) Where land has remained uncultivated during a period of seven years, it shall, for the purposes of the last foregoing subsection, be deemed to have not been previously cultivated.

(5) This section does not apply to tenants having a right of occupancy or to sub-tenants.

CHAPTER II.

OF CERTAIN RIGHTS AND LIABILITIES OF LANDLORDS, UNDER-PROPRIETORS, AND TENANTS.

Right of Occupancy.

Tenants havings a right of occupancy.

5. Tenants who have lost all proprietary right, whether superior or subordinate, in the lands which they hold or cultivate, shall, so long as they pay the rent payable for those lands

* The woads within quotations have been added by U. P. Act III of 1921.

according to the provisions of this Act, have a right of occupancy under the following rule :—

Every such tenant who, within thirty years next before the thirteenth day of February 1856, has been, either by himself, or by himself and some other person from whom he has inherited, in possession as proprietor in a village or estate, shall be deemed to possess a heritable, but not a transferable, right of occupancy in the land which he cultivated or held in such village or estate on the twenty-fourth day of August 1866 : provided that such land has not come into his occupation, or the occupation of the person from whom he has inherited, for the first time since the said thirteenth day of February 1856 : provided also that no such tenant shall have a right of occupancy in any village or estate in which he or any co-sharer with him possesses any under proprietary right.

Nothing contained in the former part of this section shall affect the terms of any agreement in writing entered into between a landlord and tenant after the twenty second day of July 1868.

Saving of power to confer right of occupancy.

6. Nothing in the last foregoing section shall be construed to restrict the power of a landlord to confer, by registered document, on any persons other than those mentioned in that section, a right of occupancy in the lands which they hold or cultivate.

Loss of right of occupancy

7. If a tenant having a right of occupancy is ejected, in accordance with the provisions of section 52, from the land in which he possesses the right, he shall thereupon lose his right of occupancy in that land.

Ex-proprietary tenants.

7A.* (1) Every proprietor or under-proprietor, whose proprietary or under-proprietary rights, as the case may be, in a mahal or in any portion thereof, whether in any share therein, or in any specific area thereof, are transferred, on or after the first day of January 1902,

either by "foreclosure or"† sale in execution of a decree or order of a Civil or Revenue Court, or by voluntary alienation, otherwise than "(a)" by gift or "(b)" by exchange between co-sharers in the mahal,

shall become a tenant with a right of occupancy in his sir land, and in the land which he has cultivated continuously for twelve years at the date of the transfer, and shall be entitled to hold the same at a rent which shall be four annas in the rupee less than "fair and equitable rate payable by statutory tenants for land of the same classes of soil."†

* S. 7A has been added by U. P. Act IV. of 1901.

† The words within quotations have been added by U. P. Act III of 19 1.

(2) If a part only of the share of a proprietor or under-proprietor in a mahal or in any portion thereof is so transferred, such proprietor or under-proprietor shall become a tenant with a right of occupancy in so much of his sir land, and of the land which he has cultivated continuously for twelve years at the date of the transfer, as appertains or corresponds to such part of his share.

(3) Every such tenant, and every tenant having a right of occupancy under section 25 of the Oudh Laws Act, 1876,* shall be called an ex-proprietary tenant, and shall have all the rights and be subject to all the liabilities conferred and imposed by this Act upon occupancy tenants.

(4) The land in which such occupancy right has been created shall be specified, and the rent payable shall be fixed by the Collector under section 36 of the North-Western Provinces and Oudh Land Revenue Act, 1901.†

"(5) No sale or agreement, relinquishment or other transaction having the effect of a surrender or relinquishment of expro-prietary rights, executed or carried out within the six months immediatly preceding or succeeding the transfer of proprietary or under proprietary rights shall affect or detract from the rights created by the above provisions."‡

"(6) A usufructuary mortgage shall be deemed to be a transfer within the meaning of this section if the mortgagor by reason thereof claims or exercises the rights conferred by sub-section (1) and not otherwise."‡

(7) Nothing in this section shall be deemed to limit the right of a proprietor to reserve proprietary or under-proprietary rights, or of an under-proprietor to reserve under-proprietary rights in his sir at the time of making a private transfer, or to confer a right of occupancy in any land transferred for any public or private purpose inconsistent with the existence of a right of cultivation therein.

Tenants' Right to Pattas.

Tenants' right to patta.

8. Every tenant is entitled to receive from his landlord a patta or memorandum of the terms of the tenancy, signed by the landlord or his authorized agent, and containing the following particulars, namely :—

(*a*) the quantity of land and, where the fields comprised in the patta have been numbered in a Government survey, the number of each field ;

(*b*) the term for which the tenancy is to run ;

(*c*) the amount of rent payable ;

* Act XVIII. of 1876. † U. P. Act III. of 1901.

‡ The words within quotations have been added by U. P. Act IV of 1921.

(*d*) the instalments in which, and the times at which, that amount is to be paid;

(*e*) any special conditions not inconsistent with the provisions of this Act; and

(*f*) if the rent is payable in kind, the proportion of produce to be delivered, and the time, manner, and place of delivery.

Patta to which tenant having right of occupancy is entitled

9. Tenants having a right of occupancy are entitled to receive pattas at rates of rent determined in accordance with the provisions of Chapter IV., Part A, "or Part AA"* of this Act.

Patta to which tenant not having right of occupancy is entitled.

10. Tenants not having a right of occupancy are entitled to pattas for the terms, and at the rates, prescribed in Chapter IV., Part B, of this Act.

Landlords' Right to Counterparts.

Landlord's right to counterpart.

11. Every landlord who grants a patta is entitled to receive from the tenant a counterpart signed by or on behalf of, the tenant.

Arrears of Revenue or Rent

What to be deemed an arrear of revenue or rent.

12. Any instalment of revenue or rent which is not paid on or before the day when it becomes due, whether under a written agreement, or according to law or local usage, shall be deemed to be, for the purposes of this Act, an arrears of revenue or rent, as the case may be:

Provided that, unless the proprietor and under-proprietor have otherwise agreed in writing, the rent payable to the former by the latter shall be held to become due one month before the date fixed for the payment of the revenue on account of the village in which the land in respect of which the rent is payable is situate, and to be payable in the same number of instalments as the revenue; and the amount of each instalment of the rent shall bear the same proportion to the whole of the rent payable for the year as the amount of each instalment of the revenue bears to the whole of the revenue payable for the year.

Recovery of arrears of rents as arrears of revenue.

12A. (1) In case of any General refusal on the part of the under-proprietors or tenants of any local area to pay arrearr of rent, rates or cesses due by them to their landlords, the Local Government may, by notification in the Gazette, declare that such arrears may be recovered as arrears of land revenue.

* Inserted by U. P. Act IV. of 1901, s. 4.

(2) In any local area to which a notification made under sub-section (1) applies, a landlord to whom an arrear of rent, rate or cess is due by an under-proprietor or tenant may (notwithstanding anything to the contrary contained in this Act or the United Provinces Local Rates Act, 1914 or any other enactment for the time being in force) instead of suing for recovery of the arrear under this Act, apply in writing to the collector to realise the same, and the collector shall, after satisfying himself that the amount claimed is due, proceed, subject to rules made under section 158, to recover such amount with costs and interests, as an arrear of land revenue.

(3) Nothing in this section shall be held to prevent the collector from proceeding under section 185 of the United Provinces Land Revenue Act, 1901, in any case to which that section applies.

(4) The collector shall not lie made a defendant to any suit in respect of an amount for the recovery of which an order has been passed under this section.

(5) No appeal shall be from an order of a colletor under this section, but nothing herein contained, and no order passed under this section shall debar—

(*a*) a landlord from maintaining a suit under clause (2) of section 108 for the recovery of any amount due to him which has not been recovered under this section, or

(*b*) a person, from whom any amount has been recovered under this section, in excess of the amount due from him, from recovering the said amount under section 108.

Receipts.

Right of tenant to receipt of rent.

13. Every tenant who makes a payment on account of rent to his landlord shall be entitled to obtain forthwith from the landlord a written receipt for the amount so paid signed by the landlord.

Particulars to be specified in receipt.

13A. The receipt shall specify such of the following particulars as can be specified by the landlord at the time of payment, namely,—

(*a*) the names of the payer and payee ;

(*b*) the names of the village with *mahal* and *palti* ;

(*c*) the amount paid ;

(*d*) a description of the holding on account of which the rent has been paid ;

(*e*) the year and instalments to which the payment has been credited;

(*f*) whether the payment has been accepted as a payment in full, or only on account; and

(*g*) the date on which the rent is paid.

Payments on account of instalments.

13 B.* "(1) When a tenant makes a payment on account of rent he may declare the year or the years and the instalments to which he wishes the payment to be credited; and the payment shall be credited accordingly.

(2) If he doet not make any such declaration the payment may be credited on account of any arrear not barred by limitation that the landlord thinks fit."

Compensation for withholding of receipt.

13C.* "If a receipt for rent paid by an under proprietor or tenant is withheld from him without sufficient cause, he may recover compensation from the landlord up to an amount not exceeding that of the rent paid."

Deposit of Revenue or Rent in Court without Suit.

Power to pay into Court amount of Revenue or rent due.

14. (1) If a co-sharer, under-proprietor, or tenant, from whom any revenue or rent is due in respect of the land held or cultivated by him, tenders the full amount of that revenue or rent at the usual place of payment to the person authorized to receive it, and that person does not accept the amount, and forthwith give a receipt in full therefor, the co-sharer, under-proprietor, or tenant, may, without any suit having been instituted against him, deposit the amount in Court to the credit of the person authorized to receive it.

(2) The deposit shall, so far as regards the co-sharer, under-proprietor, or tenant, and all persons claiming through or under him, operate as a payment then made to the lambardar or landlord of the amount so deposited.

Procedure on making and withdrawing such payment.

15. (1) The Court shall receive the deposit on the written application of the co-sharer, under-proprietor, or tenant, or his recognized agent; and on the applicant making a declaration in the form set forth in Schedule A to this Act, or as near thereto as circumstances will admit, the Court shall give him a receipt for the deposit.

(2) The declaration shall be verified in the manner prescribed for the verification of "pleadings by rule 15 of order VI of the First Schedule"* of the Code of Civil Procedure, and shall be signed by the person making it.

* The words within quotations have been added by U. P. Act IV of 1921.

(3) Upon receiving the deposit, the Court shall issue to the person to whose credit it has been paid a notice in the from set forth in Schedule B to this Act.

(4) The notice shall be served by the proper officer without the payment of any fee.

(5) If the person to whose credit the deposit has been paid, or his recognized agent, appears and applies for it, the Court shall cause it to be paid to him.

(6) The application under sub-section (5) may be on plain paper.

Limitation for suits for balance of revenue of rent.

16. Where a deposit has been made under the provisions of the two last foregoing sections, a suit shall not be brought against the depositor or his representative on account of any revenue or rent which accrued due in respect of the land last hereinbefore mentioned prior to the date of the deposit, unless the suit is instituted within six months from the date of the service of the notice mentioned in section 15.

Illegal Enforcement of Payment of Rent.

Compensation to under-proprietor or tenant for illegal enforcement of payment.

17. (1) If payment of rent, or of any sum in excess of the rent legally claimable, is illegally enforced, and any under-proprietor or tenant institutes a suit to recover compensation for the illegal enforcement of the payment, the Court may award to him compensation, not exceeding the sum of two hundred rupees, in addition to any amount for which it makes a decree in respect of the payment itself.

(2) An award of compensation under sub-section (1) shall not bar any prosecution to which the person illegally enforcing the payment may be liable under any law for the time being in force.

"(3) The payment by a tenant of any sum as a premium or consideration for being admitted to the occupancy of a holding or for not being ejected on the grounds specified in clause (*e*) of sub-section (1) of section 62A shall be deemed to be the payment of a sum illegally enforced in excess of the rent legally claimable within the meaning of sub-section (1)."*

Abatement of Rent.

Suit for abatement of rent by under-proprietor or tenant.

18. Save as provided by section 29, sub-section (4), a suit for an abatement of the rent of a holding shall not be brought by an under-proprietor or tenant except on the ground that the area of the holding has diminished, or on some ground specified in a lease, agreement, or decree under which he holds :

* The words within quotations have been added by U. P. Act IV of 1921.

Provided that, if the under-proprietor holds a sub-settlement in a revenue-paying estate, an abatement shall not be allowed to the under-proprietor unless a remission of revenue has been allowed on the same ground and by competent authority in the same estate.

Remission of Rent.

Remission of rent by order of Court.

19. (1) Notwithstanding anything in the last foregoing section, a Court, when it makes a decree for an arrear of rent, may, with the previous sanction of the Deputy Commissioner, allow such remission from the rent payable by any under-proprietor or tenant as appears equitable, if the area of the land in his occupation has been materially diminished by diluvion or otherwise, or if the produce of that land has been diminished by drought, hail, or other calamity beyond his control, to such an extent that the full amount of rent payable by him cannot, in the opinion of the Court, be paid.

(2) Where a remission of rent under this section causes a material diminution of the assets of the landlord in the village in which the remission is given, the revenue authorities shall take into consideration any claim made by the landlord for a remission of revenue.

(3) A remission shall not be allowed under this section to an under-proprietor† or to a tenant having a right of occupany, unless a remission of revenue has been allowed on the same ground and by competent authority in the same village.

Power to remit or suspend payment of rent when payment of revenue remitted or suspended.

"*19A. (1) When by reason of an agricultual calamity the Local Government or any authority empowered by it in this behalf remits or suspends for any period the payment of the whole or any part of the revenue payable in respect of any land whether such revenue is payable to an assignee or to the Government, a collector or, if so empowered by the Local Government, an Assistant colletor of the first class may order that the rents of the tenants holding such land or any portion thereof, mediately or immediately from the proprietor, shall be remitted or suspended for the period of such remission or suspension of revenue, as the case may be, to an amount which shall be equal to double the amount of the revenue, the payment of which has so remitted or suspended.

(2) Remission or suspension of the rent of land, the revenue of which has either wholly or in part been released, compounded for or redeemed, may be ordered by such authority as the Local Government may direct to an amount which shall be equal to

* The words within quotations have been added by U. P. Act IV of 1921.

† Certain words after this have been repealed by U. P. Act IV of 1921.

double the amount of revenue which would have been remitted or suspended if the revenue had not either wholly or in part been released, compounded for or redeemed.

(3) An order passed under sub-section (1) or sub-section (2) shall not be questioned in any Civil or Revenue Court.

(4) A suit shall not be for the recovery of any rent of which the payment has been remitted, or, during the period of suspension, of any rent of which the payment has been suspended.

(5) When the payment of rent has been suspended, the period during which the suspension has continued shall be excluded in the compensation of the period of limitation prescribed for a suit for the recovery of the rent.

(6) If a proprietor or other landlord collects any rent of which the payment has been remitted, or, before the expiration of the period of suspension collects any rent of which the payment has been suspended, the whole of the revenue or rent, as the case may be, remitted or suspended in his favour, shall immediately become payable by him.

Relinquishment of Land.

Relinquishment of land by tenant.

20. (1) A tenant shall continue liable for the rent of the land in his holding unless, on or before the fifteenth day of March in any year, he gives to the landlord, or to the recognized agent of the landlord, notice in writing of his desire to reliquish that land, and relinquishes it accordingly.

(2) If the landlord or his recognized agent refuses to receive the notice, or to sign and deliver a receipt therefor, the tenant may, before the latest date prescribed for giving the notice, apply on plain paper to the tashildar or proper officer, and written notice of the desire of the tenant to relinquish the land shall then be served on the landlord at the expense of the tenant.

(3) A tenant cannot, without the consent of his landlord, relinquish a part only of his holding.*

Tenants' right to compensation for improvements.

"**21.** (1) When a tenant has ceased to cultivate his holding either by himself or by some other person, and has left the neighbourhood without arranging for the payment of his rent as it falls due and giving notice to the landlord of such arrangemcnt the landlord may, at any time after the fifteenth day of May, enter on the holding and let it to another tenant or take it into his own cultivation."

* Certain words after this having been repealed by U. P. Act IV of 1921 have been omitted.

(2) Before a landlord enters on a holding under sub section (1), he shall file a notice in the prescribed from at the office of the tashildar for service on the tenant, stating that he has treated the holding as abandoned, and is about to enter on it accordingly.

(3) When a landlord enters on a holding under sub-section (1), the tenant may institute a suit under this Act to recover possession of the holding, and the Court shall, on being satisfied that the tenant did not voluntarily abandon the holding, order recovery of possession on such terms with respect to the time of, delivery of possession, the payment of arrears of rent, if any, and, if injury has been caused by the wrongful act, neglect, or default of any party to the proceeding, with respect also to the payment of compensation by that party, as to the Court may seem just.

Compensation for Tenants' Improvements.

Tenant's right to compensation for improvements

22. (1) If a tenant, "having a right of occupancy or holding under a special agreement or decree of Court or a statutory tenant"† or a person from whom he has inherited, has made any such improvement on his holding as is hereinafter in this chapter mentioned, "and which he is entitled 'make"‡ neither he nor his representative shall be ejected from the holding unless and until he or his representative, as the case may be, has received compensation for the improvement :

Provided that compensation shall not be payable for any improvement made thirty years or more before the date on which the ejectment is to take effect.

(2) An improvement made by a tenant for the benefit of his holding on land belonging to the person who is entitled to receive the rent of the holding shall, for the purposes of this section, be deemed to have been made on the holding of the tenant.

Landlords' consent to improvements.

23.† "(1) Every tenant having a right of occupancy or holding under a special agreement or decree of court shall be entitled to make an improvement on his holding, but, notwithstanding anything contained in section 24, he shall not be entitled, without the written consent of the landlord, to plant trees on his holding.

(2) Every statutory tenant shall be entitled to construct, maintain, and repair a well for the irrigation of his holding with all works incidental there to, but, except as provided in section 24, shall not be entitled without the written consent of the landlord to make any other improvement in respect of his holding.

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† The words within quotations have been substituted by U. P. Act IV of 1921.

‡ The words within quotations have been added by U. P. Act IV of 1921.

Provided that if the landlord desires to construct the well himself, he shall have a prior right to do so."

Reference to Deputy Commissioner when consent is refused.

24. (1) If a tenant applies for the written consent of his landlord to the making of an improvement on his holding and the landlord omits or resuses to grant it, the tenant may apply to the Deputy commissioner for permission to make the improvement.

(2) When an application is made to the Deputy Commissioner under subsection (1), he shall take into consideration any objections which the landlord may have to urge on either of the following grounds, namely :—

(*a*) that the improvement is too costly or is unsuitable to the nature of the tenant's holding, or.

(*b*) that the landlord is himself prepared to make the improvement, and shall then either grant the permission on such conditions as he considers fair and equitable, or refuse the application.

Registration of outlay on improvements.

25. (1) If either the landlord or the tenant desires the amount expended on an improvement executed with the permsssion of the Deputy comissioner under the last foregoing section to be determined and registered, the Deputy Commissioner shall, on application made to him for the purpose, determine the amount of the outly, and enter it in a register kept in the prescribed from.

(2) The entry in the register shall be conclusive proof of the amount of the outlay in any subsequent proceedings respecting the cost of the improvmet.

"Improvement" defined.

26. The word "improvement," as used in this Act, means a work by which the annual letting value of land has been, and at the time of a demand for compensation continues to be, increased, and comprises—

(*a*) the construction of works for the storage of water, for the supply of water for agricultural purposes, for drainage, and for protection against floods ; the construction of wells ; the reclamation of waste land and jungle ; and other works of a like nature :

(*b*) the renewal or reconstruction of any of the foregoing works, or such alterations therein or additions thereto as are not required for the maintenance thereof, and increase durably their value.

Principle on which compensation is to be estimated.

27. In estimating the compensation to which a tenant is entitled for an improvement, regard shall be had—

(*a*) to the amount by which the value or the produce of the holding, or the value of that produce, is increased by the improvement ;

(*b*) to the condition of the improvement and the probable duration of its effects ;

(*c*) to the labour and capital required for the making of such an improvement.

(*d*) to any reduction or remission of rent or any other advantage given by the landlord to the tenant in considera tion of the improvement ; and.

(*e*) in the case of a reclamation, or of the conversion of unirrigated into irrigated land, to the length of time during which the tenant has had the benefit of the improvement.

Modes of making compensation.

28. When a Court has assessed the amount of the compensation due to a tenant, it may, if both landlord and tenant desire that the compensation assessed, instead of being paid wholly in money shall be made wholly or partly in some other way, proceed to give judgment to the terms agreed upon between them.

Improvement by the landlord.

29. (1) A landlord may make an improvement on the holding of a tenant not having a right of occupancy with or without the consent of the tenant.

(2) A landlord intending to make an improvement shall if any part thereof is to be made on the holding of any such tenant, give notice of his intention to the tenant through the tashildar.

(3) A landlord making an improvement on the holding of any such tenant shall be liable to compensate the tenant for any loss which he may cause to the tenant when making it.

(4) If the effect of the improvement is to impair the productive powers of the holding, the tenant shall, in addition to any compensation which may be awarded to him under sub-section (3), be entitled to such abatement of his rent as to the Court seems just.

(5) A landlord may not make an improvement on the holding of a tenant with a right of occupancy without the consent of the tenant.

Survey and Measurement.

Landlord's right to enter and measure lands.

30. A landlord and his agents and surveyors may, at all reasonable times, enter upon any land comprised in his estate for the purpose of surveying and measuring the land,

"**30A.*** A Deputy Commissioner shall, unless there are reasonable grounds to the contrary, on the application of a proprietor or under proprietor who is the landlord of a holding, authorise the acquisition of the holding or part thereof for any of the following purposes, namely :—

Acquisition of land by landlord for certain purposes.

(*a*) for agricultural development, including demonstration or model farms, diary farms, poultry farms, stock-breeding, horticulture, or any similar purpose ;

(*b*) for mills or factories for industrial purposes ;

(*c*) for his own cultivation to the extent necessary for the maintenance of himself and of members of his family dependent on him for maintenance ;

(*d*) for sites for hamlets or markets ;

(*e*) for the erection of houses for tenants and labourers ;

(*f*) for groves ;

(*g*) for planting trees ;

(*h*) for opening or working a limestone, brick-earth, kankar or other mineral quarry, or a clay, sand or gravel pit, or for the construction of any works or buildings used in connection therewith.

(*i*) for making any water course, reservoir or canal

(*j*) for making any road, railway or tramway ;

(*k*) for building houses, out houses, thanas or godowns for the landlord ;

(*l*) for any religious, educational or charitable purpose ;

on such terms as may me agreed upon between the landlord and the tenant, or failing such agreement, on payment of such compensation, if any, as the tenant may be entitled to, and shall there upon order the ejectment of the tenant from the holding or part thereof acquired :

Provided, firstly, that the amount of compensation for dispossession shall not exceed four times the annual rent payable on the holding or part thereof acquired and shall be in addition to the amount of compensation, if any, due for improvements ;

Provided, secondly, that the tenant shall be entitled to a reduction of rent proportionate to the rantal value of the part of his holding acquired, and the amount of such reduction shall be determined by the Court :

Provided, thirdly, that if the land acquired under this section is not used for any of the purposes specified in this section within

* Section 30A has been added by U. P. Act IV. of 1921.

two years from the date of the acqisition, and that if the tenant has not been admitted by the landlord to the occupation of another holding in lieu of the holding or part thereof acquired, he shall be entitled on the expiration of the said period of two years to sue for the recovery, of the occupancy of the holding or part thereof acquired, at the rate of rent payable at the date of acquisition ; and that if a decree is passed in the plaintiff's favour it shall be made conditional on the payment by the plaintiff into Court of the amount of the compensation received by him on account of the acquisition of his holding or part thereof, less such sum as the Court may determine on account of compensation for dispossession at a rate not exceeding the annual rent payable on the holding or part thereof acquired for the period of dispossession ;

Provided, fourthly, that the acquisition of a part of a holding under this section shall not affect the statutory period of the tenant ;

Provided, fifthly, that nothing in this section shall apply to any land in which a tenant has a right of occupancy, or which he holds under a special argeement or decree of Court.

CHAPTER III.

PAYMENT OF RENT IN KIND.

Division or appraisement of produce.

31. Where rent is taken by division of the produce in kind, or by estimate or appraisement of the standing crop, or other proceeding of a similar nature requiring the presence of both the tenant and the landlord, either personally or by recognized agent, if either party neglects to be present at the proper time, or if a dispute arises between the parties regarding the division, estimate, appraisement, or proceeding, either party may present an application to the Court, requesting that a proper officer be deputed to make the division, estimate, or appraisement, or conduct the proceeding.

Procedure in case of dispute.

32. (1) On receiving the application, the Court shall issue a written notice to the other party to attend at a time and place specified in the notice, and shall depute an officer before whom the division, estimate, or appraisement, shall be made or the proceeding conducted.

(2) The award of that officer in respect of the division, estimate, appraisement, or proceeding, shall be final, unless, within 'three months" * from the date thereof, either party institutes a 'suit to set it aside.

CHAPTER IV.

ENHANCEMENT AND FIXING RATES OF RENT.

Initial rent of tenant,

32A.* A tenant on being admitted to the occupation of land is liable to pay snch rent as may be agreed upon between him and his landlord.

Determination of rent,

32B.* (1) If land is held by a tenant other than an exproprietary tenant, but there is no rent fixed thereon, the landlord may, at any time during the continuance of the tenancy, or within three years thereafter, sue to have rent fixed thereon.

(2) The rent shall be decreed, in the absence of proof of an agreement to the contrary, at the fair and equilable rate payable by statutory tenants for land of the same class or classes of soil ;

Provided that the rent of a tenant having a right of occupancy in any such land shall, in the absence of proof of an agreement to the contrary, be decreed at a rate which is two annas in the rupee below the fair and equitable rate payable by a statutary tenant of the same class for land of the same class or classes of soil.

(3) A suit for determination of rent under sub-section (1) or under section (2) may be joined with a suit for arrears of rent under clause (2) of section 108."

Part A.—Tenants Right of Occupancy.

Enhancement of rent of tenant with right of occupancy.

"(1) The rent of a tenant having a right of occupancy, other than an exproprietary tenant, shall not be liable to enhancement except by a written agreement or in pursuance of a decree made under this Act on one or more of the following grounds only, namely :—

1st ground.—That the rate of rent paid by him is below the fair and equitable rate payable by the same class of tenants having a right of occupancy land of the same class or classes of soil.

2nd ground.—That the rate of rent paid by him is more than two annas in the rupee below the fair and equitable rate payable by statutory tenants of the same class for land of the same class or classes of soil.

3rd ground.—That the quantity of land held by him exceeds the quantity for which he was previously paid rent."†

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* Sections 32A and 32B have been added by U. P. Act IV of 1921.

† The words within quolations have been substituted by U. P. Act IV of 1901.

(2) Nothing in sub section (1) shall affect the terms of any agreement in writing entered into between a landlord and tenant after the twenty-second day of July 1868.

Term for reenhancement after decision fixing rent under section 33

34. After a decision has been passed in accordance with the last foregoing section, a suit shall not lie for reenchancement of the rent until the expiration of five years from the date of the decision, except on the 3rd ground mentioned in that section, or, in the case referred to in the next following section, until by re-assessment within the term of five years, the revenue of the land has been increased.

Enhancement on re-assessment of revenue.

35. If, on a re-assessment of the revenue, the rent of the tenant cannot be enhanced under section 33 by reason of the absence of the grounds therein mentioned, the landlord may institute a suit to enhance the rent to a sum not exceeding double the average amount of the revenue imposed at the re-assessment upon land "of the same class or classes of soil held by tenants of the same class having a right of occupancy."

PART AA.*

Ex-proprietary Tenants.

Enhancement of rent.

35A. When the rent of an ex-proprietary tenant has been fixed by an order under section 25 of the Oudh Laws Act, 1876,† or section 36 or section 87 of the north-Western Provinces and Oudh Land Revenue Act, 1901,‡ "or enhanced under this section"§ the lanholder may when, and not before,—

(*a*, ten years shall have expired from the date of the order so fixing the rent, or

(*b*) there has been a revision of settlement.

sue for enachancement of the rent on the following ground and no other, *viz.*, that the rate of the rent paid is more than four annas in the rupee below the "fair and equitable rate payable by statutory tenants for land of the same class or classes of soil"

Enhancement or abatement in case of alluvion, diluvion, &c.

35B. (1) Notwithstanding anything contained in section 35A, the land-holder may, at any time, sue for enhancement of the rent of an ex-proprietary tenant on one or both of the following grounds and no others, namely,—

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* Part AA has been added by U. P. Act IV. of 1901, s. 3.

†. Act XVIII. of 1876.

‡ N.-W. P. & Oudh Act III. of 1901.

§ The words within quotations have been substituted by U. P. Act IV of 1921.

(*a*) that the area of the tenant's holding has been increased by alluvion or otherwise; or

(*b*) that the productive powers of the land held by the tenant have been increased otherwise than by the agency or at the expense of the tenant.

(2) An ex-proprietary tenant may sue at any time for abatement of the rent paid by him on one or both of the following grounds and no others, namely,—

(*c*) that the area of the land held by him has been diminished by diluvion or otherwise; or

(*d*) that the productive powers of the land have been diminished by any cause beyond his control.

Part B.—Other Tenants.

Tenant in occupation at Commencement of oudh Rent Amendment Act, 1921, the conditions of his statutory tenancy.

36. Every tenant, not being a tenant with a right of occupancy or a sub-tenant, shall be entitled to retain possession of the holding occupied by him at the "commeneement of the Oudh Rent (Amendment) Act, 1921,"* at the rent then payable by him, for a period of "ten"* years from the date of the last change in his rent or of the last alteration in the area of the holding, or, where no such change or alteration has taken place, from the date on which the tenant was admitted to the occupation of a holding within the meaning of this section.

Tenant admitted after Commencement of oudh Rent Amendment Act 1921 the conditions of his statutory tenancy.

37. Every such tenant who "is" admitted to the oecupation of a holding after the "commencement of the Oudh Rent (Amendment) Act, 1921,"* shall be entitled to retain the same for a period of "ten" years from the date of his admission at a rent agreed upon with the landlord; and every such tenant, in the area of whose holding or in the amount of whose rent any change is made by the landlord subsequently to the "commencement of the Oudh Rent (Amendment) Act, 1921,"* shall be deemed to be admitted to the occupation of a holding within the meaning of this section.

Explanation I.—"Holding" means a parcel or parcels of land held by a tenant and forming the subject of a separate engagement. The engagement may be express or implied.

"*Explanation II.*—This section and section 36 have effect subject to the provisions of—

(*a*) Sub-sections (3) and (4) of section 4 relating to land not previously cultivated,

(*b*) section 30A relating to the acquisition of land by the landlord for certain purposes,

* The words within quotations have been substituted by U. P. Act IV of 1921.

(*c*) the proviss to section 45 relating to persons succeeding as heirs of tenants under section 48,

(*d*) the second and third proviso to clause (*e*) of sub-section (1) of section 62A relating to non-resident tenants,

(*e*) section 67 and 157 excluding certain classes of land and specified areas from the operation or certain sections of this Act,

(*f*) section 68 relating to Thekadars, mortgages and sub-tenants, and

(*g*) section 127 relating to persons possessing land without title."*

Enhancement of rent of statutory tenant or person to whom section 48 applies.

"**38** (1) A landlord may enhance the rent of a statutory tenant of a person who succeeds as an heir of a statutory tenant under section 48, either by written agreement or by notice as hereinafter provided."

(2) Provided that, where rent is paid in kind, the proportion of produce paid as rent by a tenant shall not be subject to increase except in accordance with an established custom of the pargana in which the land is situate.

Enhancement by notice.

39.* If a landlord desires to enhance the rent of a statutory tenant on the expiration of the statutory period, or at any subsequent time if the rent was not enhanced on the expiration of the statutory period, or at any time during the currency of the tenancy in the case mentioned in section 50, he may cause a notice to that effect to be served under section 42.

(2) Notwithstanding anything in section 48, if a landlord desires to enhance the rent of a person who succeeds as an heir he may cause a notice to that effect to be served upon the said person under section 42—

(*a*) at any time within the period for which the said person is entitled to retain occupation of the holding under section 48, if the statutory period of the deceased tenant had expired before the date of his death, and if the rent of the deceased tenant was not enhanced on the expiration of that period or at any subsequent time before the date of his death, or

(*b*) on the expiration of the statutory period of the deceased tenant or at any subsequent time within the period for which the said person is entitled to retain occupation of the holding under section 48, if the statutory period of the deceased tenant had not expired before the date of his death."

* Subsection 1 of section has been substituted. subsection 2 has been omitted and subsection (3) has been remembered by U. P Act 4 of 1921.

Time for service of notice of enhancement.

40. (1) A notice whereby enhancement is claimed on account of the expiration of the period of the tenancy shall not be served before the commencement of the last year of the tenancy.

(2) A notice of enhancement on account of an improvement made or acquired by the landlord may be served at any time during the currency of the tenancy.

"(3) A notice of enhancement under sub-section (2) of section 39 may be served at any time after the commencement of the last year of the statutory perid of the deceased tenant, and during the period for which the person is entitled to retain the occupation of the holding under section 48."*

Contents of the notice.

41. The notice shall be written in Hindi and Urdu, and shall specify the land, the amount of the present rent, and the amount of the enhancement and require the tenant, if he refuses to pay the enhancement, to vacate the land by the fifteenth day of May next following, or to institute a suit in the proper Court to contest the notice of enhancement within thirty days from the date of the service thereof.

Service of the notice.

42. On the application of the landlord to the tahsildar or other prescribed officer, the notice shall be served by the officer on or before the fifteenth day of February at the expense of the landlord.

Grounds on which tenant may contest his liability to enhancement

43. The tenant may institute a suit to contest the notice of enhancement, within thirty days from the date of the service thereof, on any of the following grounds, namely :—

(*a*) that he "is an occupancy or expropietary tenant of"* in the land specified in the notice ;

(*b*) that he holds under a special agreement or decree of Court or lease under the terms of which his rent is not liable to enhancement ;

"(*c*) that the enhancement claimed is in excess of the fair and equitable rate payable by statutory tenants for land of the same class or classes of soil."

"(*d*) that his statutory period will not have expired on the fifteenth day of may next following ;"

(*e*) that the notice has not been served in the manner required by this Act ;

(*f*) that, where the enhancement claimed is on account of an improvement, the amount claimed is excessive.

* The words within quotations have been substituted or added by U. P. Act IV of 1921.

"(*g*) that he is a person who succeeded as an heir of a statutory tenant under section 48, and that the statutory period of the deceased tenant will not have expired on the fifteenth day of May next following."

"(2) If the tenant has any claim for compensation for improvements on the holding he shall file with his plaint a statement of the claim and of the grounds on which it is based."

Procedure when tenant contests notice of enhancement.

44. (1)* If the tenant contests the notice on any of the grounds specified in clauses (*a*), (*b*), (*d*) or (*e*) of section 43, the Court shall, if it finds the notice to be invalid on any such ground, order the notice to be set aside.

(2) If the notice is not set aside under subsection (1) and the amount of enhancement claimed is not contested, the Court shall declare the rent payable according to the enhancement claimed.

If the amount of enhancement is contested on either of the grounds specified in clause (*c*) or (*f*) section 43, the Court shall determine the fair and equitable rate referred to in clause (*c*) or the amount of enhancement referred to in clause (*f*), as the case may be, and decree the rent payable according to the amount determined.

(3) When the rent payable by the tenant has been decreed by the Court under sub-section (2) the Court shall forthwith notify the tenant of the amount of rent decreed, and shall order him to file a written application, signed by him, within one month, stating whether he agrees or refuses to agree to pay the rent decreed.

If the tenant fails to file the written application within one month, he shall be deemed to have refused to agree to pay the rent dscreed.

Tenant's liability for enhancement and commencement of fresh statutory period.

45.† If the tenant does not contest the notice of enhancement and remains in possession of the land after the 15th day of May next following the date of the service of this notice, or if the tenant agrees, as provided in sub-section (3) or section 44, to pay the rent determined by the Court, he shall be liable for the enhanced rent or the rent so determined from the commencement of the agricultural year next following the date of the service of the notice and shall be entitled to hold the land at that rent for a further period of ten years from the commencement of the aforesaid agricultural year :

Provided that if the tenant is a person to whom sub-section (2) of section 39 applies, he shall be entiiled to hold the land at the rent for which he is liable under this section or at the rent enhanced

* Section 44 has been substituted by U. P. Act IV. of 1921.

† Section 45 has been substituted by U. P. Act 10 of 1921.

by written agreement under snb-section (1) or section 38, only for the unexpired portion of the period for which the said person is entitled to retain occupation of the holding under section 48."

Vacating tenant's right to compensation for improvements.

46.* If the tenant does not contest the notice of enhancement, and vacats the holding on or before the 15th day of May next following the date of the service of the notice, he shall be entitled to recover by separate suit from the landlord compensation for any improvements made by him or, if he is a person to whom sub-section (2) of section 39 applies, compensation for any Improvements made by his predecessor-in-interest on the holding.

47. [*Rent of tenants succeeding to vacant holding*—Repealed by U. P. Act IV. of 1921.]

Rights of the heir of a deceased tenant.

48. (1)† When a statutory tenant dies, his heir shsll be entltled to retain occupation of the holding at the rent payable by the deceased for a period of five years from the date of the tenant's death, and to receive compensation under the provisions of this Act for improvements, if any, made on the holding by his predecessor-in-interest; but shall not be entitled to a renewal of the tenancy:

Provided that a person who succeeds as an heir of a deceased tenant to whom clause (*e*) of sub-section (1) of section 62 A applies shall be entitled to retain occupation of the holding at the rent payable by the deceased only for the unexpired portion of the statutory period of the deceased tenant."

(2) Subject to any rights which he may have under section 22 as a representative of the deceased, a collateral relative who did not, at the date of the death of the deceased, share in the cultivation of the holding, shall not be deemed to be an heir of the deceased within the meaning of this section.

[**49.** *Rent of tenant succeeding to a holding vacated by the by the death of the previous tenant*—Repealed by U. P. Act IV of 1921.]

Enhancement of rent for improvements made or acquired by landlord.

50. (1) Nothing in the foregoing sections shall bar the right of a landlord to enhancement of rent on the ground that the productive powers of the land held by the tenant have been increased by an improvement which has been made by, or at the expense of, the landlord, or for which, during the currency of the tenancy, compensation has been accepted from the

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* Section 46 has been substituted by U. P. Act IV. of 1921.

† Section 48 sub-section (1), has been substituted by U. P. Act IV. of 1921.

landlord by the owner of the improvement, or, on the expiration of the tenancy, compensation has been paid in accordance with the determination of a Court under this Act.

(2) Where an enhancement is claimed on the ground of any such improvement, the Court, in determining the claim, shall have regard to—

(*a*) the increase in the productive powers of the land caused, or likely to be caused, by the improvement ;

(*b*) the cost of the improvement ; and

(*c*) the cost of the cultivation required for the utilizing of the improvement.

Saving of enhancement and abatement of rent under Northern-India Canal and Drainage Act, 1873.

50A.* Nothing in the foregoing sections shall for the right of a tenant to abatement of rent under section 11 of the Northern India Canal and Drainage Act, 1873, or the right of a landlord to enhancement of rent under section 12 of that Act.

[**51.** *Power of Local Government to vary the limit of enhancement of rent*—Repealed by U. P. Act IV of 1921.]

Progressive enhancement.

51A. In decreeing an enhancement of rent, if the enhancement is not less than one third of the rent, and if the Court considers that the immediate enforcement of the decree to its full extent will be attended with hardship to the tenant, the court may direct that the enhancement shall take effect by yearly increments extending ever any member of years not exceeding five.

Definition of roster year.

51B.† Aroster year is an agricultural year fixed by the Local Governmeut in respect of any district or other Local area for the determination of fair and equitable rates of rent for the purpose of suits for the determination and enhancement of rent and of proceedings under section 44.

Fixing of roster years.

51C.‡ (1) The Local Government shall, as soon as may be after the commencement of the Oudh Rent (Amendment) Act, 1921, fix by notification in the *Gazette* a roster year for every district or other local area to which this Act applies.

Provided that the Local Government may in its discretion fix different roster year for different portions of a district,

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* Section 50 A has been added by U. P. Act IV. of 1921.

† Sections 51 A and 51 B have been added by U. P. Act IV. of 1921.

‡ Section 51 C. has been added by U. P. Act IV of 1921.

(2) In every local area in which the settlement of the revenue is liable to periodical revision the Local Government shall, after each revision of settlement, fix by notification in the Gazette a fresh roster year which shall (as nearly as conveniently may be) be the tenth agricultural year from the revision of settlement.

(3) Every roster year fixed under sub-section (1) for an area in which the settlement of the revenue is liable to periodical revision shall be so fixed that the last roster year during the term of the settlement shall coincide, as nearly as conveniently may be with the last year of such term

(4) Every tenth agricultural year after a roster year fixed in sub-section (1) or sub-section (2) upto the rent revision of settlement shall be a roster year.

Procedure of special officer in fixing rent rules.

51D.* (1) In every year the Local Government shall appoint one or more special officers holding the rank of Settlement Officers to propose fair and equitable rates of rent for statutory tenants.

Provided that for any cogent reason, such as a calamity seriously affecting a local area, or an insufficiency of officers qualified for the purpose, the Local Government may postpone the appointment of a special officer until the year next following the roster year.

Provided also, that, if a local area is under settlement, the Settlement Officer shall perform the duties of the special officer appointed by the Local Government under this sub-section.

(2) If the local area has been divided into circles by a settlement officer or as Assistant settlement officer, the special officer shall propose such rates for each such circle and for each separate class of soil demarcated by the Settlement Officer or the Assistant settlement officer unless with the previous sanction of the Board the circles and classification of soils are revised.

(3) If no soil classification has previously been made by a settlement officer or an Assistant settlement officer, the Special Officer shall make circles and classify the soils in the manner presented for Settlement Officers by rules made under the United Provinces Land Revenue Act, 1901, and shall propose rates for each class of soil in each circle, and the circles and classification of soils so made shall, when confirmed or as modified under section 5E, be thereafter deemed for the purposes of this Act to have been made a Settlement Officer.

The rates proposed by the Special Officer shall be based on genuine, adequate and stable rents which are paid by substantial tenants who depend for their livelihood on the produce of their

* Section 51 D has been added by U. P. Act IV 1921.

holdings, and can be paid without hardship over a series of years, due regard being had to movements in prices and the letting value of land,

(4) The special officer shall record the extent to which caste is taken into account in determining the rent payable by tenants and the extent to which any class of persons holds on favourable rates of rent, whether for the local area as a whole or for particular villages or Mahals comprised in it.

(5) The Special Officer shall also record for the purpose of comparison fields or groups of fields in each circle which are average fields of a particular class of soils.

(6) The Special Officer shall also record for each village whether the fair and equitable rates proposed by him are applicable without modification, or to what entent they require modification either for the village as a whole or for a specified area or class of soil within it."

Submission of proposals and records prepared under section 51D to Commissioner for confirmation.

51E. * (1) The special officer shall publish, in such manner as may be prescribed, the proposals and records made by him under Section 51D and shall receive and consider any objection which may be made to them.

(2) When such objections, if any have been considered and disposed of in accordance with the prescriped prosedure, the Special Officer shall submit the proposals and records after such modifications, if any, as he may think fit, to the Commissioner, who after such enquiry, if any, as may be directed under sub-section (3) shall either confirm or modify the new or revised circles and soil-classification, if any, and the proposed rates and other matters recorded under section 51E.

(3) On receipt of the proposals and records submitted by a special officer under sub-section (2) the Commissioner may direct for the enquiry in to any of the matters contained therein.

Provisions regarding sanctioned rates.

51F†. (1) The rates and records confirmed or modified under sub-section (2) of section 51E shall be deemed to be sanctioned rates and records until the the next roster year or until the local area is brought under settlment and fresh rates and records have been confirmed or modified by the commissioner under subsection (2) of section 51E."

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*Section 51E has been added by not Act IV of 1991.

† Section 51F has been added by U. P. Act IV of 1921.

Matters to be considered in determining fair and equitable rates of rent.

51G.* (1) In every suit or proceeding in which a Court has to determine the fair and equitable rate of rent payable by a tenant, the court shall determine such rate in accordance with the sanctioned rates and records unless it is proved that in consequence of any material superiority or inferiority the holding has previously borne a higher or lower rent than the average fields recorded as such under subsection (5) of section 51D.

(2) If a court has to determine the fair and equilable rate of rent payable by a tenant before rates and records have been sanctioned under sub section (2) of section 51E, the could shall determine such rate after local inspection at the rate gnerally payable by tenants of the same class for land of the same class or classes of soil,"

CHAPTER V.

EJECTMENT.

Ejectment to be according to law.

52A.† No tenant shall be ejected otherwise than in accordance with the provisions of this Act.

Tenants holding on special terms.

Ejectment of tenants holding on special terms.

52.† (1) A tenant having a right of occupancy in any land or holding any land under a special agreement or decree of Court shall not be ejected from that land otherwise than in execution of a decree for ejectment as provided in the following sub-sections.

A decree for the ejectment of any such tenant may be given on ground that at the date on which such decree is given a decree a decree againt the tenant for an arrear of rent in respect of the land has remained unsatisfied for fifteen days, or upwards.

(3) A decree for the ejectment of a tenant holding under a special agreement or decree of Court may be made on such grounds as would justify ejectment under the agreement or decree.

Other Tenants.

Ejectment of other tenants.

53.‡ (1) A statutory tenant or a person to whom subsection (2) of section 39 applies may be ejected on the ground that he has refused to agree to pay the rent decreed by the Court under subsection (2) of section 41, or by suit under the following sections of this chapter.

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* Section 51G has been added by U. P. Act IV of 1921.

† Section 52A and 52 have been added by U. P. Act IV of 1921.

‡ Sections 53 and 53A have been added or substituted by U. P. Act IV of 1921.

(2) A tenant not having a right of occupancy and not holding under a special agreement or decree of Court, and not being a statutory tenant, may be ejected by notice or suit under the following sections of this chapter.

Ejectment of statutory tenant or person to whom sub-section (2) of section 39 applies for refusal to pay rent decreed by Court.

53A. If a statutory tenant, or a person to whom sub-section (2) of section 39 applies has refused, or is deemed to have refused, to agree to pay the rent as provided in sub-section (3) of section 44, the Court shall have a decree for his ejectment, but shall determine the amount of the compensation, if any, due for improvements and shall make the decree of ejectment conditional on payment of that amount into Court.

Ejectment by notice.

54. If a landlord desires to eject any such tenant on the expiration of his tenancy, he may cause a notice of ejectment to be served on the tenant under the next following section.

Contents, service, and cost of notice.

55. (1) The notice shall be written in Hindi and in Urdu; it shall be signed by the landlord or by an agent authorized by him in that behalf; it shall specify the land from which the tenant is to be ejected* and it shall inform the tenant that he must either (*a*), if he means to dispute the ejectment institute a suit for that purpose within thirty days from the date of the service of the notice, or (*b*) vacate the land on or before the fifteenth day of May next following.

(2) On the application of the landlord to the tahsildar or other prescribed officer, the notice shall,* be served on the tenant by the officer on or before the fifteenth day of November at the expense of the landlord

(3) If the tenant on whom the notice is to be served is a tenant to whom section 36 or section 37 applies, there shall, except as provided by this sub-section and sub-section (4), and by section 69, be payable, in respect of the notice, a court-fee equal in value to half the annual rent payable for the holding of the tenant, or, in the case of a tenant paying rent in kind, a court-fee equal to half the value of the produce annually paid as rent on the average of the three years immediately preceding :

Provided that the court-fee shall not in any case exceed twenty-five rupees.

(4) A court-fee shall not be payable under sub-section (3) in respect of a notice on a person to whom section 48 applies.

(5) Stamps representing the court-fee snall be affixed on the notice before the notice and the application for the service thereof are presented to the tahsildar or other prescribed officer.

* Certain words after this repealed by U. P. Act IV of 1921, have been omitted.

(6) The court-fee paid by a landlord under this section shall not in any circumstances be adjudged to be payable as costs or otherwise by the tenant.

Grounds on which a person may contest liability to ejectment by notice.†

56. (1) A "person"* on whom a notice has been served under the last foregoing section may institute a suit to contest his liability to be ejected from the land specified therein on any of the following grounds, namely :—

(*a*) that he is not a tenant to whose sub-section (2) of Section 53 applis ;

(*b*) that he holds under an unexperied lease under the terms of which he is not liable to be ejected,

(*c*) that he is a person to whom seetion 48 applies, and that the period for which he is entitled to retain occupation of the holding under that section will not have expired on the 15th day of May next following the date of the service of the notice ;

(*d*) that notice of ejectment has not been served upon him in the manner required by this Act."*

(2) A thikadar shall not be entitled to contest a notice of ejectment on any ground other than that he holds a lease under the terms of which he is not liable to ejectment.

Compensation for improvements, if any, to be claimed in suit contesting liability to ejectment.

57. If the tenant has any claim for compensation for improvements on the holding, he shall file with his plant a statement of the claim, and of the grounds on which it is based.

Determination of the claim.

58. If the Court dismisses the suit in whole or in part, it shall determine the amount of the compensation, if any, due for improvements, and shall declare ejectment from the whole or part of the land, as the case may be, conditional on payment of that amount into Court.

Tenancy to cease if notice is not contested.

59. If the tenant on whom notice of ejectment has been served fails, within thirty days from the date of the service, to institute a suit to contest his liability to be ejected, his tenancy of the land in respect of which the notice has been served shall cease on the fifteenth day of May next following, unless, after the service the landlord has authoized him in writing to continue to occupy the land.

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* The words within quotations have been substituted by U. P. Act IV of 1921.

When assistance to eject may be given by Court.

60. (1) If the landlord requires assistance to eject a tenant on whom he alleges a notice to have been served under section 55, he may apply for that assistance to the Court which would have had jurisdiction with respect to a suit by the tenant to contest his liability to be ejected under the notice, and that Court shall order the ejectment of the tenant if it is satisfied—

(*a*) that a notice of ejectmeut was duly rerved on the tenant;

(*b*) that the tenant has not brought a suit to contest the notice, or that, if a suit for that purpose has been brought, it has been determined adversely to the tenant;

(*c*) that the tenant has not been authorized by the landlord in writing to continue to occupy the land.

(2) Nothing done by the Court under sub-section (1) shall affect the right of the tenant to institute a suit against his landlord on accunt of illegal ejectment, and to recover compensation therefor.

Ejectment by application.

61. (1) If a landlord desires to eject a tenant to whom sub-section (2) of"* section 53 applies, and against whom a decree for an arrear of rent has been passed, and remains unsatisfied, he may, after the first day of April of the year in which that arrear accrued, apply to the Deputy Commissioner to eject the tenant.

(2) The Deputy Commissioner shall, on receving the application cause a notice to be served on the tenant, stating the amount due under the decree, and informing him that, if he does not pay that amount into Court within fitten days from receipt of the notice, he will be ejected from his holding.

(3) If the amount is not so paid, the Deputy Commissioner shall unless good cause is shown to the contrary eject the tenant.

Ejectment by suit "of tenant to whom sub-section (2) of section 53 applies."*

62. (1) A tenant to whom section 53 applies shall be liable to ejectment by suit during the currency of his tenancy on any of the following grounds, namely :—

(*a*) that he has used the land comprised in his holding in a manner which renders it unfit for the purposes of his tenancy ;

(*b*) that at the time of the institution of the suit, the "whole or any part thereof"* holding has been sub-let " or transferred otherwise than by a sub-lease ;"*

* The words within quotations have been inserted by U. P. Act IV. of 1921.

(*c*) where the rent is payable in kind, that his cultivation has diminished to a point which, by the locality, involves the forfeiture of the holding ;

(*d*) where the tenant holds, under an unexpired lease, land to which section 4, sub-sections (3) and (4) applies, then on any ground which would justify ejectment under the lease.

"Provided that person who has succeeded or an heir of a statutory tenant under section 48 shall not be liable to ejectment on the grounds specified in clause (*b*) unless at the time of the institution of the suit the whole or any part of the holding has been sub-let in contravention of the provisions of section 68A or transferred otherwise than by a sub-lease."*

(2) The tenant continue liable for the rent of the land until decree is excuted.

Ejectment of statutory tenant by suit.

"62A. (1) A statutory tenant shall be liable to ejectment from his holding by suit during the currency of his tenancy on any of the follow-ing grounds, namely : —

(*a*) that he has used the land comprised in his holding in a manner which renders it unfit for the purpose of his tenancy ;

(*b*) that at the time of the institution of the suit the whole or any part of his holding has been sub-let in contravention of the provisions of section 68 A, or transferred otherwise than by a sub-lease."

(c) when the rent is payable in kind, that his cultivation has diminished to a point which by the custom of the locality involves the forfeiture of those holding ,

(*d*) when the tenannt holds, under an expired lease, land to which section 4, sub-section (3) and (4) applies, then on every ground which would justify ejectment under the lease.

(*e*) that his holding is situated in a village in which he does not ordinarily reside, and that the landlord does not possess any proprietary or under proprietary right in the village in which tenant ordinarily resides, and that the landlord desires to let the holding to a tenant who ordinarily resides in the village in which the holding is situated.

Provided, firstly that no Court shall take cognizance of a suit for ejectment on the grounds specified in clause (*e*) unless the suit is for the ejectment of the tenant on the expirations of his statutory period, and the suit is instituted on or before the fifteenth day of November in the agricultural year in which the said period expires.

Provided, secondly. that if a tenant to whom clause (*e*) applies is not ejected on the grounds specified in clause (*e*) on the expiration of his statutory period he shall be deemed to be admitted to be occupation of the holding, within the meaning of section 37, with effect from the commencement of the agricultural year next following the expiration of the said period :

Provided, thirdly, that of the rent of a tenant to whom the foregoing proviso applies is not enhanced on the expiration of the statutory period, the landlord shall be entitled to enhance the rent by notice at any time after the tenant is deemed to have been admitted to the occupation of the holding under the said proviso :

Provided, fourthly, that if the holding from which a tenant has been ejected by the suit on the grounds specified iu clause (*e*) is not let from the commencement of the agricultural year next following the date of such ejectment, to a tenant who ordinarily resides in the village in which the holding is situated, the tenant who has been so ejected shall be entitled to see the recovery of the occupancy of his holding, at the rate of rent payable at the date of his ejectment, and for compensation for dispossession, as if he had been ellegally ejected :

Provided, fifthly, that nothing in clause (*e*) shall affect the right of the landlord to acquire the holding under the provisions of section 30A,

(2) The tenant shall continue liable for the rent of the land until the decree is executed."

General

Time of ejectment of tenant

63. Except in pursnance of an order under section 21, subsection (3), a tenant shall not in any case, whether in execution of a decree os otherwise, be ejected from the land in his occupation, except between the first day of April and the thirtieth day of June in any year after the passing of this Act.

Time of ejectment of thikadar.

64. A thikadar liable to be enjected under the provisions of this Act may be ejected at any time during his tenancy.

Preferment by tenants of claims for compensation for improvements in suits for ejectment.

65. In any suit for ejectment the defendant may file any claim for compensation for improvements which he may have against the plaintiff ; and if the Court finds the grounds on which the suit is brought to be valid, it shall determine the amount of compensation, if any, due from the plaintiff to the defendant, and shall pass a decree of ejectment conditional on the payment into Court of that amount.

66. A tenant ejected in accordance with the provisions of this Act shall be entitled to receive from the land lord the value of any growing crops or other ungathered products of the earth belonging to the tenant, and being on the land at the time of his ejectment :

Compensation to ejected tenant for growingc-rops.

Provided that, if the land has been sown or planted by the tenant after service on him of a notice under section 55, he shall not be so entitled, unless, after that service, the landlord has authorized him in writing to continue to occupy the land.

CHAPTER VI.

SUPPLEMENTAL PROVISIONS RESPECTING TENANCIES

Exclusions of certain clauses of land pur certain provisions of the Act.

67* (1) The rights conferred upon tenants by sections 24, 36, 37, 38, 39, 48. 45. 46 and 48 shall not accrue to a tenant in respect of land of the following classes, namely—

(*a*) *Sir* land,

(*b*) land held by a tenant otherwise than under a special agreement or Decrec of Court in a village in which the tenant possesses any proprietary or under proprietary right,

(*d*) land leased for pasterage.

(*d*) land covered with water used for the purpose of growing *singharas* or other similar produce ;

(*e*) land planted by the ladd lord with trees.

(2) Notwithstanding any thing contained in this sectinn, any right por sessed immediately before the commencement of the Oudh Re nt (Amendment) Act 1921, by a tenant of any such land as is referred to in clauses (*b*) to (*e*) inclusive shall remain in full force until the expiration of the period for which the tenant would, but for the coming into force of the Oudh Rent (Amend ment) Act 1921, have been entitled to hold the land without liabirlity to enhancement or ejectment.

Thikadars, Mortagees, and Sub-tenants.

Thikadars, mortgagees, and sub-tenants.

68. (1) A person holding land as a thikadar, mortgagee, or sub tenants shall not while so holding, acquire any of the rights enumerated in the last foregoing section in any of the land comprised in his thika, mortgage, or sub-tenancy.

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* Section 67 hae been substitued by this new Section by U P Act IV of 1921.

(2) A person having those right in land does not lose them by subsequently taking a thika or mortage in which his holding is comprised.

Restrictions on sub-lethings.

68A. (1) No statutory tenant, or person who succeeds as an heir of a statutory tenant under the provisions of section 48, shall, except with written consent of the landlord, sub-let the whole or any port of his holding for a term exceeding two years or within tw o years of any part of his holding being held by a sub-tenant.

(2) For the purpose of sub-section (1) sub-letting includes—

(*a*) permitting another person to hold or cultivate land rent free, and

(*b*) permitting another person to share in the cultivation of of the holding :

Provided that the person referred to inclause

(*b*) is not the tenant's—

(1) male lineal decendants in the male line of decent.
(2) wife or husband.
(3) daughter's son.
(4) mother or father,
(5) sons' widow.
(6) brother.
(7) brother's son or brother's son's son.
(8) father's mother or father's father.
(9) father's brother.
(10) father's brother's son.
(11) Collateral relative who would be entitled to succeed as an heir of the tenant under the provisions of sections 48.

(3) Nothing in this section shall apply to a statutory tenant who is enrolled as a combatant under the Indian Army Act, 1911, or who is enrolled as a Police officer under the Police Act, 1861, or to a person who succeeds as an heir of a statutory tenant under section 48, and who is a female, or a minor, or a lunatic, or an idiot, or blind.

Long Leases.

Incidents of leases for eight years or upwards.

69. [*Repealed by U. P. Act IV of 1921.*]

* Sections 68A. has been added by U. P. Act IV. of 1921.

Miscellaneous

Evidence respecting change of rent or alteration of area of holding.

70. Where a tenant has received a patta, a statement, that since the date of the patta his rent has been changed, or area of his holding altered, by the landlord, shall not be admissible in evidence unless the change or alteration is recoded in an entry on the patta signed by or on behaif of the landlord, and in an entry on the counterpart signed by or on behalf of the tenant, or in a new patta and counterpart.

Construction of certain expressions.

71. The expression "special agreement" or "decree of Court," where it is used in this Act to signify the tenure on which land is held by a tenant, is to be construed as referring to an agreement or decree made or passed before the passing of this Act.

CHAPTER VII.

DISTRESS FOR ARREARS OF RENT.

Recovery of arrears of rent by distress.

72. "(1) The produce of every part of the holding in the cultivation of a tenant shall be deemed to be hypothecated for the rent payable in respect of such holding by such tenant and by every person other than a Thekadar intermediate between such tenant and the proprietor; and until such rent has been satisfied, no other claim on such produce shall be enforced by sale in execution of a decree of a civil or Revenue Court or otherwise."*

(2) When an arrear of rent is due from any tenant, the landlord may, subject to the provisions of this chapter, distrain the produce of the land in respect of which the arrear is due;

Provided that, when a tenant has given security for the payment of his rent, the produce of the land in respect of which the rent is payable shall not be liable to distress so long as the security is in force.

"(3) Nothing in this section shall be deemed to affect the provisions of section 11 " of the opium Act, 1857, or of section 141 of the United Provinces Land Revenue Act, 1901."*

Distress not permissible in certain cases.

73. Distress shall not be made for the recovery of—

(*a*) any sum in excess of the rent payable in the last preceding year for the land in respect of which the arrear

* The words within quotations have been added by U. P. Act IV of 1921.

is due, unless the tenant has agreed in writing to pay that excess, or unless he has been declared by decree to be liable therefor, or.

(*b*) any arrear which has been due for a longer period than one year.

Power of distress by whom exercisable.

74. The power of distress vested by section 72 in landlords may be exercised by managers under the Court of Wards, managing agents and tashildars of estates held under direct management, and other persons lawfully entrusted with the charge of land, and also by the agents emmployed by landlords or any such persons as aforesaid in the collection of rent, if expressly authorized by power of attroney to distrain :

Provided that, if any such agent, purporting to act in the exercise of that power, commits an act which, under the provisions of this chapter, is illegal the person employing him shall be liable, as well as the agent, to be sued for, compensation or any injury caused by the act.

Distress by servants.

75. Any person empowered to distrain property under section 72 or seetion 74 may employ a servant or other person to make the distress, but in every such case he shall give to the servant or person a written authority in that behalf, and the distress shall be made in the name and on the responsibility of the person giving the authority.

Crops liable to distress

76. (1) Standing crops and other ungathered products of the earth, and crops or other products when reaped or gathered and deposited in any threshing-floor or place for trading out grain or the like, whether in the filed, or within a home-stead, may be distrained by persons invested with powers of distress under this Act.

(2) But no such crops or products, other than the produce of the land in respect of which an arrear of rent is due, or of land held under the same engagement as the land in respect of which the arrear is due, and no grain or ther produce after it has been stored by the caltivator, and no other property whatsoever, shall be liable to distress under this Act.

Demand of arrear before or at ttme of distress.

77. (1) Before or at the time when any distress is made under this Act, the distrainer shall cause the defaulter to be served with a written demand for the amount of the arrear, together with an account exhibiting the grounds on which the demand is made.

(2) The demand and account shall, if practicable, be served personally on the deafaulter, but, if he cannot be found, they shall be affixed at this usual place of residence, and shall thereupon be deemed to be duly served upon him.

Value of distress and service of list of distrained property on owner.

78. Unless the amount of the demand is immediately paid or tendered, the distrainer may distrain property as aforesaid of value as nearly as may be equal to the amount of the arrear with the costs of the distress ; and, when he has made the distress, he shall prepare a list or description of the property distrained, and deliver a copy thereof to the owner, or if the owner, is absent, affix it at his usual place of residence.

Reaping and storing standing crops distrained.

79. (*1*) Standing crops and others ungathered products of the earth may notwithstanding the distress, be reaped or gathered by the tenant, and may be stored in such granaries or other places as are commonly usued by him for the purpose.

(*2*) If the tenant neglects to do so ,the distrainer may cause the crops or products to be reaped or gathered, and in that case shall store them either in such granaries or other places as aforesaid, or in some other convenient place in the neighbourhood.

(*3*) In either case the distrained property shall be placed in the charge of some proper person appointed by the distrainer for the purpose.

(*4*) If the crops or products do not, from their nature, admit of being stored, the distress shall be made (if at all) at least twenty days before the time when the crops or products or any part thereof would or ordinarily be fit for cutting or gathering.

Application by distrainer in case of resistance.

80. If a distrainer is opposed or apprehends resistance, and desires to obtain the asistance of a public officer, he may apply to the Court, and the Court may, if it thinks neccessary, depute an officer to asist the distrainer in making the distress.

Withdrawal of distress on tender of arrear and costs.

81. If at any time after property has been distrained as aforesaid, and before the sale thereof as hereinafter provided the owner tenders payment of the arrear demanded and of the costs of the distress, the distrainer shall receive the payment, and a give receipt therefor, and forthwith withdraw the distress.

Application for sale.

82. Within five days from the time of storing any distrained crops or products, or, if the crops or products do not, from their nature, admit of being stored, within five days from the time of making the distress, the distrainer shall apply for the sale thereof to the proper officer authorized to sell property in satisfaction of decrees of the Court within whose jurisdiction the distrained property is situate.

83. (1) The application shall be in writing ; it shall contain a list of description of the property distrained, and it shall state the name of the defaulter, his place of residence, the amount due, and the place in which the distrained property is deposited.

Form of application.

(2) Together with the application, the distrainer shall deliver to the proper officer the sum payable for the service of a notice upon the defaulter as provided in the next following section.

84. (1) Immediately on receipt of the application, the proper officer shall send a copy of it to the Court, and shall serve a notice in the form contained in Schedule C to this Act, or to the like effect, on the person whose property has been distrained, requiring him either to pay the amount demanded, or within fifteen days from the receipt of the notice to institute a suit to contest the demand.

Procedure on receipt of application.

(2) The officer shall at the same time send to the Court, for the purpose of being put up at the Court-house, a proclamation fixing a day for the sale of the distrained property, not less than twenty days from the date of the proclamation, and shall deliver a copy of the proclamation to the peon charged with the service of the notice, to be put up by him in the place where the distrained property is deposited.

(3) The proclamation shall contain a description of the property, and shall specify the demand for which it is to be sold, and the place where the sale is to be held.

85. (1) If a suit is instituted in pursuance of the notice mentioned in the last foregoing section, the Court shall send to the proper officer, or, if so requested by the owner of the distrained property, shall delive to him, a certificate of the institution of the suit.

Suspension of sale on institution of suit.

(2) On the certificate being received by, or presented to, the proper officer, he shall suspend proceedings in regard to the sale :

Provided that, if in his opinion the property distrained is such that delay will cause damage thereto, he may direct its immediate sale.

86. (1) Any person whose property has been distrained as aforesaid may institute a suit to contest the distrainer's demand at any time before the expiration of the fifteen days mentioned in section 84, sub-section (1).

Suit to contest distrainer's demand.

(2) When any such suit is instituted, the Court shall proceed in the manner directed in section 85.

(3) If application for the sale of the property is afterwards made to the proper officer, he shall send a copy of the application to the Court, and suspend further proceedings pending the decision of the case.

Withdrawal of distress on execution of bond.

87. (1) The person whose property has been distrained may, at the time of instituting any such suit as aforesaid, or at any subsequent period, execute a bond with one or more surety or sureties, for an amount not less than doubt the value of the property distrained, binding himself to pay whatever sum may be adjudged to be due from him, with costs of suit.

(2) When a bond has been executed under sub-section (1), the Court shall give to the owner of the property a certificate to that effect, or, if he so requests, shall serve the distrainer with notice of the execution of the bond.

(3) Upon the certificate being presented to the distrainer by the owner of the property, or upon the notice being served on the distrainer by order of the Court, as the case may be, the property shall be released from distress.

Sale.

88. On the expiration of the period fixed in the proclamation of sale, if the institution of a suit to contest the demand of the distrainer has not been certified to the proper officer in the manner hereinbefore provided, he shall, unless that demand with such costs of the distress as are allowed by him, is discharged in full, proceed, with the sanction of the Court, to sell the property, or such part thereof as may be necessary.

Place and manner of sale.

89. (1) The sale shall be held at the place where the distrained property is deposited, or at the nearest ganj, bazar, or other place of public resort, if the proper officer thinks that it is likely to sell there to better advantage.

(2) The property shall be sold by public auction in one or more lots as the officer holding the sale thinks advisable, and if the demand, with the costs of distress and sale, is satisfied by the sale of a portion of the property, the distress shall be immediately withdrawn with respect to the remainder.

Postponement of sale.

90. If, on the property being put up for sale, a price which the officer holding the sale thinks fair is not offered, and if the owner of the property or his recognized agent applies to have the sale postponed until the next day, or (if a market is held at the place of sale) until the next market-day, the sale shall be postponed until that day, and shall be then completed at whatever price may be offered,

91. (1) The price of every lot shall be paid in ready money at the time of sale, or as soon thereafter as the officer holding the sale thinks fit, and in default of payment the property shall be put up again and re-sold.

Payment of purchase-money.

(2) When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate stating the property purchased by him and the price paid therefor.

92. (1) The officer holding the sale shall deduct from the proceeds one anna for every rupee and fraction of a rupee on account of the expenses attending the sale.

Proceeds of sale.

(2) He shall then pay to the distrainer the expenses incurred by him on account of the distress and of the issue of the notice and proclamation of sale prescribed in section 84 to such amount as, after examination of the statement of expenses furnished by the distrainer, the officer thinks proper to allow.

(3) The remainder shall be applied to the discharge of the arrear for which the distress was made, and the surplus (if any) shall be delivered to the person whose property has been sold.

93. Officers holding sales of property under this Act, and all persons employed by, or subordinate to, those officers, are forbidden to purchase, either directly or indirectly, property sold by those officers.

Officers holding sales not to purchase.

94. (1) The officer mentioned in section 82 shall bring to the notice of the Court any illegal act which may come to his knowledge as having been committed by any person in making a distress under this Act.

Illegal acts of distrainer to be reported.

(2) If in any case, on proceeding to hold a sale under this Act, that officer finds that the owner has not received due notice of the distress and intended sale, he shall postpone the sale and report the case to the Court, and the Court shall direct the issue of another notice and proclamation of sale under section 84, or make such other order as it thinks proper.

95. (1) When that officer has gone to any place for the purpose of holding a sale, and a sale does not take place either for the reason stated in section 94 or because the distrainer's demand has been previously satisfied, a charge of one anna for every rupee of the value of the distrained property, as estimated by the officer, shall be leviable hy him on account of the expenses of the intented sale, unless the distrainer's demand has been satisfied before the day fixed for the sale, and notice of its having been satisfied has been given by him to the officer.

Recovery of expenses where sale does not take place.

(2) If the distrainer's demand is not satisfied until the day fixed for the sale, the charge shall be paid by the owner of the property, and may be recovered by sale of such portion of the property as may be necessary.

(3) In every other case the charge shall be paid by the distrainer, and may be recovered under the warrant of the Court by attachment and sale of his property.

(4) The charge leviable under this section shall not exceed ten rupees in any case.

Second proclamation of sale when arrears are adjudged to be due.

96. (1) When a suit has been instituted to contest a distrainer's demand, and the property has not been released on security, if the demand or any portion thereof is adjudged to be due, the Court shall issue an order to the proper officer authorizing the sale of the property.

(2) On the application of the distrainer (which shall be made within five days from the receipt of order by the officer), the officer shall publish a second proclamation in the manner prescribed in section 84, fixing another day for the sale of the distrained property, not being less than five or more than ten days from the date of the proclamation, and, unless the amount adjudged to be due with costs of distress is paid before that day, shall proceed to sell the property in the manner hereinbefore provided.

Distrainer to prove the arrear in suit to contest his demand.

97. (1) In all suits instituted to contest a distrainer's demand, the defendant must prove the arrear in the same manner as if he had himself brought a suit for the amount of the arrear.

(2) If the demand or any part thereof is found to be due, the Court shall make in favour of the distrainer a decree for the amount so found.

(3) That amount may be recovered, if the distrained property has not been released on security, by sale of the distrained property as provided in section 96, and, if any balance remains due after the the sale, by excution of the decree against the person and any other property of the defaulter, or, if the distrained property has been released on security, by execution of the decree against the person and property of the defaulter, and if his his surety has been made a party to the suit, against the person and property of the surety.

Compensation for vexatious distress.

98. If the distress is adjudged to be vexatious or groundless, the Court, besides directing the release of the distrained property, may award such compensation to the plaintiff as it thinks fit, not exceeding twice the value of the property distrained.

99. If any person claims, as his own, property which has been distrained for arrears of rent alleged to be due from any other person, the claimant may institute a suit against the distrainer and that other person to try the right to the property, in the same manner, and under the same rules as to the time of instituting the suit and as to the consequent postponement of sale, as a person whose property has been distrained for an arrear of rent alleged to be due from him may institute a suit to contest the demand.

Suit by third party claiming property distrained.

100. (1) Wheu any such suit is instituted, the property may be released upon security for its value being given to the satisfaction of the Court.

Rules applicable to suit by third party.

(2) If the claim is dismissed, the Court shall make an order in favour of distrainer, for the sale of the property, or the recovery of its value, as the case may be.

(3) If the claim is upheld, the Court shall order the release of the distrained property, and may award such compensation to the plaintiff as it thinks fit, not exceeding twice the value of the property distrained.

Comflict of rights upon Distraint or attachment.

101* When any comflict arises between the rights of a distrainer and of a person attaching or selling the same property in executien of a decree of a Civil or Revenue Court, the right of the distrainer shall prevail ; but the surplus (if any) payable under section 92 to the person whose property has been distrained shall be deposited in the court from which the order for attachment or sale issued."

102. *Stranger claming to be land lord and to have right of distress to be made a party—Repealed* by U. P. Act IV of 1921.

Suit for illegal distress.

103. Any person whose property has been distrained for the recovery of a demand not justly due, or of a demand due or alleged to be due from some other person, and who is prevented by any sufficient cause from bringing a suit to contest the demand or try the right to the property, as the case may be, within the period allowed by section 84 or section 99, and whose property is in consequence brought to sale, may institute a suit to recover compensation for any injury which he has sustained from the distress and sale.

Suit for illegal act of [distrainer.

104. In any of the following cases, namely :—

(*a*) if any person empowered to distrain property, or employed for the purpose under a written authority by a

* Section 101 has been substituted by U. P, Act IV of 1921.

person so empowered, distrains or sells, otherwise than in accordance with the provisions of this Act, any property for the recovery of an arrear of rent alleged to be due, or

(*b*) if any distrained property is lost, damaged, or destroyed, by reason of the distrainer not having taken proper precaution for the due keeping and preservation thereof, or

(*c*) if the distress is not immediately withdrawn when any provision of this Act requires its withdrawal,

the owner of the property may institute a suit to recover compensation for any injury which he has thereby sustained.

Suit for distress or sale falsely purporting to be under the Act.

105. (1) If any person not empowered by this Act to distrain or sell, or not duly authorized for that purpose by a person so empowered, purports to distrain or sell any property under this Act, the owner of the property may institute a suit to recover compensation from the person so distraining or selling for any injury which the plaintiff has sustained from the distress or sale.

(2) The institution of a suit uuder sub-section (1) shall not affect the defendant's liability to be prosecuted under any law for the time being in force.

Procedure in case of resistance to distress.

106. (1) If any person resists a distress of property duly made under this Act, or forcibly or clandestinely removes any distrained property, the Court, upon compaint being made within ten days from the date of the resistance or removal, shall cause the person accused to be arrested and brought before the Court with all convenient speed, and the Court shall proceed forthwith to try the case.

(2) If the case cannot be at once heard and determined, the Court may, if it thinks fit, require the person arrested to give security for his appearance whenever he may be required to appear, and, in default of the security being given, may commit him to the civil jail until the case is tried.

Punishment of offender.

107. If the resistance to the distress or the removal of the distrained property is proved, the Court may order the offender to pay a ffne not exceeding one hundred rupees, together with all costs and expenses incurred in the case or in making the distress, and, in default of payment, may order him to be imprisoned in the civil jail until payment is made:

Provided that the offender shall not be imprisoned under this section for a longer term than six months.

"**107.** (ab)† (1) When an arrear of rent is realised from a cultivator by proceedings in distraint by any person other than his immediate landlord, he shall be entitled to deduct the amount so realized from any rent payable by him to such landlord, and such landlord, if he is not the defaulter, shall in like manner be entitled to deduct the same amount from any rent payable by him to his lanlord, and soon until the default is reached.

Rights in respect of tenancies.

(2) In lieu of deducting any amount so realized, the sub-tenant shall be entitled to institute a suit for the recovery of the same from the defaulter.

(3) Where land is sub-let and any conflict arises between the claims of a superior and inferior landlord who distrain the same property the claims of the superior landlord shall have priority."

CHAPTER VII (A).*

Resumption of land held rent-free or at a favourable rate of rent.

Exclusion of groves from resumption chapter.

107. (bis)† Nothing in this chapter shall apply to a grove so long as it retains its character as such

Land held rent free or at favourable rate liable to resumption, assesment, or enhancement of rent.

107A. A proprietor of a mahal or part of a mahal may sue to resume possession of, or to have rent assessed on, any land situated in such mahal or part of a mahal purporting to be held rent-free, whether by grant in writing or otherwise, and to resume possession of, or to enhance the rent of, any land held at a favourable rate of rent, whether so held by grant in writing or otherwise.

Saving of certain lands held rent-free or at favourable rate.

107B. All land held rent-free or at a favourable rate of rent shall be liable to resumption or assessment or enhancement of rent unless the holder establishes that the land.

(*a*) is so held under a grant sanctioned by the Governor-General in Council or Chief commissioner ; or

(*b*) is so held under a judicial decision previously to the first day of January 1902 ; or

(*c*) was acquired rent-free or at a favourable rate of rent for a valuable consideration previously to the commencement of the Oudh Land Revenue Act, 1876,† and the right to resume it had been, previously to the commencement of that Act, barred by the law of limitation :

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* Chapter VII (A) has been added by U. P. Act IV of 1906.

† Sections 107 (ab) and 107 (bis) have been added by U. P. Act IV of 1921.

Provided that no land held under a written instrument, whether executed before or after the first day of January 1902, by which the grant or expressly agrees that the grant shall not be resumed, shall be liable to resumption or assessment or enhancement of rent until the grantor dies, or the term of the current settlement of the local area in which the grant is situated expires, whichever event first occurs :

Providsd also that nothing in this section shall apply to any grants to which the provisions of section 79 of the North-Western Provinces and Oudh Land Revenue Act, 1901, ‡ are applicable.

Application when to be made to the settlement officer.

107C. (1) Suits under section 107A shall, when the district or other local area in which the land is situated is under settlement, be instituted in the Court of the Settlement Officer, who shall have the powers of a Collector under this Chapter.

(2) Nothing in the Indian Limitation Act, 1877,§ shall bar the right to institute a suit under this Act to assess to rent land held rent-free.

Land not liable to resumption liable to assessment or enhancement of rent.

107D. In a suit for the resumption of land held rent-free or at a favourable rate, if the Court finds, on grounds other than those specified in section 107B, that the land is not liable to resumption, it shall proceed to determine, under sections 107G and 107H, whether the land is liable to assessment or enhancement of rent.

Rent-free land when liable to resumption.

107E. Land held rent-free or at a favourable rate shall be liable to resumption, only when by the terms of the grant or by local custom it is held—

(*a*) at the pleasure of the grantor ;

(*b*) for the performance of some specific service, religious or secular, which the proprietor no longer requires ;

(*c*) conditionally or for a term, and the conditions are broken or the term expires.

Every suit for resumption under this section shall be brought within twelve years from the date on which the right to resume first accrues. Such right first accrues—

in case (*a*), on the first day of January 1902, in respect of existing grants and in respect of future grants on the date of such grant ;

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* Chapter VII. (A) has been added by U. P. Act IV. of 1901.
† Act XVII. of 1876.
‡ N.-W. P. & Oudh Act III. of 1901.
§ Act XV. of 1877.

in case (*b*), on notice in writing by the proprietor to the grant-holder that the service is no longer required ;

in case (*c*), when the conditions are broken or the term expires

Nothing in this section shall prevent the proprietor from suing for assessment or enhancement of rent on land resumable under this section in lieu of resumption thereof.

Order of ejectment when the land is resumed.

107F. If the Court orders the grant to be resumed, it shall at the same time pass a decree for the ejectment of the holder subject to the provisions of sections 22, 23, 26, 27, 28, 63, and 66 of this Act, which shall apply as if the holder had been a tenant.

Rent-free land when liable to assessment or enhancement of rent.

107G. (1) Land not liable to resumption under section 107E to which the provisions of section 107H do not apply shall be liable to assessment or enhancement of rent as the case may be.

(2) When a grant held rent-free or at a favourable rate is found to be liable to have rent assessed or enhanced thereon, the grantee shall be deemed to be "a statutory tenant, and the Court shall determine the rent at the fair and equitable rate payable by statutory tenants for land of the same class or classes of soil."*

(3) The period of seven years for which he shall be entitled to retain the holding shall begin from the first day of July next following the date of the institution of the suit.

When rent-free tenure confers under proprietary right.

107H. Land not liable to resumption under section 107E, and which has been held rent-free or at a favourable rate since the thirteenth day of February 1856, or for fifty years and by two successors to the original grantee ; and

land which was acquired, in perpetuity, in consideration of the loss or surrender of a right priviously vested in the grantee, or by written instrument and for a valuable consideration,

shall be deemed to be held in under-proprietary right, and the Court shall declare the holder of such land to be the under proprietor thereof, and liable to pay a rent therefor equal to the revenue with an addition of not less than ten or more than fifty per cent., and shall assess the rent payable by the under-proprietor.

In the case of revenue free mahals the term 'revenue,' for the purposes of this section, shall mean the amount that would be payable on such mahal if it was liable to assessment.

"*Explanation*—The period during which land retains the character of a grove shall be included in calculating the period of 50 years mentioned in the first paragraph of this section,"*

* The words within quotations have been added by U. P. Act IV of 1921,

107I. For the purposes of this Chapter a grant of land at a favourable rate of rent means a grant of land at a rent less than than the aggregate of the revenue and local rates payable thereon.

Meaning of "favourable rate of rent."

107J. For the purposes of this Chapter the words 'proprietor of a mahal or portion of a mahal' include an under-proprietor with whom a sub-settlement has been made.

Resumption by an under-proprietor.

107K. Notwithstanding anything contained in section 116, appeals from decrees or orders under this Chapter shall be governed by the provisions of Chapter X. of the North-Western Provinces and Oudh Land Revenue Act, 1901.

Special provision as to appeals.

CHAPER VIII.

JURISDICTION OF THE COURTS.

Suits cognizable.

108. Except in the way of appeal as hereinafter provided,"* Courts other than Courts of revenue shall not take cognizance of the following descriptions of suits, and those suits shall be heard and determined in Courts of revenue in the manner provided in this Act, and not otherwise :—

Suits cognizable under the Act.

A.—Suits by a Landlord—

(1) for the delivery by a tenant of the counterpart of a patta ;

(2) for arrears of rent, or, where rent is payable in kind, for the money equivalent of rent ;

(3) for the enhancement of the rent of a tenant ;

"(3*a*) for the determination of the rent of tenant."†

(4) for the ejectment of a tenant ;

(5) against patwaris or agents employed by landlords in the management of land or the collection of revenue or rent, or againts the sureties of those patwaris or agents for money received or accounts kept by the patwaris or agents in the course of their employment as aforesaid, or for papers in their possession, or for the rendering and settlement of accounts ;

"(5A.) For resumption of, or assessment or enhancement of rent on, land held rent-free or at a favourable rate of rent."† "or

* In s. 108, the words quoted have been prefixed by Act XX. of 1890, s. 46, printed *infra*.

† Cl. (5A) has been added by U. P. Act IV. of 1901, s. 6.

"for the declaration of any right as determined under section 107G or section 107H."*

B.—Suits by an Under-proprietor or a Tenant—

(6) for establisning a right of occupancy ;

(7) for the delivery by a landlord of a patta ;

(8) for contesting a notice of enhancement or ejectment ;

(9) for compensation—

(*a*) on account of illegal enforcement of payment of rent, or of any sum in excess of rent due, or

(*b*) on account of the withholding of a receipt for a payment of rent, or

(*c*) on account of illegal ejectment, or

(*d*) on account of loss caused by the making of an improvement under section 29, sub-section (3), or

(*e*) on account of the value of standing crops under section 66 ;

(10) for the recovery of the occupancy of any land which has been treated by a landlord as abandoned, or from which an under-proprietor or tenant has been illegally ejected by the landlord ;

"or for possession by a person in whose favour an exproprietary tenancy arises under section 7A :

Provided that nothing in this section shall operate to debar any person claming to be an under proprietor who has been ejected under the provisions of section 60 from bringing a suit for possession in a Civil Court

(10a) Under the third proviso to section 30A, for the recovery of the occupancy of a holding or part thereof, and for compensation for dispossession ;"†

"(10b) for occupancy of a holding by a person claiming such occupancy as the heir of the deceased tenant of the holding,"†

(11) for contesting the exercise of the power of distraint conferred on landlords and others by this Act, or any acts purporting to be done in exercise of that power, or for compensation for illegal distraint, or for recovery of the amount realized by proceedings in distraint ; "†

(12) for abatement of rent ‡

(13) for the recovery of compensation for improvements ; ‡

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* The words within quotations have been added by U. P. Act IV of 1921.

† The words within quotations have been inserted by U. P. Act (IX of 1921.

‡ certain words after this have been omitted by U. P. Act IV of 1921.

"13 (a) for the recovery of an amount which was recovered from him under section 12A, in excess of the amount due from him ;"*

C.—Suits regarding the Division or Appraisement of Produce—

(14) to set aside an award in respect of a division, estimate, appraisement, or proceeding under section 32;

D.—Suits by and against Lambardars, Co-sharers, and Muafidars—

(15) by a sharer against a lambardar or co-sharer for a share of the profits of an estate or any part thereof, or for the rendering and settlement of accounts in respect of those profits;

(16) by a lambardar, or by a pattidar who is entitled to collect the rents of the patti, for arears of revenue or rent payable through him by the co-sharers whom he represents, or by a lambardar for village expenses and other dues for which the co-sharers may be responsible to him or against a joint-lambardar for compensation for revenue or rent paid by the lambardar on account of the joint-lambardar;

(17) by co-sharers against lambardars, or by proprietors or lessees against muafidars or assignees of revenue, for compensation on account of exaction in excess of revenue or rent, or on account of the withholding of a receipt for a payment of revenue or rent;

(18) by muafidars or assignees of revenue for arears of revenue.

Grades of Courts.

Grades of Courts for the purposes of the Act.

109. For the purposes of this Act, there shall be five grades of Courts of Revenue, namely :—

(1) the Assistant Collector of the second class;

(2) the Assistant Collector of the first class;

(3) the Collector;

(4) the Commissioner;

(5) the Board.†

Power to invest "persons" with powers of Assistant Collector.

110. (1) The Chief Commissioner may, from time to time, confer upon any "persons"* the powers of an Assistant Collector of the first or of the second class under this Act, and may at any time withdraw those powers.

(2) In conferring powers under this section the Chief Commissioner may empower persons specially by name or classes of officials generally by their official titles.

* The words within quotations have been inserted by U. P. Act IV of 1921.

† The words within quotations have been substituted by U. P. Act XX of 1890.

Deputy Commissioner to have Collector's powers.

111. The Deputy Commissioners shall exercise the powers of a Collector under this Act.

Investment of Settlement officers with powers of Collector or Assistant Collector.

112. The Chief Commissioner may invest any officer employed in making or revising settlements of revenue with all or any of the powers of a Collector or Assistant Collector under this Act.

Jurisdiction of Assistant Collector of the 2nd class.

113. An Assistant Collector of the second class may try and determine suits of the descriptions mentioned in clauses (1), (2), (7), (9 b), (11),* (12), (15), (16), (17), and (18) of section 108, of which the value does not exceed one hundred rupees.

Jurisdiction of Assistant Collector of the 1st class.

114. An Assistant Collector of the first class may try and determine suits of every description.†

Jurisdiction of Collector.

115. (1) A Collector shall have all the powers conferred on an Assistant Collector of the first class and on a Collector by this Act ;"*

(2) Whenever the state of the public business so requires, the Chief Commissioner may invest any Assistant Collector of the first class with the powers of a Collector for the trial and determination of appeals under this Act, other than appeals from decisions of that Assistant Collector, and with the powers of a Deputy Commissioner under sections 24, "and 25,"* and may invest any Collector with all or any of the powers of a Commissioner under this Act.

Appeals to Courts of Revenue.

116.‡ Subject to the provisions of section 119 and of the Code of Civil Procedure as applied by this Act, an appeal shall lie from an original or appellate decree or order made under this Act, as follows, namely:—

(a) to the Collector "or to an Assistant Collector of the first class specially empowered in this behalf."* when the decree or order is made by an Assistant Collector of the second class :

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* The words within quotations have been substituted by U. P. Act IV of 1921.

† Certain words after this repealed by U. P. Act IV of 1921 has been omitted.

‡ S. 116 has been substituted by Act XX of 1890 s. 49.

(*b*) to the Commissioner when the decree or order is made by a Collector or an Assistant Collector of the first class:

(*c*) to the Board when the decree or order is made by a Commissioner:

Provided that, subject to the provisions of section 119, an appeal from an original decree or order of a Collector shall not lie except on the grounds mentioned in section "100"* of the Code of Civil Procedure, and that the decree or order made on that appeal shall be final.

117. [*Repealed by Act XX. of 1890, s. 50.*]

Appeals.

Limitation for appeals.

118. (1) Save as provided by sub-section (2) of this section, an appeal shall not lie—

(*a*) to the Collector—after the expiration of thirty days from the date of the the decree or order complained of;

(*b*) to the Commissioner—after the expiration of sixty days from that date; or

(*c*) to the Board*—after the expiration of ninety days from that date.

(2) In computing these period of thirty, sixty, and ninety days, the limitation of the appeals shall be governed by the provisions of the Indian Limitation Act, 1877.

Appeals to Judge and Judicial Commissioner.

119.† Subject to the provisions of the Code of Civil Procedure as applied by this Act, an appeal shall lie from an original "or appellate"§ decree or order of a Collector or of an Assistant Collector of the first class in a suit of a description mentioned in clause (2), "(5)"§ (9), sub-clause (*a*) or (*b*), (11), "(13a)"§ (15), (16), (17), or (18) of section 108, as follows, namely:—

(*a*) to the District Judge, if the value of the suit does not exceed five thousand rupees.

(*b*) to the Judicial Commissioner, if the valu of the suit exceeds five thousand rupees.

Procedure in appeals to District Judge or Judicial Commissioner.

119A.‡ The rules for the time being in force in regard to the time within which appeals from the decrees and orders of Civil Courts may be received, and to the manner in which such appeals

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* In s. 118 (*1c*), the words, "to the Board," have been substituted for the words "to the Judicial Commissioner," by Act XX. of 1890, s. 51, printed *infra*.

† S. 119 has been substituted by Act XX. of 1890, s. 52, printed *infra*.

‡ Ss. 119A to 119C have been inserted by Act XX. of 1890, s. 53, printed *infra*.

§ The words within quotations have been added by U. P. Act IV of 1921.

are heard and determined, and to all proceedings which may be had in respect of such appeals, shall be applicable to appeals under this Act to the District Judge, or to the Judicial Commissioner.

Second appeals.

119B.* From the decrees passed under this Act in appeal by District Judges an appeal shall lie to the Judicial Commissioner in all cases in which a second appeal is allowed by the Code of Civil Procedure and subject to the provisions of the Indian Limitation Act, 1877.

Powers of District Judge and Judicial Commissioner in Appeal.

119C.* For the purpose of deciding appeals under this Act, a District Judge and the Judicial Commissioner shall have the powers conferred on a Court by this Act.

Appeal from orders of Deputy Commissioners acting as such.

120. An order of a Deputy Commissioner sanctioning a remission of rent under section 19, or granting or refusing an application under section 24, or determining the amount of the outlay on an improvement under section 25, "or authorizing or refusing to authorize the acquisition of a holding or part thereof under section 30A," shall be subject to appeal to the Commissioner, whose order on the appeal sball he final.

Review.†

Power for Board to review its orders.

120A.† The Board may review, and may rescind, alter, or confirm any decree or order made by itself, or by a single member, on the application of one of the parties to the case, if preferred within ninety days from the passing of the decree or order.

Distribution of Business.

Power of Deputy Commissioner to distribute business.

121. Notwithstanding anything in the Code of Civil Procedure, the Deputy Commissioner may, by order in writing, direct that any business cognizable by him and the Courts subordinate to him shall be distributed among those Courts in such manner as he thinks fit :

Provided that a direction given under this section shall not empower any Court to exercise any power, or deal with any business, beyond the limits of its proper jnrisdiction.

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* The words within quotations have been added by U.P.Act IV of 1921.

† This heading and s. 120A have been inserted by Act XX. of 1890, s. 55, printed *infra*.

Transfer of Suits and other Proceeding.

Transfer of suits and other proceedings by Board or Commissioner.

122. The* Deputy Commissioner may withdraw any suit or other proceeding instituted in any Court subordinate to him, and try it himself, or refer it for trial to any other such Court competent to try it.

Transfer of suits and other proceedings by Board or Commissioner.

123. "The Board or the Commissioner"† may order that any suit or other proceeding pending in any Court "subordinate to the Board or the Commissioner"† shall be transferred to any other such Court "Competent as regards the nature of the case to dispose of it."†

Miscellaneous.

General subordination of Courts.

124. In the performance of their duties under this Act, Collectors shall be Subordinate to, and subject to the direction and control of, Commissioners and "the Board,"‡ and Assistant Collectors shall be subordinate to, and subject to the direction and control of, the Deputy Commissioners to whose districts they are respectively appointed :

Provided that nothing in this section shall empower "the Board"‡ or, any Commissioner or Deputy Commissioner to interfere, in any way not authorized by this Act, with any decision or order in a suit.

Power to refer to Judicial Commissioner questions as to jurisdiction.

124A.* (1) If, in any suit instituted, or on any appeal presented, in a Civil Court or in any Court of Revenue, the Judge or presiding officer doubts whether he is precluded hy this Act from taking cognizance of the suit or appeal, he may refer the matter to the Judicial Commissioner.

(2) On any such reference being made, the Judicial Commissioner may order the Judge or presiding officer either to proceed with the case, or to return the plaint or appeal for presentation in such other Court as the Jndicial Commissioner may in his order declare to be competent to take cognizance of the suit or appeal.

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* In s. 122, the words, "Commissioner or," repealed by Act XX of 1890, s. 56, have here been omitted.

† In s. 123 the words, "The Board or the Commissioner," have been substituted for the words, "The Judicial Commissioner ;" the words, "subordinate to the Board or the Commissioner," have been substituted for the words, "subordinate to him ;" and the words, "competent as regards the nature of the case to dispose of it." have been substituted for the words, "competent to dispose of it," by Act XX. of 1890, s. 57, printed *infra*.

‡ In s. 124 the words, "the Board," have been snbstituted for the words, "the Chief Commissioner," by Act XX. of 1890, s. 58, printed *infra*.

(3) The order of the Judicial Commissioner on any such reference shall be final, and shall not be questioned by the same parties in the same suit.

Procedure where objection that suit was instituted in wrong Court was not taken in Court of first instance.

124B.* In all suits instituted in any Civil Court or Court of Revenue, in which an appeal lies to the District Judge or the Judicial Commissioner, an objection that the suit was instituted in the wrong Court shall not be entertained by the Appellate Court, unless such objection was taken in the Court of first instance; but the Appellate Court shall dispose of the appeal as if the suit had been instituted in the right Court.

Procedure where such objection was taken in Court of first instance.

124C.* If in any such suit such objection was taken in the Court of first instance, but the Appellate Court has before it all the materials necessary for the determination of the suit, it shall dispose of the appeal as if the suit had been instituted in the right Court.

Procedure where in such cases the Appellate Court has not materials for determining the suit.

125D.* If in any such suit the Appellate Court has not before it the materials necessary for the determination of the suit, it shall proceed under the provisions of the Code of Civil Procedure relating to appeals; but if it remands the suit, or frames and refers issues for trial, or requires additional evidence to be taken by the Court of first instance, it may direct its order either to the Court in which the suit was instituted, or to any other Court competent to entertain the suit,

and the objection that the order of a subordinate Appellate Court has been directed to a Court which was not competent to entertain the suit shall not be taken on second appeal.

Suits by or against managing agents or tahsildars of estates held under direct management.

125. Suits which, under the provisions of this Act, may be brought by or against managing agents or tahsildars of estates held under direct management, whether those estates are the property of Government or not.

Sharer to exercise certain powers only through manager or lambardar.

126. (1) A share in a joint estate or under-proprietary or other tenure, in which division of land has not been made among the sharers, shall not exercise any of the powers conferred by this Act in regard to the recovery of arrears of rent, enhancement of rent, ejectment of tenants, or distress otherwise than through a manager authorized to collect the rents on behalf of all the sharers.

(2) In pattidari estates or tenures those powers shall be exercised only through a lambardar, or through the pattidar who is is entitled to collect the rents of the patti.

(3) Nothing in this section shall be construed to affect any local custom or special contract.

Rent payable for land occupied without consent of landlord.

127. (1) "A person taking or retaining possession of land without being entitled to such possession may, at the option of the person entitled to eject him as a trespasser, be treated as a tenant, and shall thereupon"* be liable for the rent of that land, at such rate as the Court may determine to be fair and equitable, but he shall not, in respect of that land, have any of the statutory privileges conferred by this Act.

"(2) When a Court passes a decree for arrears of rent under sub-section (1) read with clause (2) of section 108, it shall, on the application of the plaintiff, also pass a decree for the ejectment of the dependant from the land."*

Place of siting of Courts.

128. A Court may sit at any place within the local limits of its jurisdiction, or, in the case of an Assistant Collector, at any place within the limits of the district to which he is appointed.

CHAPTER IX.

LIMITATION OF SUITS.

General Limitation.

"**129*** All suits under this Act shall, except as otherwise provided in this Act, be instituted within one year from the date of the accrual of the cause of the action.

Sections 4, 5, 12, 14 and 15 of the Indian Limitation Act, 1908, shall apply to all proceedings under this Act."

Suits for delivery of pattas or counterparts.

130. A suit for the delivery of a patta or the counterpart of a patta may be instituted at any time during the tenancy.

Suits for recovery of holdings treated as abondoned.

131. A suit by a tenant for the recovery of a holding which has been treated by a landlord as abondoned under section 21 shall be instituted within three months from the date on which the the landlord entered upon the holding,

* The words within quotations and section 129 have been substituted by U. P. Act IV. of 1921.

Suits for arrers of revenue or rent, or share of profits.

192. A suit for the recovery of an arrear of revenue or rent, or, where rent is payable in kind, for the money-equivalent of rent, or of a share of profits, shall, except in the case mentioned in section 16, be instituted within three years from the last day of the month of Jeth of the Fasli year in which the arrear fell due.

Suits against agents for money or delivery of Accounts or papers.

133. A suif for the recovery of money in the hands of an agent, or for the settlement of accounts or delivery of papers by an agent, may be instituted at any time during the continuance of the agency, or within after its determination

Suits for ejectment of tenant under sub-section (2) of section 52.

"**133A.*** A suit under clause (4) of section 108 for the ejectment of a tenant on the ground mentioned in sub-section (2) of section 52 may be instituted at any time so long as the plaintiff is entitled to apply for execution of the decree for arrears of rent on the basis of which he brought the suit for ejectment."

Suits regarding distress and division or appraisement of produce.

134. A suit regarding distress under section 103, 104, or 105, or to set aside an award in respect of a division, estimate, appraisement, or proceeding under section 32, shall be instituted within three months from the date of the accrual of the case of action.

CHAPTER X.

PROCEDURE.

Application of the Code of Civil Procedure to proceedings under this Act.

136. The provisions of the Code of Civil Procedure† shall, so far as they are not inconsistent with the provisions of this Act, apply to all suits and other proceedings under this Act.

"Provided that nothing in section 33 of the said Code shall be deemed to require a decree to be prepared in the case of an application under this Act, unless the preparation of a decree is prescribed by rule."*

Mode of service of notices.

136. Every notice under this Act shall, if practicable, be served on the person to whom it is addressed, or on an agent authorised by him to accept service on his behalf; but, if that person or an agent so

* The words within quotations have been added by U. P. Act IV. of 1921.

† Certain words after this have been omitted by U. P. Act IV. of 1921.

authorized cannot be found, service may be made by posting the notice at the usual place of residence of the person to whom the notice is addressed, or, if that person does not reside in the district wherein the land is situate, at the village-chaupal or other conspicuous place in the village wherein the land is situate.

Contents of plaints.

137. In addition to the particulars required by section 50 of the Code of Civil Procedure to be specified in the plaint, the plaint shall contain the following particulars, namely : -

(*a*) the name of the village or estate, and of the pargana in which the land to which the suit relates is situate ;

(*b*) if the suit is for recovery of an arrear of rent, or for the enhancement or abatement of rent, or for the ejectment of a tenant, or for contesting a notice of enhancement of rent, or for contesting a notice of ejectment, or for the recovery of the occupancy or possession of any land, then the extent, situation, and designation of the land to which the suit relates, and, where fields have been numbered in a Government survey, the number (if it is possible to give it) of each field ;

(*c*) if the suit is for recovery of an arrear of rent or revenue, then the yearly rent or revenue of the land, the amount (if any) received on account of ths year or years for which the claim is made, the amount in arrear, and the time in respect of which it is alleged to be due ;

(*d*) if the suit is for the delivery of a patta or the counterpart a patta, then all the particulars mentioned in sectiod 8.

Procedure when landlord's title is disputed.

138.* (1) When in any suit brought under this Act—(*a*) by a landlord against an under proprietor or tenant for arrears of rent, or

(*b*) by an under proprietor or tenant against a landlord to contest a distraint for arrears of rent the under proprietor or tenant periods that he has paid the rent of the holding for the period in respect of which the suit is brought or the distraint made, to a third person to whom he has in good faith been paying the rent of the holding up to the date of the institution of the suit or the date of the distraint the question of the payment of rent in

* Section 138 has been substituted by U. P. Act IV of 1921.

* The words within quotations hrs been substituted by U. P. Act IV of 1921.

good faith to such third person by the under proprietor or tenant shall be inquired into and the court may, in its discretion, make the third person a party to the suit.

(2) If the question is determined in favour of the under proprietor or tenant the suit shall be dicided in his favour and he shall not be made a party to any subsequent suit between the landlord and the third person for the recovery of the amount so paid or for the determination of the proprietary right in the holding.

Summons to defendant to be for final disposal in certain suits.

139. In suits under clauses (1), (2), (7), (10) and (11) of section 108, the summons to the defendant shall be for the final disposal of the suit.

Set-off in suits for arrears of rent.

140. In a suit to recover an arrear of rent, no set-off shall be allowed against the claim except such amount as may be due to the defendant on an unexecuted decree under this Act against the plaintiff.

Interest on arrears of rent.

141. When an arrear of rent remains due from any "under-proprietor or"* tenant, he shall be liable to pay interest on the arrear at the rate of one per cent. per mensem.

Payment of money into Court by defendant.

142. (1) In any suit under this Act involving a claim to money, the defendant may, at any stage of the suit, deposit in Court such sum of money as he considers a satisfaction in full of the plaintiff's claim together with the costs incurred by the plaintiff up to the time of the making of the deposit.

(2) Notice of the deposit shall be given to the plaintiff, and the amont deposited shall be paid to him on his application.

(3) From the date of the making of a deposit under this section, interest shall not be allowed to the plaintiff on the sum deposited whether that sum be in full of the plaintiff's claim, or fall short thereof.

Proceeding for balance where defendant pays less than amount claimed.

143. In any case in which the defendant deposits less than the amount claimed by the plaintiff, nothing in the last foregoing section shall bar the plaintiff from proceeding in the suit for the recovery of the balance.

Making of local investgation by Court.

144. (1) A Court may, if it thinks fit, itself make a local investigation, instead of issuing a commission under "order XXVI. rule 9 of the First Schedule"* of the Code of Civil Procedure.

* The words within quotations have been added by U. P. Act IV of 1921.

(2) Ween the Court itself makes a local investigation, "any oral evidence taken by it shall be reduced to writing in the manner prescribed for the recording of evidence."* and any observations which the Court sees fit to record on its proceedings shall be received as evidence in the suit "or proceeding."*

Decrees.

Time for the making of applications for execution.

145. A process of execution shall not be issued on a decree under this Act when the application for the issue of the process is made after the lapes of three years from the date of the decree, unless the decree is for a sum exceeding five hundred ruppees, in which case the period within which execution may be had shall be regulated by the law for time being in force as to the period allowed for the execution of decrees of Civil Courts.

Immediate execution of deeree.

146. When a decree for money is made any suit under this Act, the Court may, on the oral application of the party in whose favour the decree is passed direct immediate execution thereof in the manner described in "Order XXI, rule 11 (1) of the First Schedule" of the Code of Civil Procedure.

Decree for enchancement to state date of commencement of enchancement.

147. When a decree in favour of the plaintiff is made in a suit for an enchancement of rent, the Court shall declare the date from which the enchancement shall take effect.

Enforcement of decree for delivery of papers or accounts.

148. (1) If the decree is for the delivery of papers or accounts, it may be enforced by the imprisonment in the civil jail of the party against whom it is made, or by the attachment of his property, or by both imprisonment and attachment.

(2) " Subject to the provision of section 58 of the Code of Civil Procedure 1908 "* the imprisonment and attachment may be continued until the party compilies with the terms of the decree :

Decrees for patta or counterpart to specify certain particulars.

149. A decree for the delivery of a patta, or of the counterpart of a patta, shall specify all the particulars mentioned in section 8, and such other particulars in accordance with the provisions of this Act as the Court deems fit.

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* The words within quotations have been inserted by U. P. Act IV, of 1921.

† Certain words after this repeated by U. P. Act IV of 1921 have been omitted.

Grant of patta or counterpart in case of defendant's refusal.

150. If the decree is for the delivery of a patta or the counterpart of a patta, and the party ordered to deliver the patta or counterpart neglects or refuses to do so, the Court may grant a patta or counterpart in conformity with the terms of the decree, and that patta or counterpart shall have the same effect as if delivered by the party against whom the the decree was passed.

Execution to be first made against moveable property.

151. If the decree is for money, a process in execution shall not issue against the immoveable property of the judgment-debtor, other than for attachment of that property, unless satisfaction of the decree cannot be obtained against his moveable property.

Sale of under-proprietary right in execution of decree for arrears of rent.

152. If the decree is for an arrers of rent due in respect of an under-proprietary right, the interest of the judgment-debtor in that right may, subject to the provisions of this Act, be sold in execution of the decree.

Registration of incumbrance created by under-proprietor.

153. A beneficial lease or other incumbrance created by an under-proprietor on his tenure after the twenty-second day of July 1868 shall not be valid in the event of the sale of his rights and interests in execution of a decree for arrears of rent, unless the incumbrance has been registered under any rules or law for the time being in force in Oudh, within four months after the creation thereof, and not less than thirty days before the date of attachment of those rights and interests.

Proprietor's lien for rent payable by under-proprietor.

154. (1) When an under-proprietor creates any such incumbrance, and fails to pay to the proprietor all or any part of the rent subsequently accruing in respect of the land subject to the incumbrance, the incumbrancer shall be liable to pay to the proprietor the whole or the part of that rent, as the case may be, unless the proprietor has agreed in writing to waive any claim which he might otherwise have made on the incumbrancer under this section.

(2) Where, after the passing of this Act, an under-proprietor transfers his rights or any part thereof in land, and the transferee enters into possession, the transferee shall, subject to any ngreement in writing with the proprietor to the contrary, be liable to pay to the proprietor any arrears of rent due in respect of the land at the date of the transfer.

Right of pre-emption at execution sale.

155. (1) When land is sold in execution of a decree under this Act, and the land or any lot thereof has been knocked down to a stranger, any

co-sharer other than the judgment-debtor may, before sunset on the day of sale, claim to take the land or lot, as the case may be, at the sum at which it was so knocked down.

(2) A like claim may be made, if the land is a proprietary tenure, by an under-proprietor, and, if the land is an under-proprietary tenure, by a proprietor.

(3) Any claim made under this section shall be allowed :

Provided that, if a claim to the same land or lot is made by a proprietor or under-proprietor, as well as by a co-sharer, the claim of the co-sharer shall prevail :

Provided also that a claim shall not be allowed unless the claimant fulfils all the conditions of the sale binding on a purchaser.

CHAPTER XI.

GENERAL.

Registration of statutory pattas unnecessary.

156. Notwithstanding anything in the Indian Registration Act, 1877, pattas granted for any term not exceeding "ten"* years by landlords to "statutory tenants"* shall be deemed good and valid without their being registered.

Exclusion of specified areas from certain provisions of the Act.

157. The provisions of sections 4, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45 46, and 48 shall not extend to the areas specified in Schedule D to this Act, or to any other area which the Chief Commissioner may, from time to time, by notification in the local official Gazette, add to that schedule, but the Chief Commissioner may, from time to time, by like notification, extend those provisions or any of them to any of those areas.

Power to make rules.

158. (1) The "Board, with the previous sanction of the Chief Commissioner,"† may, from time to time, make rules consistent with this Act for the guidance of all persons in matters connected with the enforcement of this Act.

(2) "The Board"‡ shall, before making rules uuder this section, publish a draft of the proposed rules in such manner as, in its opinion, is sufficient.

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

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* The words within quotations have been substitued by U. P. Act IV of 1921.

† In s. 158, sub-ss. (1) and (5), the words quoted have been substituted for the words. "Chief Commissioner," by Act XX. of 1890, s. 60, printed *infra*.

‡ In s. 158, sub-ss. (2) and (4), the words quoted have substituted for the words, "The Chief Commissioner," by Act XX. of 1890, s. 60, printed *infra*.

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

(5) Every rule made under this section shall be published in the local official Gazette in English, and in such other language or languages as the "Board, with the previous sanction of the Chief Commissioner,"* directs, and that publication shall be conclusive proof that the rule has been made as required by this section.

Invalidation of notices of ejectment served upon statutory tenants prior to the commencement of the Oudh Rent (Ammenment) Act, 1921.

159. **A** notice of ejectment which has been served upon a statutory tenant under section 55 at any time after the fifteenth day of November, 1920, and before the commencement of the Oudh Rent (Amendment) Act, 1921, shall be null and void and if any suit under section 56 to contest any such notice is pending at the Commencement of the Oudh Rent (Amendment) Act, 1921, it shall be dicided in the tenants, favour.

SCHEDULE A*

I. A. B of , etc., solemnly declare that I did personally (or by my agent A. D.) on the day of tender payment of E F at (the place where the (revenue or) Rent of the lands at (held or) cultivated by me under (or from jointly with) the said E F is usually payable) of the sum of rupees as and for the whole amount due from me in respect of the (revenue or) rent of the said lands from the month of to the month of both inclusive. I further declare that the said E. F. refused to accept the said sum tendered [or to give me a receipt in full forthwith for the sum so tendered] And I declare that, to the best of my belief, the sum of rupees so tendered, and which I now desire to pay into Court, is the full amount which I owe to the said E F on account of the (revenue or) rent of the said lands from the month of to the month of both inclusive, and that I owe to the said E. F. no furthar sum on account of the (revenue or) rent of the said lands.

I, , the person mentioned in the above declaration, do declare that what is stated therein is true to the best of my information and belief.

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* If this declaration is made by an agent it must be altered accordingly.

SCHEDULE B

SEE SECTION 15.

Court of the of
Dated the day of 18
TO E, F of ,etc.

With reference to the within declaration, you are hereby informed that the sum of rupees therin mentioned is now in deposit in this Court, and that the above sum will be paid to you or to your agent on application. And take notice that, if you have any further claim or demand whatsoever to make against the said A. B. in respect of the (revenue or) rent of the said lands, you must institute a suit in Court for the establishment of that claim or demand within six calender months from this date, otherwise your claim be for ever barred.

SCHEDULE C.

(*See Section* 84.)

Office of officer appointed to sell distrained property.

A. B.—Distrainer.

Whereas the said A.B. has applied to have the distrained property specified below sold for the recovery of alleged to be due to him as arrears of rent, you are hereby required either to pay the said sum to the said AB, or to institute a suit before the Court to contest the demand within fifteen days from the receipt of this notice, failing which, the property will be sold.

Dated this day of 188.

SCHEDULE D.

(*See Section* 157.)

(1) Porganas Kukra Mailani, Bhur, Srinagar, Nighasan, Palia, Khairigarh, Dhanrahka and Firozabad in the District of Kheri;

(2) alluvial mahals for the time bring registered as such under the rules made under "Clause (k) of section 234 of the limited Provinces Land Revenue Act, 1901"† and

(3) lands before or hereafter granted under the waste-land rules for the time being inforce in Oudh.

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* This to be by endorsement of a copy of the declaration under Schedulo A made by the person paying the money into Court.

† The words within quotations have been inserted by U. P. Act IV of 1921.

ACT XXIII. OF 1886.

The Dekkan Agriculturists' Relief Act, 1886.

RECEIVED THE G.-G.'S ASSENT ON THE 22ND OCTOBER 1886.

An Act to amend the Dekkhan Agriculturists' Relief Acts, 1879 to 1882.

WHEREAS it is expedient to amend in manner hereinafter appearing the Dekkhan Agriculturists' Relief Acts, 1879 to 1882 ; It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Dekkhan Agriculturists' Relief Act, 1886; and it and the Dekkhan Agriculturists' Relief Acts, 1879 to 1882, may be cited collectively as the Dekkhan Agriculturists' Relief Acts, 1879 to 1886.

(2) This Act shall come into force on the first day of January 1887.

Definition.

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

"section" means a section, and "chapter" a chapter, of the Dekkhan Agriculturists' Relief Act, 1879, as amended by the Dekkhan Agriculturists' Relief Act, 1881, and the Dekkhan Agriculturists' Relief Act, 1882.

Addition to section 1, namely :—

3. To section 1 the following shall be added after the word "Ahmadnagar,"

"but may, from time to time, be extended wholly or in part by the Local Government, with the previous sanction of the Governor-General in Council, to any other district or districts in the Presidency of Bombay."

4. [*Repealed by Act XVI. of 1895, Sch. I.*]

Amendment of section 3.

5. In section 3, clause (*y*), the word "and" shall be substituted for the word "or" where the latter word occurs between the word "foreclosure" and the word "sale."

Amendment of section 12.

6. In section 12, for the words, "the Court shall" if the amount of the creditor's claim is disputed, enquire," the following shall be substituted, namely:—

"the Court, if the amount of the creditor's claim is disputed, shall examine both the plaintiff and the defendant as witnesses, unless, for reasons to be recorded by it in writing, it deems it unnecessary so to do, and shall enquire."

Amendment of section 22.

7. In section 22, for the words, "No agriculturist's immoveable property shall be attached or sold," the following shall be substituted, namely :—

" Immoveable property belonging to an agriculturist, other than his standing crops, shall not be attached or sold."

Addition to section 40.

8. To section 40 the following shall be added, namely :—

"A conciliator empowered by the Local Government in this behalf may, instead of inviting, direct the person against whom the application is made to attend at the time and place either first or subsequently fixed.

"If an applicant, or a person against whom an application is made, fails to be present or attend at the time and place specified in a direction proceeding from a Conciliator under this section, he shall be deemed to have committed an offence under section 174 of the Indian Penal Code."

Addition to proviso to section 56.

9. To the proviso to section 56 the following shall be added, namely :—

"or to any instrument required by section 17 of the Indian Registration Act, 1877, to be registered under that Act."

Amendment of, and addition to, section 58.

10. (1) The last twenty-two words of the second paragraph of section 58, from "and a certified copy" to "more than one," are repealed.

(2) In the third paragraph of the same section, the words "and each such copy" are repealed.

(3) After "section 58,"* the following shall be added, namely :—

"A certified copy of any entry in the register shall be granted by the Village-Registrar, free of charge, on the application of any party to the instrument to which the entry relates, or of his agent or representative, and the copy shall be admissible as evidence of the contents of the instrument."

New chapter and section to follow Chapter VIII. and section 63.

11. After Chapter VIII. and section 63 the following shall be inserted, namely :

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* In s. 10, sub-s (3), the word and figures quoted have been substituted for the words, " the same section, " by Act XII. of 1891, Sch. II.

"CHAPTER VIII.A.

"REGISTRATION OF INSTRUMENTS REFERRED TO IN SECTION 17 OF THE INDIAN REGISTRATION ACT, 1877.

Mode of execution by agriculturists of instruments required to be registered under Act III, of 1877.

"63A. (1) When an agriculturist intends to execute any instrument required by section 17 of the Indian Registration Act, 1877, to be registered under that Act, he shall appear before the Sub-Registrar within whose sub-district the whole or some portion of the property to which the instrument is to relate is situate, and the Sub-Registrar shall write the instrument, or cause it to be written, and require it to be executed, and attest it, and, if the executant is unable to read the instrument, cause it to be further attested, and otherwise act in accordance with the procedure prescribed for a Village-Registrar by sections 57 and 59 of this Act, and shall then register the instrument in accordance with the provisions of the Indian Registration Act, 1877.

" (2) An instrument to which sub-section (1) applies shall not be effectual for any purpose referred to in section 49 of the Act last mentioned unless it has been written, executed, and attested in the manner provided in that sub-section."

Amendment of section 72.

12. (1) In section 72, for the words, "under this Act," where they first occur, the words, "of the description mentioned in section 3, clause (*w*)," shall be substituted.

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

(3) For the proviso to the same section the following shall be substituted, namely :

" Provided that nothing in this section shall—

" (*i*) apply to a suit for the recovery of money from a person who is a surety merely of the principal debtor if the principal debtor was not, at the time when the cause of action arose, an agriculturist, or

" (*ii*) revive the right to bring any suit which would have been barred by limitation if it had been instituted immediately before this Act comes into force."

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

ACT II OF 1887,

The Sea Customs Act (1878) Amendment Act. 1887.

RECEIVED THE G. G.'S ASSENT ON THE 14TH JANUARY 1887,

An Act to amend the Sea Customs Act, 1878, and the Indian Tariff Act, 1882.*

Whereas it is expedient to amend the Sea Customs Act, 1878,* and the Indian Tariff Act, 1882 ;

It is hereby enacted as follows :—

Sea Customs Act, 1878

Amendment of section 144

1. (1) In clause (*b*) of the second paragraph of section 144 of the Sea Customs Act, 1878, there shall be inserted, after the word "unless," the word "either," and after the word "destination," the following, namely :—

"or the delivery of the spirit into a warehouse appointed in this behalf by the Local Government having authority at that port."

(2) In the third paragraph of the same section of the same Act the following shall be substituted for the word" paid," namely :—

"so paid or the spirit so delivered,"

Amendment of section 146

2. In section 146 of the same Act, for the word" shall,', in each of the two places where that word occurs the word "may" shall be substituted.

Amendment of section 148

3. (1) To section 148 of the same Act the following words shall be prefixed, namely:—

"Notwithstanding anything in the Indian Tariff Act, 1882."

(2) To the same section of the same Act the following shall be added, namely :—

[*Printed in Vol II., p.* 294,]

Amendment in section 151

4. (1) To section 151 of the same Act the following words shall be prefixed, namely :—

"Notwithstanding anything in the Indian Tariff Act, 1882.

(2) After the same section of the same Act the following shall be added, nemely :—

[*Printed in Vol, p.* 295.

Excise Act, 1881.

5. [*Repealed by Act XII. of* 1896.]
6. [*Repealed by Act XII. of* 1896.]

Indian Tarifi Act, 1881.

7. [*Repealed by Act XII. of* 1891, *Sch. I.*]
8. [*Repealed by Act VIII. of* 1894.]
9. [*Repealed by Act XII. of* 1891, *Sch, I.*]

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*Portion relating to the Excise Act, 1881. repealed by Act XII of 1896, has omitted.

ACT III. OF 1887.

Indian Evidence Act (1872) Amendment Act, 1887.

RECEIVED THE G.-G.'S ASSENT ON THE 14TH JANUARY 1887.

An Act to amend the Indian Evidence Act, 1872.

Whereas it is expedient that Revenue-officers should not be compelled to say whence they obtain information with respect to offences against the public revenue; It is hereby enacted as follows:—

New section substituted for section 125 of the Evidence Act.

1. The following section shall be substituted for section 125 of the Indian Evidence Act, 1872, namely:—

" 125. [*Printed in Vol. I., p.* 1072.]

ACT VII. OF 1887.

The Suits Valuation Act, 1887.

RECEIVED THE G.-G.'S ASSENT ON THE 11TH FEBRUARY 1887.

An Act to prescribe the mode of valuing certain Suits for the purpose of determining the jurisdiction of Courts with respect thereto.

Whereas it is expedient to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto; It is hereby enacted as follows:—

Title.

1. This Act may be called the Suits Valuation Act, 1887.

PART I.

SUIT RELATING TO LAND.

Extent and commencement of Part I.

2. This Part shall extend to such local areas, and come into force therein on such dates, as the Governor-General in Council, by notification in the Gazette of India, directs. †

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* For Statement of Objects and Reasons—*See Gazette of India*, 1816, Pt. V., p. 791; for Report of the Select Committee—*See ibid*, 1887, Pt. IV., p. 18; and for Proceedings in Council, *see ibid*, 1886, Supplement, pp. 1131 and 1155, and *ibid*, 1887, Pt. VI., pp 16 and 21.

Act VII. of 1887 has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act (XIII., 1828)—*See* s. 4 and the First Schedule.

It had previously been extended there, by notification under s. 5 of the Scheduled Districts Act (XIV. of 1874)—*See Burma Gazette*, 1888. Pt. I., p. 362.

It has been declared in force in British Baluchistan by the British Baluchistan Laws Regulation (1. of 1890).

† Part 1. of the Act has, under s. 2, been declared to extend to the Punjab, and to come into force therein on the 1st day of March 1889—*See Gazette of India*, 1889, Pt. 1., p. 107.

Power for Local Government to make rules determining value of land for jurisdictional purposes.

3. (1) The Local Government may, "subject to the control of"* of the Governor-General in Council, make rules for determining the value of land for purposes of jurisdiction in the suits mentioned in the Court Fees Act, 1870,† section 7, paragraphs v. and vi., and paragraph x., clause (*d*).

(2) The rules may determine the value of any class of land, or of any interest in land, in the whole or any part of a local area, and may prescribe different values for different places within the same local area.

Valuation of relief in certain suits relating to land not to exceed the value of the land.

4. Where a suit mentioned in the Court Fees Act, 1870,† section 7, paragraph iv., or Schedule II., article 17, relates to land or an interest in land of which the value has been determined by rules under the last foregoing section, the amount at which, for purposes of jurisdiction, the relief sought in the suit is valued shall not exceed the value of the land or interest as determined by those rules.

Making and enforcement of rules.

5. (1) The Local Government shall before making rules under section 3, consult the High Court with respect thereto.

(2) A rule under that section shall not take effect till the expiration of one month after the rule has been published in the local official Gazette.

Repeal of section 14 of the Madras Civil Courts Act, 1873.

6. On and from the date on which rules under section 3 take effect in any part of the territories under the administration of the Governor of Fort St. George in Council to which the Madras Civil Courts Act, 1873,‡ extends, section 14 of that Act shall be repealed as regards that part of those torritories.

PART II.

OTHER SUITS.

Extent and commencement of Part II.

7. This Part extends to the whole of British India, and shall come into force on the first day of July, 1887.

Court-fee value and Jurisdictional value to be the same in certain suits.

8. Where in suits other than those referred to in the Court Fees Act, 1870,† section 7, paragraphs v., vi. and ix., and paragraph x., clause (*d*), Court-fees are payable *advalorem* under the

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* The words within quatations have been substituted by Act 38 of 1220.

† Act VII. of 1870.

‡ Act III of 1873.

Court Fees Act, 1870,* the value as determinable for the computation of Court-fees and the value for purposes of jurisdiction shall be the same.

Determination of value of certain suits by High Court

9. When the subject-matter of suits of any class, other than suitsmentioned in the Court Fees Act, 1870,* section 7, paragraphs v. and vi., and paragrph x., clause (*d*), is such that, in the opinion of the High Court it does not admit of being satisfactorily valued, the High Court may, with the previous sanction of the Local Government, direct that suits of that class shall, for the purposes of that Court Fees Act, 1870,* and of this Act and any other enactment for the time being in force, be treated as if their subject-matter were of such value as the High Court thinks fit to specify in this behalf.†

10. [*Repeal of s.* 32, *Punjab Courts Act* (*XVIII. of* 1884).] *Repealed by the Repealing and Amending Act* (*XII. of* 1891).

PAKT III.

SUPPLEMENTAL PROVISIONS.

Procedure where objection is taken on appeal or revision that a suit or apeal was not properly valued for jurisdictional purposes.

11. (1) Notwithstanding anything in section 578 of the Code of Civil Procedure, an objection that by reason of the over-valuation or under-valuation of a suit or appeal a Court of first instance or Lower appellate Court which had not jurisdiction with respect to the suit or appeal exercised jurisdiction with respect thereto shall not be entertained by an Appellatte Court unless—

(*a*) the objection was taken in the Court of first instance at or before the hearing at which issues were first framed and recorded, or in Lower Appellate Court in the memorandum of appeal to that Court, or

(*b*) the Appellate Court is satisfied, for reasons to be recorded by it in writing that the suit or appeal was over-valued or under-valued, and that the over-valuation or under-valuation thereof has prejudicially affected the disposal of the suit or appeal on its merits.

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* Act VII. of 1870.

† For rules as to valuation of certain classes of suits under this section in—

(1) the Central Provinces—*See* Central Provinces List of Local Rules and Orders, Ed. 1896, p. 246.

(2) Oudh—*See* North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1894, p 122.

(2) If the objection was taken in the manner mentioned in clause (*a*) of sub-section (1), but the Appellate Court is not satisfied as to both the matters mentioned in clause (*b*) of that sub-section, and has before it the materials neccessary for the determination of the other grounds of appeal to itself, it shall dispose of the appeal as if there had been no defect of jurisdiction in the Court of the first instance or Lower Appellate Court.

(3) If the objection was taken in that matter, and the Appellate Court is satisfied as to both those matters, and has not those material before it, it shall proceed to deal with the appeal under the rules applicable to the Court with respect to the hearing of appeals ; but, if it remands the suit or appeal, or frames and refers issues for trial, or requires additional evidence to be taken, it shall direct its order to a Court competent to entertain the suit or appeal.

(4) The provisions of this section with respect to an Appellate Court shall, so far as they can be made applicable, apply to a Court exercising revisional jurisdiction under section 622 of the Code of Civil Procedure or other enactment for the time being in force.

(5) This section extend to the whole of British India, and shall come into force on the first day of July, 1887.

Proceedings pending at commencement of Part I. or Part II.

12. Nothing in Part I. or Part II. shall be construed to affect the jurisdiction of any Court—

(*a*) with respect to any suit instituted before rules under Part I. applicable to the valuation of the suit take effect, or Par II has come into force, as the case may be, or

(*b*) with respect to any appeal arising out of any such suit.

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* Act XIV of 1882. But now see Act V of 1908.

ACT IX OF 1887.*

Provincial Small Cause Courts Act.

RECEIVED THE G.-G.'S ASSENT ON 24TH FEBRUARY 1887.

An Act to consolidate and amend the law relating to Courts of Small Causes established beyond the Presidency-towns.

WHEREAS it is expedient to consolidate and amend the law relating to Courts of Small Causes established beyond the Local limits, for the time being, of the ordinary original civil jurisdiction of the High Courts of judicature at Fort William in Bengal and at Madras and Bombay : It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Title, extent, and commencement.

1. (1) This Act may be called the Provincial Cause Court Act, 1887 ;

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

(3) It shall come into force on the first day of July, 1887.

2. (1) [*Repeal of enactments.*] *Repealed by Act XII. of 1897.*

Construction.

(2)† All Courts constituted, limits fixed, places appointed appointments, declarations, and rules made, jurisdiction and powers conferred, forms prescribed, directions given, and notifications published, under Act No. XI. of 1865‡ (*an act to consolidate and amend the law relating to Courts of Small Cause beyond the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature*), or under any enactment repealed

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* Act IX of 1887 has been applied to British Baluchistan by Reg. I. of 1290, s. 3.

Act IX. of 1887 has been declared. by notifieation under the Scheduled District Act (XIV. of 1874), to be in force in the District of Hazaribagh, Lohardaga, and Manbhum, Pargana Dhalbhum, and the Kolhan in the (in the District of Singbhum (*Gazette of India*, 1887, Pt. I., p., 582), and been extended, by notification under the same Act, to the Town of Mandalas (*Gazette of India*, 1881, Pt. I , p., 88).

For power to confer upon a subordinate Judge or Munsif in Bengal, the North-Western Provinces, and Assam, the jurisdiction of a Court of Small Causes under this Act XII. of 1887, s. 25.

Ss. 15, 32, 37, 38, 39, 3nd 40 of the Bengal, North-western Provinces and Assam Civil Courts Act, 1887, apply to Courts of Small Causes constituted under this Act—See Act XII. of 1887, s. 40.

† In s. 2 (2) the first word "But," having been repealed by Act XII. of 1891, has been committed.

‡ Act X I. of 1865 bas been repealed by s. 2 (*1*) of this Act.

by that Act, shall, so far as may be, be deemed to have been respectively constituted, fixd, appointed, made, conferred, prescribed, given, and published under this Act.

(3) Any enactment or document referring to Act No. XI. of 1865, or to any enactment thereby repealed, shall, so far as may be, be construed to refer to this Act, or to the corresponding portion thereof.

Savings.

3 Nothing in this Act shall be construed to affect—

(*a*) any proceedings before or after decree in any suit instituted before the commencement of this Act ; or

(*b*) the jurisdiction of a Magistrate under any law for the time being in force with respect to debts or other claims of a civil nature, or of Village Munsifs or Village Panchayats under the provisions of the Madras Code, or of Village Munsifs under the Dekkhan Agriculturists' Relief Act, 1879 ; or

(*c*) any local law or any special law other than the Code of Civil Procedure.

Definition.

4. In this Act, unless there is something repugnant in the subject or context, "Court of Small Causes" means a Court of ~~Small~~ Causes constituted under this Act, and includes any person exercising jurisdiction under this Act in any such Court.

CHAPTER II.

CONSTITUTION OF COURTS OF SMALL CAUSES.

Establishment of Courts of Small Causes.

5. (1) The Local Government* may, by order in writing, establish a Court of Small Causes at any place within the territories under its administration beyond the local limits, for the time being, of the ordinary original civil jurisdiction of a High Court of judicature established in a Presidency-town.

(2) The local limits of the jurisdiction of the Court of Small Causes shall be such as the Local Government may define, and the Court may be held at such place or places within those limits as the Local Government may appoint.

Judge.

6. (1) When a Court of Small Causes has been established, the Local Government shall by order in writing, appoint a Judge of the Court.

(2) The Judge may be the Judge of one Court of Small Causes, or of two or more such Courts, as the Local Government directs.

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* Certain words repealed by Act 4 of 1914 have been omitted.

Appointment of times of sitting in certain circumstances.

7. (1) A Judge who is the Judge of two or more such Courts may, with the sanction of the District Court, fix the times at which he will sit in each of the Courts of which he is Judge.

(2) Notice of the times shall be published in such manner as the High Court from the time directs.

Additional Judge.

8. (1) The Local Government* may, by order in writing, appoint Additional Judges of a Court of Small Causes or of two or more such Courts.

(2) "An" †Additional Judge shall discharge such of the functions of the Judge of the Court or Courts as the Judge may assign to him, and in the discharge of those functions shall exercise the same powers as the Judge.

(3) The Judge may withdraw from "an"† Additional Judge any business pending before him.

(4) When the Judge is absent, the "senior" †Additional Judge may discharge all or any of the functions of the Judge.

Suspension and removal of Judges.

9. A Judge or Additional Judge of a Court of a Small Causes may be suspended or removed from office by the Local Government.

Power to require two Judges to sit as a bench.

10. The Local Government, after consultation with the High Court, may, by order in writing, direct that two Judges of Courts of Small Causes, or a Judge and an Additional Judge of a Court of Small Causes, shall sit together for the trial of such class or classes of suits or applications cognizable by a Court of Small Causes as may be described in the order.

Decision in case heard by a bench.

11. (1) If two Judges, or a Judge and an Additional Judge, sitting together under the last foregoing section, differ as to a question of law or usage having the force of law, or in construing a document, the construction of which may affect the merits, they shall draw up and refer, for the decision of the High Court, a statement of the facts of the case, and of the point on which they differ in opinion, and the provisions of Chapter XLVI, of the Code of Civil Procedure shall apply to the reference.

(2) If they differ on any matter other than a matter specified in sub-section (1), the opinion of the Judge who is senior in respect of date of appointment as Judge of a Court of Small Causes, or, if one of them is an Additional Judge, then the opinion of the Judge sitting with him, shall prevail.

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* Certain words repealed by Act 4 of 1914 have been omitted.

† The words within quotations have been substituted by Act 1 of 1915.

(3) For the purposes of sub-section (2), a Judge permanently appointed shall be deemed to be senior to an Officiating Judge.

Registrar.

12 (1) The Local Government may appoint to a Court of Small Causes an officer to be called the Registrar of the Court.

(2) Where a Registrar is appointed, he shall be the chief ministerial officer of the Court.

(3) The Local Government may, by order in writing, confer upon a Registrar, within the local limits of the jurisdiction of the Court, the jurisdiction of a Judge of a Court of Small Causes for the trial of suits of which the value does not exceed twenty rupees.

(4) The Registrar shall try such suits cognizable by him as the Judge may, by general or special order, direct.

(5) A Registrar may be suspended or removed from office by the Local Government.

Other ministerial officers.

13. Subject to any enactment for the time being in force, and to any orders made by the Local Government in this behalf, the law or practice for the time being applicable to the appointment, punishment, and transfer of ministerial officers of a Civil Court of the lowest grade competent to try an original suit of the value of five thousand rupees in that portion of the territories administered by the Local Government in which a Court of Small Causes is established shall, so far as it can be made applicable, apply to the appointment, punishment, and transfer of ministerial officers of the Court of Small Causes other than the Registrar (if any) of that Court.

Duties of ministerial officers.

14. (1) The ministerial officers of a Court of Small Causes shall, in addition to any duties mentioned in this Act, or in any other enactment for the time being in force, as duties which are or may be imposed on any of them, discharge such duties of a ministerial nature as the Judge directs.

(2) The High Court may make rules consistent with this Act, and with any other enactment for the time being in force, conferring and imposing, on the ministerial officers of a Court of Small Causes, such powers and duties as it thinks fit, and regulating the mode in which powers and duties so conferred and imposed are to be exercised and performed.

CHAPTER III.

JURISDICTION OF COURTS OF SMALL CAUSES.

Cognizance of suits by Courts of Small Causes.

15. (1) A Court of Small Causes shall not take cognizance of the suits specified in the second schedule as suits excepted from the cognizance of a Court of Small Causes.

(2) Subject to the exceptions specified in that schedule, and to the provisions of any enactment for the time being in force, all suits of a civil nature, of which the value does not exceed five hundred rupees, shall be cognizable by a Court of Small Causes.

(3) Subject as aforesaid, the Local Government may, by order in writing direct that all suits of a civil nature, of which the value does not exceed one thousand rupees, shall be cognizable by a Court of Small Causes mentioned in the order.

Exclusive Juridiction of Courts of Small Causes.

16. Save as expressly provided by this Act, or by any other enactment for the time being in force, a suit cognizable by a Court of Small Causes shall not be tried by any other Court having jurisdiction within the local limits of the jurisdiction of the Court of Small Causes by which the suit is triable.

CHAPTER IV.

PRACTICE AND PROCEDURE.

Application of the Code of Civil Procedure.

17. (1) The procedure prescribed in the chapters and sections of the Code of Civil Procedure specified in the second schedule to that Code* shall, so far as those chapters and sections are applicable, be the procedure followed in a Court of Small Causes in all suits cognizable by it, and in all proceedings arising out of such suits.

Provided that an applicant for an order to set aside a decree passed *exparte*, or for a review of judgment, shall, at the time of presenting his application, either deposit in the Court the amount due from him under the decree or in pursuance of the judgment, or give security to the satisfaction of the Court for the performance of the decree or compliance with the judgment, as the Court may direct.

(2) Where a person has become liable as surety under the proviso to sub-section (1), the security may be realized in manner provided by section 253 of the Code of Civil Procedure.

Trial of suits by Registrar.

18. (1) Suits cognizable by the Registrar under section 12, sub-sections (3) and (4), shall be tried by him, and decrees passed therein shall be executed by him in like manner in all respects as the Judge might try the suits, and execute the decrees respectively.

(2) The Judge may transfer to his own file, or to that of the Additional Judge, if an Additional Judge has been appointed, any suit or other proceeding pending on the file of the Registrar,

* Here the words, "as amended by this Act," being repealed by Act XII of 1891, have been omitted.

Admission, return, and rejection of plaints by Registrar.

19. (1) When the Judge of a Court of Small Causes is absent, and an Additional Judge has not been appointed, or, having been appointed, is also absent, the Registrar may admit a plaint, or return or reject a plaint for any reason for which the Judge might return or reject it.

(2) The Judge may, of his own motion, or on the application of a party, return or reject a plaint which has been admitted by the Registrar, or admit a plaint which has been returned or rejected by him.

Provided that, where a party applies for the return or rejection or the admission of a plaint under this sub-section, and his application is not made at the first sitting of the Judge after the day on which the Registrar admitted or returned or rejected the plaint, the Judge shall dismiss the application, unless the applicant satisfies him that there was sufficient cause for not making the application at that sitting.

Passing of decrees by Registrar on confession.

20. (1) If, before the date appointed for the hearing of a suit, the defendant or his agent duly authorized in that behalf appears before the Registrar, and admits the plaintiff's claim, the Registrar may, if the Judge is absent, and an Additional Judge has not been appointed, or, having been appointed, is also absent, pass against the defendant, upon the admission, a decree, which shall have the same effect as a decree passed by the Judge.

(2) Where a decree has been passed by the Registrar under sub-section (1), the Judge may grant an application for review of judgment, and re hear the suit, on the same conditions, on the same grounds, and in the same manner, as if the decree had been passed by himself.

Execution of decrees by Registrar.

21. (1) If the Judge is absent, and an Additional Judge has not been appointed, or, having been appointed, is also absent, the Registrar may, subject to any instructions which he may have received from the Judge, or, with respect to decrees or orders made by an Additional Judge, from the Additional Judge. make any orders in respect of applications for the execution of decrees and orders made by the Court of which he is Registrar, or sent to that Court for execution, which the judge might make under this Act.

(2) The Judge, in the case of any decree or order with respect to the execution of which the Registrar has made an order under sub-section (1), or the Additional Judge, in the case of any such decree or order which has been made by himself, and with respect to which proceedings have not been taken by the Judge under this

sub-section, may, of his own motion, or on application made by a party within fifteen days from the date of the order of the Registrar, or of the execution of any process issued in pursuance of that order, reverse or modify the order.

(3) The period of fifteen days mentioned in sub-section (2) shall be computed in accordance with the provisions of the Indian Limitation Act, 1877, as though the application of the party were an application for review of jndgment.

Adjournment of cases by chief ministerial officer.

22. When the Judge of a Court of Small Causes is absent, and an Additional Judge has not been appointed, or having been appointed, is also absent, the Registrar or other chief ministerial officer of the Court may exercise, from time to time, the power which the Court possesses of adjourning the hearing of any suit or other proceeding, and fix a day for the further hearing thereof.

Return of plaints in suits involving questions of title.

23. (1) Notwithstanding anything in the foregoing portion of this Act, when the right of a plaintiff and the relief claimed by him in a Court of Small Causes depend upon the proof or disproof of a title to immoveable property or other title which such a Court cannot finally determine, the Court may, at any stage of the proceedings, return the plaint to be presented to a Court having jurisdiction to determine the title.

(2) When a Court returns a plaint under sub-section (1), it shall comply with the provisions of the second paragraph of section 57 of the Code of Civil Procedure, and make such order with respect to costs as it deems just ; and the Court shall, for the purposes of the Indian Limitation Act, 1877, be deemed to have been unable to entertain the suit by reason of a cause of a nature like to that of defect of jurisdiction.

Appeals from certain orders of Courts of Small Causes.

24. Where an order specified in "clause (*ff*) or clause (*h*) of sub-section (1) of section 104 of the Code of Civil Procedue 1908* is made by Court of Small Causes, an appeal therefrom shall lie to the District Court " on any ground on which an appeal from such order would lie under that section.*

Revision of decrees and orders of Courts of Small Causes.

25. The High Court, for the purpose of satisfying itself that a decree or order made in any case decided by a Court of Small Causes was according to law, may call for the case, and pass such order with respect thereto as it thinks fit.

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* The words within quatations have been added or substituted by Act 9 of 1922.

26. [*Repealed by Act X. of* 1888, *s.* 4.]

Subordination of Courts of Small Causes.

27. Save as provided by this Act, a decree or order made under the foregoing provisions of this Act by a Court of Small Causes shall be final.

CHAPTER V.

SUPPLEMENTAL PROVISIONS.

Subordination of Courts of Small Causes.

28. (1) A Court of Small Causes shall be subject to the administrative control of the District Court, and to the superintendence of the High Court, and shall—

(*a*) keep such registers, books, and accounts as the High Court from time to time precribes, and

(*b*) comply with such requisitions as may be made by the District Court, the High Court, or the Local Government, for records, returns, and statements, in such form and manner as the authority making the requisition directs.

(2) The relation of the District Court to a Court of Small Causes with respect to administrative control shall be the same as that of the District Court to a Civil Court of the lowest grade competent to try an original suit of the value of five thousand rupees in that portion of the territories administered by the Local Government in which the Court of Small Causes is established.

Seal.

29. A Court of Small Causes shall use a seal of such form and dimensions as are prescribed by the Local Government.

Abolition of Courts of Small Causes.

30. The Local Government muy, by order in writing, abolish a Court of Small Causes.

Saving of power to appoint Judge of Court of Small Causes to other office.

31. (1) Nothing in this Act shall be coustrued to prevent the Local Government from appointing a person, who is a Judge or Additional Judge of a Court of Small Causes, to be also a Judge of any other Civil Court, or ro be a Magistrate of any class, or to hold any other public office.

(2) When a Judge or Additional Judge is so appointed, the ministerial officers of his Court shall, subject to any rules which the Local Government may make in this behalf, be deemed to be ministerial officer appointed to aid him in the discharge of the other office.

Application of Act to Courts invested with jurisdiction of Court of Small Causes.

32. (1) So much of Chapters III. and IV. as relates to—

(*a*) the nature of the suits cognizable by Courts of Small Causes,

(*b*) the exclusion of the jurisdiction of other Courts in those suits,

(*c*) the practice and procedure of Courts of Small Causes,

(*d*) appeal from certain orders of those Courts and revision of cases decided by them, and

(*e*) the finality of their decrees and orders subject to such appeal and revision as are provided by this Act,

appeal to Courts invested, by or under any enactment for the time being in force, with the jurisdiction of a Court of Small Causes, so far as regards the exercise of that jurisdiction by those Courts.

(2) Nothing in sub-section (2), with respect to Courts invested with the jurisdiction of a Court of Small Causes, applies to suits invested, or proceedings commenced, in those Courts before the date on which they were invested with that jurisdiction.

Application of Act and Code to Court so invested as to two Courts.

33. A Court invested with the jurisdiction of a Court of Smalll Causes with respect to the exercise of that jurisdiction, and the same Court, with respect to the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, shall, for the purpose of this Act and the Code Civil Procedure, be deemed to be different Courts.

Modification of Code as so applied.

34. Notwithstanding anything in the last two foregoing sections,—

(*a*) when, in exercise of the jurisdiction of a Court of Small Causes, a Court invested with that jurisdiction sends a decree for execution to itself as a Court having jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, or

(*b*) When a Court, in the exercise of its jurisdiction in suits of a Civil nature which are not cognizable by a Court of Small Causes, sends a decree for execution to itself as a Court invested with the jurisdiction of a Court of Small Causes,

the documents mentioned in section 224 of the Code of Civil Procedure shall not be sent with the decree unless, in any case, the Court, by order in writing, requires them to be sent.

Continuance of proceedings of abolished Courts.

35. (1) When a Court of Small Causes or Court invested with the jurisdiction of a Court of Small Causes has from any cause, ceased to have jurisdiction with respect to any case, any proceeding in relation to the case whether before or after decree, which, if the Court had not ceased to have jurisdiction, might have been had therein, may be had in the Court which, if the suit out of which the proceeding has arisen were about to be instituted, would have jurisdiction to try the suit.

(2) Nothing in this section applies to cases for which special provision is made in the Code of Civil Procedure as extended to Courts of Small Causes, or in any other enactment for the time being in force.

Amendment of Indian Limitation Act.

36. [*Repealed by Act 9 of* 1908.]

Publication of certain orders

37. All orders required by this Act to be made in writing by the Local Government shall be published in the official Gazette.

THE FIRST SCHEDULE.

ENCHANTMENTS REPEALED.

THE SECOND SCHEDULE.

SUITS EXECEPTED FROM THE COGNIZANCE OF A COURT OF SMALL CAUSES.

[*Repealed by Act XII. of* 1891.]

(*See section* 15.)

(1) A suit concerning an act or order purporting to be done or made by the Governor-General in Council or a Local Government, or by the Governor-General or a Governor, or by a member of the Council of the Governor-General, or of the Governor of Madras, Bombay, "or Fort William in Bengal"* in his official capacity, or concerning an act purporting to be done by any person by order of the Governor-General in Council or a Local Government;

(2) a suit concerning an act purporting to be done by any person in pursuance of a judgment or order of a Court, or of a judicial officer acting in the execution of his office;

(3) a suit concerning an act or order purporting to be done or made by any other officer of the Government in his official capacity or by a Court of Wards, or by an officer of a Court of Wards in the execution of his office;

(4) a suit for the possession of immoveable property, or for the recovery of an interest in such property;

(5) a suit for the partition of immoveable property;

(6 a suit by a mortgagee of immoveable property for the foreclosure of the mortgage, or for the sale of the property, or by a mortgagor of immoveable property for the redemption of the mortgage;

* The words within quotations have been added by, Act X of 1910.

(7) a suit for the assessment, enhancement, abatement, or apportionment of the rent of immoveabe property;

(8) a suit for the recovery of rent, other than house-rent, unless the Judge of the Court of Small Causes has been expressly invested by the Local Government with authority to exercise jurisdiction with respect thereto;

(9) a suit concerning the liability of land to be assessed to land-revenue;

(10) a suit to restrain waste;

(11) a suit for the determination of enforcement of any other right to, or interest in, immoveable property;

(12) a suit for the possession of an hereditary office, or of an interest in such an office, including a suit to establish an exclusive or periodically-recurring right to discharge the functions of an office;

(13) a suit to enforce payment of the allowance or fees respectively called *malikana* and *hakk*, or of cesses or other dues when the cesses or dues are payable to a person by reason of his interest in immoveable property, or in an hereditary office, or in a shrine or other religious institution;

(14) a suit to recover, from a person to whom compensation has been paid under the Land Acquisition Act, 1894,* the whole or any part of the compensation;

(15) a suit for the specific performance or rescission of a contract;

(16) a suit for the rectification or cancellation of an instrument;

(17) a suit to obtain an injuction;

(18) a suit relating to a trust, including a suit to make good, out of the general estate of a deceased trustee, the loss occasioned by a breach of trust, and a suit by a co-trustee to enforce, against the estate of a deceased trustee, a claim for contribution;

(19) a suit for a declaratory decree, not being a suit instituted under section 283 or section 332 of the Code of Civil Procedure;

(20) a suit instituted under section 283 or section 332 of the Code of Civil Procedure;

(21) a suit to set aside an attachment by a Court or a revenue-authority, or a sale, mortgage, lease, or other transfer by a Court or a revenue-authority, or by a guardian;

(22) a suit for property which the plaintiff has conveyed while insane;

(23) a suit to alter or set aside a decision, decree, or order of a Court, or of a person acting in a judicial capacity;

(24) a suit to contest an award;

(25) a suit upon a foreign judgment as defined in the Code of Civil Procedure, or upon a judgment obtained in British India;

(26) a suit to compel a refund of assets improperly distributed under section 295 of the Code of Civil Procedure;

(27) a suit under the Indian Succession Act. 1865, section 320 or section 321, or under the Probate and Administration Act, 1881, section 139 or section 140, to compel a refund by a person to whom an executor or administrator has paid a legacy, or distributed assets;

(28) a suit for a legacy, or for the whole or a share of a residue bequeathed by a testator, or for the whole or a share of the property of an intestate;

(29) a suit—

(*a*) for a dissolution of partnership, or for the winding-up of the business of a partnership after its dissolution;

(*b*) for an account of partnership-transactions; or

(*c*) for a balance of partnership-account, unless the balance has been struck by the parties or their agents;

(30) a suit for an account of property, and for its due administration under decree;

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* The reference to Act X. of 1870 has been altered in recordance with Act I of 1894, s. 2 (3).

(31) any other suit for an account, including a suit by a mortgagor, after the mortgage has been satisfied, to recover surplus collections received by the mortgagee, and a suit for the profits of immoveable property belonging to the plaintiff which have been wrongfully received by the defendant;

(32) a suit for a general average loss or for salvage;

(33) a suit for compensation in respect of collision between ships;

(34) a suit on a policy of insurance, or for the recovery of any premium paid under any such policy;

(35) a suit for compensation—

(*a*) for loss occasioned by the death of a person caused by actionable wrong;

(*b*) for wrongful arrest, restraint, or confinement;

(*c*) for malicious prosecution;

(*d*) for libel;

(*e*) for slander;

(*f*) for adultery or seduction;

(*g*) for breach of contract of betrothal or promise of marriage;

(*h*) for inducing a person to break a contract made with the plaintiff;

(*i*) for obstruction of an easement or diversion of a water-course;

"(*ii*) for an act which is or, save for the provisions of Chapter IV of the Indian Penal Code, would be an offence punishable under Chapter XVII. of the said Code.

(*j*) for illegal, improper or excessive distress, attachment or search, or for trespass committed in or damage caused by the illegal or improper execution of any distress, search or legal process"*

(*k*) for improper arrest under Chapter XXXIV. of the Code of Civil Procedure, or in respect of the issue of an injunction wrongfully obtained under Chapter XXXV. of that Code; or

(*l*) for injury to the person in any cause not specified in the foregoing sub-clauses of this clause;

(36) a suit by a Mahomedan for exigible (*muajjal*) or deferred (*mūwajjal*) dower;

(37) a suit for the restitution of conjugal rights† for the custody of a minor or for a divorce;

(38) a suit relating to maintenance;

(39) a suit for arrears of land-revenue, village-expenses, or other sums payable to the representative of a village community, or to his heir or other successor in title;

(40) a suit for profits payable by the representative of a village-community, or by his heir or other successor in title, after payment of land-revenue, village-expenses, and other sums;

(41) a suit for contribution by a sharer in joint property in respect of a payment made by him of money due from a co-sharer or by a manager of joint property, or a member of an undivided family, in respect of a payment made by him on account of the property or family;

(42) a suit by one of several joint mortgagors of immoveable property for contribution in respect of money paid by him for the redemption of the mortgaged property;

(43) a suit against the Government to recover money paid under protest in satisfaction of a claim made by a revenue-authority on account of an arrear of land-revenue, or of a demand recoverable as an arrear of land-revenue;

(43A) a suit to recover property obtained by an act which is or save for the provisions of Chapter IV of the Indian Penal Code, would be an offence punishable under Chapter XVII. of the said Code."*

(44) a suit the cognizance whereof by a Court of Small Causes is barred by any enactment for the time being in force.

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* The words within quotations have been added by Act 6 of 1914.

† Certain words repealed by Act X of 1914 have been omitted.

ACT XI. OF 1887.

The Sindh-Pishin Railway Act, 1887.

RECEIVED THE G.-G.'S ASSENT ON THE 25TH FEBRUARY 1887.

An Act to provide for the Regulation of Traffic on the Sindh-Pishin Section of the North-Western Railway.

WHEREAS it is expedient that the Indian Railway Act, 1879, "should apply in its entirety to that part of the Sindh Pishin section of the North-Western Railway which lies beyond the Province of Sindh;"* It is hereby enacted as follows :—

Title, extent, and commencement.

1. (1) This Act may be called the Sindh-Pishin Railway Act, 1887;

(2) It shall extend to all persons for whom the Governor-General in Council has power to make laws and regulations at meetings for that purpose; and

(3) It shall come into force at once.

Definition.

2. In the following sections of this Act, "railway" means that part of the Sindh-Pishin section of the North-Western Railway which, whether completed at the commencement of this Act or not, lies beyond the Province of Sindh.

Application of Railway Act.

3. (1) Unless and until extended under this section, no portion of the Indian Railway Act, 1879, shall apply to any part of the railway.

(2) The Governor-General in Council may, by notification in the *Gazette of India*, extend, to the railway or any part thereof, such portions of that Act as he thinks fit.

(3) In extending any portion of that Act to the railway or any part thereof, the Governor-General in Council may extend it subject to such modifications as he thinks fit.

Carriage of passangers and property permissive only.

4. (1) No person shall be eniitled, as of right, to be carried on the railway, or to have property carried thereon.

(2) But the carriage of passengers and property on the railway shall be permitted subject to such conditions and ressrictions as the Governor-General in Council may prescribe.

Exemption of the Government from liability for injury or loss.

5. Where any person or property is permitted to be carried on the railway, the Government shall not be responsible for any injury which may happen to the person, or for any loss or damage which may occur in raspect of the property,

* In the preamble the words quoted have been substituted for the original by Act IX. of 1890, s. 150.

unless the injury happens, or the loss or damage occurs, on a part of the railway with respect to which the Governor-General in Council has, by notification in the *Gazette of India*, announced that the Government accepts responsibility, to such extent as may be described in the notification, for injury happening, or loss or damage occurring thereon.

ACT XII. OF 1887.

Bengal N.-W. P. and Assam Civil Courts.

RECEIVED THE G.-G.'S ASSENT ON THE 11TH MARCH 1887.

An Act to consolidate and amend the Law relating to Civil Courts in Bengal, the North-Western Provinces and Assam,

Whereas it is expedient to consolidate and amend the law relating to Civil Courts in Bengal, the North-Western Provinces and Assam; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Title extent, and commencement.

(1) This Act may be called the Bengal, "Agra" * and Assam Civil Courts Act, 1887;

(2) It extends to the territories for the time being respectively administered by the Lieutenant-Governor of Bengal, the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Assam, except such portions of those territories as for the time being are not subject to the ordinary civil jurisdiction of the High Court,† and

(3) It shall come into force on the first day of July 1887.

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

(2)‡ All Courts constituted, appointments, nominations, rules and orders made, jurisdiction aud powers conferred and lists published under the Bengal Civil Courts Act, 1871, or any enactment thereby repealed, or purporting expressly or impliedly to have been so constituted, made, conferred and published under this Act; and

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* The words within quotations has been substituted by Act 16 of 1911.

† Here the words "and except the Jhansi Division" have been repealed by the North-Western Provinces and Oudh Act (XX. of 1890), s. 9.

‡ Here the word 'But," repealed by Act XII. of 1891, has been omitted.

(3) Any enactment or document referring to the Bengal Civil Courts Act, 1871, or to any enactment thereby repealed, shall be construed to refer to this Act, or to the corresponding portion thereof.

CHAPTER II.

CONSTITUTION OF CIVIL COURTS.

Classes of Courts.

3. There shall be the following classes of Civil Courts under this Act, namely :—

(1) the Court of the District Judge ;
(2) the Court of the Additional Judge ;
(3) the Court of the Subordinate Judge ; and
(4) the Court of the Munsif,

Number of District Judges and Subordinate Judges and Munsifs.

4. "The Local Government may, "alter the number of District Judges, Subordinate Judges Munsifs now fixed "*

5. [Number of Munsifs.] *Repealed by Act IV of 1914.*

Vacancies among District or Subordinate Judges.

6. (1) Whenever the office of District Judge or Subordinate Judge is vacant by reason of the death, resignation or removal of the Judge or other cause, or whenever "an increase in the the number of District or Subordinate Judges has been made under the provisions of section 4."† the Local Goverment may fill up the vacancy, or appoint the additional District Judges or Subordinate Judges, as the case may be.

(2) Nothing in this section shall be construed to prevent a Local Government from appointing a District Judge or Subordinate Judge to discharge for such period as it thinks fit, in addition to the functions devolving on him as such District Judge, or Subordinate Judge, all or any of the functions of another District Judge or Subordinate Judge, as the case may be.

Vacancies among Munsifs.

7. (1) Whenever the office of Munsif is vacant, or whenever the Local Government increases the number of Munsifs, the High Court shall nominate such person as it thinks fit to be a Munsif, and the Local Government shall appoint him accordingly.

(2) The Local Government may, after consultation with the High Court, and "subject to the control"* of the Governor-General in Council, make rules as to the qualifications of persons to be appointed to the office of Munsif.

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* Words within quotations have been substituted by Act 38 of 1920.

† Words within quotations have been substituted by Act 4 of 1914.

(3) When rules have been made under sub-section (2), a person shall not be nominated under sub-section (1) unless he possesses the qualifications required by the rules.

Additional Judge.

8. (1) When the business pending before any District Judge requires the aid of Additional Judges for its speedy disposal, the Local Government may upon the recommendation of the High Court* appoint such Additional Judges as may be requisite.

(2) Additional Judge so appointed shall discharge any of the functions of a District Judge which the District Judge may assign to them, and, in the discharge of those functions, they shall exercise the same powers as the District Judge.

Administrative control of Courts.

9. Subject to the superintendence of the High Court, the District Judge shall have administrative control over all the Civil Courts, under this act within the local limits of his jurisdiction.

Temporary charge of District Court.

10. (1) In the event of the death, resignation or removal of the District Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the place at which his Court is held, the Additional Judge, or, if an Additional Judge is not present at that place, the senior Subordinate Judge present thereat, shall, without relinquishing his ordinary duties, assume charge of the office of the District Judge, and shall continue in charge thereof until the office is resumed by the District Judge, or assumed by an officer appointed thereto.

(2) While in charge of the District Judge, the Additional Judge or Subordinate Judge, as the case may be, may, subject to any rules which the High Court may make in this behalf, excercise any of the powers of the District Judge.

Transfer of proceedings on vacation of office of Subordinate Judge.

11. (1) In the event of the death, resignation or removal of a Subordinate Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the place at which his Court is held, the District Judge may transfer all or any of the proceedings pending in the Court of the Subordinate Jugde either to his own Court or to any Court under his administrative control competent to dispose of them.

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* Certain words after this repealed by Act 16 of 1911 have been omitted.

† Words within quotations have been sbustituted by Act 4 of 1914.

(2) Proceedings transferred under sub-section (1) shall be disposed of as if they had been instituted in the Court to which they are so transferred :

(3) Provided that the District Judge may re-transfer to the Court of the Subordinate Judge or his successor any proceedings transferred under sub-section (1) to his own or any other Court.

(4) For the purposes of proceedings which are not pending in the Court of the Subordinate Judge on the occurrence of an event referred to in sub-section (1), and with respect to which that Court has exclusive jurisdiction, the District Judge may exercise all or any of the jurisdiction of that Court.

Temporary charge of office of Munsif.

12. (1) A District Judge, on the occurrence within the local limits of his jurisdiction of any vacancy in the office of Munsif, may appoint such person as he thinks fit to act in the office until that person is relieved by a Munsif appointed under section 7, or his appointment is cancelled by the District Judge.

(2) The District Judge shall forthwith report to the High Court the occurrence of every such vacancy and the making and cancelling of every such appointment.

Power to fix local limits of jurisdiction of Court.

13. (1) The Local Government may, by notification in the official Gazette, fix and alter the local limits of the jurisdiction of any Civil Court under this Act.

(2) If the same local jurisdiction is assigned to two or more Subordinate Judges, or to two or more Munsifs, the District Judge may assign to each of them such civil business cognizable by the Subordinate Judge or Munsif, as the case may be, as, subject to any general or special orders of the High Court, he thinks fit.

(3) When civil business arising in any local area is assigned by the District Judge under sub-section (2) to one of two or more Subordinate Judges, or to one of two or more Munsifs, a decree or order passed by the Subordinate Judge or Munsif shall not be invalid by reason only of the case in which it was made having arisen wholly or in part in a place beyond the local area if that place is within the local limits fixed by the Local Government under sub-seetion (1).

(4) A Judge of a Court of Small Causes appointed to be also a Subordinate Judge or Munsif is a Subordinate Judge or Munsif, as the case may be, within the meaning of this section.

(5) The present local limits of the jurisdiction of every Civil Court under this Act shall be deemed to have been fixed under this section.

Place of sitting of Courts.

14. (1) The Local Government may, by notification in the official Gazettee, fix and alter the place or places at which any Civil Court under this Act is to be held.

(2) All places at which any such Courts are now held shall be deemed to have been fixed under this section.

Vacations of Courts.

15. (1) Subject to such orders as may be made by the Governor-General in Council, "in the case of the High Court at Calcutta and by the Local Government in other cases,"* the High Court shall prepare a list of days to be observed in each year as close holidays in the Civil Courts.

(2) The list shall be published in the local official Gazette.

(3) A judicial act done by a Civil Court on a day specified in the list shall not be invalid by reason only of its having been done on that day.

Seals of Courts.

16. Every Civil Court under this Act shall use a seal of such form and dimensions as are prescribed by the Local Government.

Continuance of proceedings of Courts ceasing to have jurisdiction.

17. (1) Where any Civil Court under this Act has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to that case which, if that Court had not ceased to have jurisdiction, might have been had therein may be had in the Court to which the business of the former Court has been transferred.

(2) Nothing in this section applies to cases for which provision is made in section 623 or section 649 of the Code of Civil Procedure, or in any other enactment for the time being in force.

CHAPTER III.

ORDINARY JURISDICTION.

Extent of original jurisdiction of District or Subordinate Judge.

18. Save as otherwise provided by any enactment for the time being in force, the jurisdiction of a District Judge or Subordinate Judge extends, subject to the provisions of section 15 of the Code of Civil Procedure, to all original suits for the time being cognizable by Civil Courts.

Extent of jurisdiction of Munsif.

19. (1) Save as aforesaid, and subject to the provisions of sub-section (2), the jurisdiction of a Munsif extends to all like suits of which the value does not exceed one thousand rupees.

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

(2) The Local Government may, on the recommendation of the High Court, direct by notification in the official Gazette, with respect to any Munsif named therein, that his jurisdiction shall extend to all like suits of such value not exceeding two thousand rupees as may be specified in the notification.

"Provided that the Local Government may, by notification in the local official Gazette delegate to the High Court its powers under this section."*

Appeals from District and Additional Judges.

20. (1) Save as otherwise provided by any enactment for the time being in force, an appeal from a decree or order of a District Judge or Additional Judge shall lie to the High Court.

(2) An appeal shall not lie to the High Court from a decree or order of an Additional Judge in any case in which, if the decree or order had been made by the District Judge, an appeal would not lie to that Court,

Appeals from subordinate Judges and Munsifs.

21. (1) Save as aforesaid, an appeal from a decree or order of a Subordinate Judge shall lie—

(*a*) to the District Judge where the value of the original suit in which or any proceeding arising out of which the decree or order was made did not exceed five thousand rupees, and

(*b*) to the High Court in any other case,

(2) Save as aforesaid, an appeal from a decree or order of a Munsif shall lie to the District Judge.

(3) Where the function of receiving any appeals which lie to the District Judge under sub-section (1) or sub section (2) has been assigned to an additional Judge, the appeals may be preferred to the additional Judge.

(4) The High Court may, with the previous sanction of the Local Government, direct, by notification in the official Gazette, that appeals lying to the District Judge under sub-section (2) from all or any of the decrees or orders of any Munsif shall be preferred to the Court of such Subordinate Judge as may be mentioned in the notification, and the appeal shall thereupon be preferred accordingly.

CHAPTER IV,

SPECIAL JURISDICTION.

Power to transfer to Subordinate Judges appeals from Munsifs.

22. (1) A District Judge may transfer to any Subordinate Judge under his administrative control any appeals pending before him from the decrees or orders of Munsifs.

* Added by Act 4 of 1914.

(2) The District Judge may withdraw any appeal so transferred, and either hear and depose of it himself, or transfer it to a Court under his adminstrative control competent to dispose of it.

(3) Appeals transferred under this section shall be disposed of subject to the rules applicable to like appeals when disposed of by the District Judge.

Exercise by Subordinate Judge or Munsif [of jurisdiction of District Court in certain proceedings.

23. (1) The High Court may, by general or special order, authorize any Subordinate Judge or Munsif to take cognigance of or any district Judge to transfer to a Subordinate Judge or Munsif under his administrative control any of the proceedings next hereinafter mentioned or any class of those proceedings specified in the order

(2) The Proceedings referred to in sub-section (1) are the following namely:—

(*a*) proceedings under Bengal Regulation V., 1799 (*to limit the Interference of the Zillah ana City Courts of Dewani Adalat in the Execution of Wills and Administration to the Estates of persons dying intestate*) :

(*b*) [*Repealed by Guardians and Wards Act* (*VIII. of 1890*).]

(*c*) [*Repealed by the Succession Certificate Act* (*VII. of* 1889).]

(*d*) proceedings under the Indian Succession Act, 1865, and the Probate and Administration Act, 1881, which cannot be disposed of by District Delegates ; and

(*e*) references by Collectors under section 322C of the Code Civil Procedure.

(3) The District Judge may withdraw any such preceedings taken cognizance of by, or transferred to, Subordinate Judge or Munsif, and may either himself dispose of them or transfer them to a Court under his admintstrative control competent to dispose of them.

Disposal of proceedings referred to in last fore[going section.

24. (1) Proceedings taken cognizance of by, or transferred to, a Subordinate Judge or Munsif, as the case may be, under the last foregoing section, shall be disposed of by him subject to the rules applicable to like proceedings when disposed of by the District Judge :

Provided that an appeal from an order of a Munsif in any such proceeding shall lie to the District Judge.

(2) An appeal from the order of the District Judge on the appeal from the order of the Munsif under this section shall lie to the High Court if a further appeal from the order of the District Judge is allowed by the law for the time being in force.

Power to invest Subordinate Judges and Munsifs with Small Cause Court Jurisdiction.

25: The Local Government may, by notifiication in the official Gazette, confer, within such local limits as it thinks fit, upon any Subordinate Judge or Munsif the jurisdiction of a Judge of a Court of a Small Causes under the Provincial Small Causes Courts Act,, 1887, for the trial of suits cognizable in the case of a Subordinate Judge or "two"* hundred rupees by such Courts, up to such value not exceeding five hundred in the case of a Munsif, as it thinks fit, and may withdraw any jurisdiction so conferred.

"Provided that the Local Government may, by notification in the Local official Gazette delegate to the High Court its powers under its section."†

CHAPTER V.

MISFEASANCE.

Suspension or removal of Judge by Local Government

26. Any District Judge, Additional Judge, Subordinate Judge or Munsif may, for any misconduct, be suspended or removed by the Local Government.

Suspension of Subordinate Judge by High Court.

27. (1) The High Court may, whenever it sees urgent necessity for so doing, suspend a Subordinate Judge.

(2) Whenever the High Court suspends a subordinate Judge under sub-section (1), it shall fortwith report to the Local Government the circumstances of the suspension, and the Local Government shall make such order with respeect thereto as it thinks fit.

Suspension or removal of Munsif by High Court.

28. (1) The High Court may appoint a commission for enquiring into alleged misconduct of a Munsif.

(2) On receiving the report of the result of the inquiry, the High Court may, if it thinks fit, remove or suspend the Munsif.

(3) The provisions of Act No. XXXVII. of 1850 (*for regulating Inquiries into the Behaviour of Public Servants*) shall apply to inquiries under this section the powers conferred by that Act on the Government being exercised by the High Court.

(4) The High Court may, before appointing the commission, suspend the Munsif pending the result of the inquiry.

(5) The High Court may, without appointing a commission, remove or suspend a Munsif.

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* The words within quotation have been substituted by Act 16 of 1911.

† Added by Act 4 of 1914.

Suspension of Munsif by District Judge.

29. (1) A District Judge may, whenever he sees urgent necessity for so doing, suspend a Munsif under his administrative control.

(2) Whenever a District Judge suspends a Munsif under sub-section (1), he shall forthwith report to the High Court the circumstances of the suspension, and the High Court shall make such order with respect thereto as it thinks fit.

CHAPTER VI.

MINISTERIAL OFFICERS.

Appointment and removal of ministerial officers of District Courts.

30. District Judges shall appoint the ministerial officers of their Courts, and, subject only to the control of the local Government, may remove or suspend those officers or fine them in an amount not exceeding one month's salary.

Appointment and removal of ministerial officers of other Courts.

31. (1) The ministerial officers of the Civil Court subject to the administrative control of the District Judge shall be appointed—

(*a*) in the case of an appointment not likely to last, and not lasting longer than two months, by those Courts, and

(*b*) in any other case, by the District Judge.

(2) An Additional Judge, Subordinate Judge or Munsif may, by order, remove or suspend, or fine in an amount not exceeding one month's salary, any ministerial officer of his Court who is guilty of misconduct or neglect in the performance of the duties of his office.

Appointment and removal of ministerial officers on joint establishments.

32. The provisions of the two last foregoing sections shall be subject to the following modifications in their application to ministerial officers employed by more Civil Courts than one, namely :—

(*a*) appointments not likely to last, and not lasting, longer than two months shall be made by the Court of the highest class among those Courts, or, where there is no difference in class among those Courts, by the senior among the presiding Judges thereof; and

(*b*) such ministerial officers may not be removed or suspended by any Court except the Court which under clause (*a*) of this section is for the time being charged with the duty of making appointments to fill temporary vacancies.

General powers of District Judge.

33. The District Judge, subject only to the control of the Local Government, may, by order, suspend or remove any ministerial officer to whom section 31 or section 32 applies, and may, on appeal or otherwise, reverse or modify any order made under either of those sections by any Court under his administrative control.

Transfer of ministerial officers.

34. (1) The Local Government may, at the instance of the High Court or of a District Judge, transfer a ministerial officer from any Civil Court under this Act to any other such Court.

"Provided that the Local Government may, by notification in the local official Gazette delegate to the High Court its powers under this section."*

(2) The District Judge may transfer a ministerial officer from any such Court within the local limits of his jurisdiction to any other such Court within those limits.

Recovery of fines

35. Any fine imposed under this Chapter may be recovered by deduction from the salary of the person fined.

CHAPTER VII.

SUPPLEMENTAL PROVISIONS.

Power to confer powers of Civil Courts on officers.

36. (1) The Local Government may invest with the powers of any Civil Court under this Act, by name or in virtue of office,—

(*a*) any officer in the Chutia Nagpore, Julpaigori, or Darjiling District, or in any part of the territories administered by the Chief Commissioner of Assam, except the district of Silhat, or,

(*b*) after consultation with the High Court, any officer serving in any other part of the territories to which this Act extends, and belonging to a class defined in this behalf by the Local Government.†

(2) Nothing in sections 4 to 8 (both inclusive), or sections 10 to 12 (both inclusive) or sections 27 to 35 (both inclusive) applies to any officer so invested, but all the other provisions of this Act shall, so far as those provisions can be made applicable, apply to him as if he were a Judge of the Court with the powers of which he is invested.

(3) Where, in the territories mentioned in clause (*a*) of sub-section (1) the same local jurisdiction is assigned to two or more officers invested with the powers of a Munsif, the officer invested with the powers of a District Judge may, with the previous sanction of the Local Government, delegate his functions under sub-section

* Added by Act IV of 1914.

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

(2) of section 13 to an officer invested with the powers of a Subordinate Judge or to one of the officers invested with the powers of a Munsif.

(4) Where the place at which the Court of an officer invested with powers under sub-section (1) is to be held has not been fixed under section 14, the Court may be held at any place within the local limits of its jurisdiction.

Certain decisions to be according to native law.

37. (1) Where in any suit or other proceeding it is necessary for a Civil Court to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution, the Muhammadan law in cases where the parties are Muhammadans, and the Hindu law in cases where the parties are Hindus, shall form the rule of decision, except in so far as such law has, by legislative enactment, been altered or abolished.

(2) In cases not provided for by sub-section (1), or by any other law for the time being in force, the Court shall act according to justice, equity and good conscience.

Judges not to try suits in which they are interested.

38. (1) The presiding officer of a Civil Court shall not try any suit or other proceeding to which he is a party or in which he is personally interested,

(2) The presiding officer of an appellate Civil Court under this Act shall not try an appeal against a decree or order passed by himself in another capacity.

(3) When any such suit, proceeding, or appeal as is referred to in sub-section (1) or sub-section (2), comes before any such officer, the officer shall forthwith transmit the record of the case to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference.

(4) The superior Court shall thereupon dispose of the case under section 25 of the Code of Civil Procedure.

(5) Nothing in this section shall be deemed to affect the extraordinary original civil jurisdiction of the High Court.

Subordination of Courts to District Court.

39. For the purposes of the last foregoing section the presiding officer of a Court subject to the administrative control of the District Judge shall be deemed to be immediately subordinate to the Court of the District Judge, and, for the purposes of the Code of Civil Procedure, the Court of such an officer shall be deemed to be of a grade inferior to that of the Court of the District Judge.

Application of Act to Provincial Courts of Small Causes.

40. (1) This section and sections 15, 32, 37, 38 and 39 apply to Courts of Small Causes constituted under the Provincial Small Cause Courts Act, 1887.

(2) Save as provided by that Act, the other sections of this Act do not apply to those Courts.

ACT XV. OF 1887.

The Burma Military Police Act, 1887.

RECEIVED THE G.-G'S. ASSENT ON THE 29TH JULY 1887.

An Act for the Regulation of Military Police in Burma.

Whereas it is expedient to establish a military police-force in Lower Burma, and to amalgamate that force with the military police-force of Upper Burma ; It ts hereby enacted as follows:—

Title, extent, and commencement.

1. (1) This Act may be called the Burma Military Police Act, 1887.

(2) It extends to the whole of Burma* and " applies to every member of the Burma military policc-force, wherever he may be; and "†

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

Repeal.

2. The Upper Burma Military Police Regulations, 1887, is hereby repealed.

Definitions.

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

(1) " military police-officer " means a person appointed to the Burma police-force under section 7 of Act V. of 1861, who has signed the statement in the schedule to the Upper Burma Military Police Regulation, 1887, or to this Act, in accordance with the provisions of that Regulation or of this Act, as the case may be :

(2) "active service " means service at outposts or against hostile tribes or other persons in the field :

(3) " Deputy Commissioner " includes an Assistant Commissioner in charge of a sub-division :

(4) "Commandant" means a person appointed by the Local Government to be a Commandant of Military Police, and includes a District Superintendent of Police, and an Assistant District Superintendent of Police in charge of the Police of a District or of a sub-division :

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* In s. 1, sub s. (2) certain words repealed by Act XIII. of 1898, Sch. V., have here been omitted.

† The words quoted have been inserted by Act XIII. of 1898.

‡ The Act came into force on Oct. 15, 1887.—See *Burma Gazette*, Oct. 15, 1887, Pt. I., p. 398.

*(5) 'Adjutant' means a person appointed by the Local Government to be an Adjutant of Military Police, and in Lower Burma includes a District Superintendent the Police and an Assitaut District Superintendent of Police in charge of the police of a district or of a sub-division :

*(6) 'Assistant Commandant' means a person appointed by the Local Government to be an Assistant Commandant or an Assistant Adjutant of Military Police, and includes an Assistant District Superintendent of Police not in charge of the police of a district or of a sub-division :

*(7) 'Inspector means an Inspector of Civil Police who has been appointed by the Inspector-General of Police to be also an Inspector of Military Police :

*(8) The expressions, 'reason to believe,' 'criminal force,' 'assault,' 'fraudulently,' and 'voluntarily causing hurt,' have the meanings assigned to them respectively in the Indian Penal Code :

"(9) 'Assistant District Superintendent of Police' includes a Deputy Superintendent of Police"¶

Enrolment and discharge of military police-officers.

4. (1) Before an officer appointed to the Burma police-force under section 7 of Act V. of 1861 is appointed to be a military police officer, the statement in the schedule shall be read to him in the presence of a Magistrate, Commandmant, "Adjutant or Assistant Commandmant,"† and shall be signed by him in acknowledgement of its having been so read to him, "and he shall be asked the questions in the said schedule set out, and, in answering such questions, he shall be bound to state the truth"‡

(2) Notwithstanding any notice given under section 9 of Act V. of 1861 a military police officer shall not be entitled to be discharged from the Burma police-force except in accordance with the terms of the statement which he has signed under the Upper Burma Military Police Regulation, 1887, or under this Act, as the case may be.

Classes and grades of military police-officers.

5.§ (1) There shall be six classes of military police-officers, namely,—

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* In s. 3. sub sections (5) to (8) have been inserted in place of the original sub-sections (5) and (6) by Burma Act III. os 1899, s. 2.

† The words have been substituted for the original words by s. 3 (1) of Burma Act III. of 1899.

‡ This portion has been added by s. 3 (2), *ibid*.

§ S. 5 has been re-enacted by Burma Act III. of 1899, s. 4.

¶ The words within quotations have been inserted by Burma Act III. of 1911.

(i) subahdars,
(ii) jamadars,
(iii) havildars,
(iv) naiks,
(v) lance-naiks,
(vi) sepoys,

and such grades in each class as the LocalGovernment may direct,

"(2) The expression 'superior officer' in this Act includes,—

(*a*) in relation to sepoy, any lance-naik, naik, havildar, jamadar, or subahdar ;

(*b*) in relation to a lance-naik, any lance-naik of longer service in that class, and any naik, havildar, jamadar, or subahdar ;

(*c*) in relation to a naik, any naik of longer service in that class, and any havildar, or subahdar :

(*d*) in relation to a havildar, any havildar of a higher grade, or of longer service as havildar of the same grade, and any jamadar or subahdar ;

(*e*) in relation to a jamadar, any jamadar of a higher grade, or of longer service as jamadar of the same grade, and any subahdar ;

(*f*) in relation to a subahdar, any subahdar of a higher grade, or of longer service as subahdar of the same grade ; and,

(*g*) in relation to any military police-officer, any Inspector, Assistant Commandant, Adjutant, Commandant, or Aeputy Commissioner.

More heinous offiences.

6. A military police-officer who—

(*a*) begins, excites, causes, or joins in any mutiny or sedition, or being present at any mutiny or sedition, does not use his utmost endeavours to suppress it, or knowing or having reason to believe in the existence of any mutiny,or of any intention to mutiny, does not, without delay, give information thereof to his commanding or ether superior officer ; or

(*b*) uses, or attempts to use, criminal force to, or commits an assault on, his superior officer, whether on or off duty ; or

(*c*) shamefully abandons or delivers up any garrison, fortress, post or guard which is committed to his charge, or which it is his duty to defend ; or

(*d*) directly or indirectly holds correspondence with, or assists or relieves, any person in arms against the State, or omits to discover immediately to his commanding or other superior officer any such correspondence coming to his knowledge ; or

who, while on active service,—

(*e*) disobeys the lawfull command of his superior officer ; or

(*f*) deserts the service ; or,

(*g*) being a sentry, sleeps upon his post, or quits it without being regularly relieved, or without leave : or,

(*h*) without authority, leaves his commanding officer, or his post or party, to go in search of plunder ; or

(*i*) quits his guard, picquet, party or patrol without being regularly relieved, or without leave ; or

(*j*) uses criminal force to, or commits an assault on, any person bringing provisions or other neccessaries to camp or quarters, or forces a safeguard, or without authority breaks into any house or any other place for plunder, or plunders, destroys, or damages any property of any kind ; or

(*k*) intentionally causes or spreads a false alarm in action, camp, garrison, or quarters,

shall be punished with transportation for life or for a term of not less than seven years, or with imprisonment for a term which may extend to fourteen years, or with fine which may extend to three months pay, or with fine to that extent in addition to such sentence of transportation or imprisonment, as the case may be, as may be passed upon him under this section.

Less heinous offences.

7. A military police-officer who—

(*a*) is in a state of intoxication when on or for any duty, or on parade, or on the line of march; or

(*b*) strikes or attempts to force any sentry ; or.

(*c*) being in command of a guard, picquet, or patrol, refuses to receive any prisoner duly committed to his charge, or, without proper authority, releases any prisoner, or negligently suffers any prisoner to escape ; or,

(*d*) being under arrest or in confinement, leaves his arrest or confinement before he is set at liberty by proper authority ; or

(*e*) is grossly insubordinate or insolent to his superior officer in the execution of his office; or

(*f*) refuses to superintend or assist in the making of any fieldwork or other military work of any description ordered to be made either in quarters or in the field; or

(*g*) strikes or otherwise ill-uses any military police-officer subordinate to him in rank or position ; or,

(*h*) being in command at any post or on the march, and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has committed any riot or trespass, fails, on proof of the truth of the complaint, to have due reparation made to the injured person, and to report the case to the proper authority ; or

(*i*) designedly or through neglect injures or loses, or fraudulently disposes of, his arms, clothes, tools, equipments, ammunition, accoutrements, or regimental necessaries, or any such articles entrusted to him, or belonging to any other person ; or

(*j*) malingers, or feigns or produces disease or infirmity in himself, or intentionally delays his cure, or aggravates his disease or infirmity ; or,

(*k*) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself, or any other person ; or

who, while not on active service,—

(*l*) disobeys the lawful command of his superior officer ; or

(*m*) plunders, destroys, or damages any property of any kind ; or

(*n*) being a sentry, sleeps upon his post, or quits it without being regularly relieved or without leave ; or

(*o*) deserts the service ;

shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to three months' pay, or with both.

Corporal punishment.

8 A military police officer, not being above the "class of sepoy,"* who, while on service at an outpost at the time of a projected attack on that post, or in the field against hostile tribes or other persons, commits any offence specified in either of the two last-foregoing sections, may, in lieu of any punishment to which he is liable thereunder, be punished with whipping :

* In s. 8, the words quoted have been substituted for the words "rank of constable" by Burma Act III. of 1899, s. 5.

Provided that—

(*a*) the punishment of whipping shall not in any case exceed thirty stripes; and

(*b*) sentence of whipping shall be passed only by a Deputy Commissioner, or, in his absence, by a Commandant invested with the powers of a Magistrate of the first or second class.

Minor punishments.

9. (1) A Deputy Commissioner, Commandant, "Adjutant or Assistant Commandant, or an Inspector, or a subahdar or jamadar"* commanding a separate detachment or an out-post, or in temporary command at the "head-quarters of a district or battalion during the absence of the Commandant, Adjutant, and Assistant Commandant,"* may, without a formal trial, award, to any military police-officer "of the class of sepoy"* who is subject to his authority, any of the following punishments for the commission of any petty offence against discipline which is not otherwise provided for in this Act, or which is not of a sufficiently serious nature to call for a prosecution before a Criminal Court, that is to say,—

(*a*) imprisonment to the extent of seven days in the quarter-guard or such other place as may be considered suitable, with forfeiture of all pay and allowances during its continuance;

†(*b*) extra guards, pickets, or patrols;

†(*c*) confinement to lines for any period not exceeding thirty days with punishment drill not exceeding fifteen days, and thereafter fatigue duty.

(2) Any one of these punishments may be awarded separately or in combination with any one or more of the others.

Place of imprisonment.

10. A person sentenced under this Act to imprisonment for a period not exceeding three months shall, when he is also dismissed from the Burma police force, be imprisoned in the nearest or such other jail as the Local Government may, by general or special order, direct; but, when he is not also dismissed from that force, he may, if the convicting officer or Deputy Commissioner so directs, be confined in the quarterguard or such other place as the convicting officer or Deputy Commissioner may consider suitable.

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* In s. 9, the words quoted have been substituted for the original, by Burma Act III. of 1899, s. 6.

† These new sub-clauses have been substituted for the original by Burma Act III. of 1899, s. 6.

Conferment of magisterial power on police-officers.

11. Notwithstanding anything in Act V. of 1861, or in any other enactment for the time being, in force, the Local Government may invest any "Commandant," Adjutant, or Assistant Commandant,'* with the powers of a Magistrate of any class for the purpose of enquiring into or trying any offence committed by a military police officer and punishable under Act V. of 1861 or this Act.

Additional powers to arrest and confine military police-officers.

11A. † (1) A Commandant, Adjutant, Assistant Commandant or Inspector, of a military police-officer commanding a separate detachment or an outpost, or in temporay command at the head-quarters of a district or battalion during the absence of the Commandant, Adjutant, or Assistant Commandant, may, without an order from a Magistrate, and without a warrant, cause to be arrested any military police-officer who has besn concerned in any offence under section 29 of the Police Act, 1861, or under this Act, or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been so concerned, and may cause any military police-officer so arrested to be confined in the quarter-guard or such other place as he may consider suitable.

"(2) For the purposes of the detention of, and investigation of the case against, a military police-officer arrested under sub-section (1), the officer ordering such arrest or for the time being in immediate charge of the Military Police at the place or station where an officer so arrested is detained in military police custody, shall, except in cases speedily disposed of under section 9 of this Act, be deemed to be an officer in charge of a police-station acting under the Code of Criminal Procedure, and shall be bound by the provisions of sections 61, 62, and 167 of that Code.

"(3) Notwithstanding anything contained in the Code of Criminal Procedure, no officer or Court shall be bound to release on bail any military police officer arrested and confined under the powers conferred by this section."

Disciplinary and other powers of Commandants and Seconds-in-command of Military Police otherwise than in respect of Military Police.

12. (1) Subject to such rules as the Local Government may make in this behalf, a Commandant "Adjutant or Assistant Commandant,"* of Military Police shall have, with respect to Police-officers appointed to the Burma police-force under section 7 of Act V. of 1861 who are not miltary police-officers, the same disciplinary powers as a District Superintendent of Police has with respect to them under that section.

* In ss. 11, 12, and 13, the words quoted have been substituted for the original by Burma Act III. of 1899, ss. 7 and 8.

† S. 11A. has been added by Burma Act II, of 1901.

(2) The Local Government may confer on a Commandant "Adjutant or Assistant Commandant,"* of MilitaryPolice, by name or by virtue of his office, any other power of a District Superintendent of police, under Act V. of 1861 or any other enactment for the time being in force, or under any rule under any such enactment, and may define the circumstances in which any power so conferred may be exercised by such Commandant "Adjutant or Assistant Commandant."*

Privileges of Commandants and Second in-command of Military Police as police-officers.

13. A Commandant or "Adjutant," or Assistant Commandant* of Military Police shall be entitled to all the privileges which a police-officer has under sections 42 and 43 of Act V of 1861, section 125 of the Indian Evidence Act 1872, and any other enactment for the time being in force.

Power to make rules,

14. The Local Government may, as regards the Military Police, make such orders and rules consistent with this Act as it thinks expedient relative to the several matters respecting which the Inspector General of Police, with the the approval of the Local Government, may, as regards the rest of the Burma police-force, frame orders and rules under section 12 of Act V. of 1861.

THE SCHEDULE.

STATEMENT.

(*See sections 3 and 4.*)

After you have served for three ysars in tho Burma Military Police, you may, at any time when not on active service apply, for your discharge, "through [the officer to whom you may be subordinate, to a Commandant or Adjutant of Military Police,"† and you will bo granted your discharge after two months from the date of your application, unless your discharge would cause the vacancies in the Burma Military Police to exceed one-tenth of the sanctioned strength ; in that case you must remain until this objection is waived by competent authority or removed. But when on active service, you have no claim to discharge, and you must remain and do your duty until the neccessity for retaining you in the Burma Military Police ceases, when you may make your application in the manner hereinbefore prescribed. In the event of your re-enlistment, after you have been discharged, you will have no claim to reckon for pension or any other purpose your service previous to your discharge. "You will be asked two questions, and your answers will be recorded. If yor answers are hereafter found to be false in any particular, you will, if enrolled in the Burma Military Police, be liable, upon conviction, to imprisonment for three years, and to fine under section 193 of the Indian Penal Code.

* In ss. 11, 12, and 13, the words quoted have been substituted for the original by Burma Act III. of 1899, ss. 7 and 8.

† In the schedule to Act XV. of 1887, the portions quoted have been inserted by Burma Act III. of 1899.

Question (*1*)—What is your name, your father's name, your caste, and native town, or village and district ?

Answer.—

Question (*2*)—Have you ever previously been in the service of Her Majesty the Queen Empress of India or of the Government of India.

If so, when, in what capacity or capacities, and when and under what circumstances did your service cease.

Answer—

(*Signature of the police-officer to be enrolled.*)

The answers of the said were recorded by me, and the whole was translated to him, and was signed by him, after I had ascertained that he fully understood the purpprt thereof."

(Signature of police-officer in acknowledgment of the above having been read to him.) } *A.B*

Signed in my presence after I had ascertained that *A.B.* understood the purport of what he signed. } *C.D.*, *Magistrate, Commandant, Adjutant or Assistant Commandant.*"

ACT XVI. OF 1887.

The Punjab Tenancy Act, 1887.

RECEIVED THE G.-G.'S ASSENT ON THE 23RD SEPTEMBER 1887.

An Act to amend the Law relating to the Tenancy of Land in the Punjab.

Whereas it is expedient to amend the law relating to the tenancy of land in the Punjab ; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent, and commencement.

1. (1) This Act may be called the Punjab Tenancy Act, 1887.

(2) It extends to the whole of the territories (including the paragana of Spiti) for the time being administered by the Lieutenant-Governor of the Punjab, except the Hazara district ;* and

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* Act XVI. of 1887, except so much of s. 3 as relates to the Punjab Tenancy Act, 1868, has also been extended to the Hazara District with certain modifications (which are noted in their proper places) by Reg. XIII. of 1887, s. 3.

(3) It shall come into force * on such day as the Local Government, with the previous sanction of the Governor-General in Council, may, by notification, appoint in this behalf.

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

Definitions.

4. In this Act, unless ther is something repugnant in the subject or centext,—

(1) "land" means land which is not occupied as the site of any building in a town or village, and is occupied or has been let for agricultural purposes, or for purposes subservient to agricultural or for pasture, and includes the sites of buildings and other structures on such land;

(2) "pay," with its grammatical variations and cognate expressions, includes, when used with reference to rent, "deliver" and "render," with their grammatical variations and cognate expressions:

(3) "rent" means whatever is payable to a landlord in money, kind, or service by a tenant on account of the use or occupation of land held by him:

(4) "arrear of rent" means rent which remains unpaid after the date on which it becomes payable:

(5) "tenant" means a person who holds land under another person, and is, or but for a special contract would be, liable to pay rent for that land to that other person; but it does not include—

(*a*) an inferior land-owner, or

(*b*) a mortgagee of the rights of a land-owner, or

(*c*) a person to whom a holding has been transferred, or an estate or holding has been let in farm, under the Punjab Land-revenue Act, 1887, for the recovery of an arrear of land-revenue, or of a sum recoverable as such an arrear, or

(*d*) a person who takes from the Government a lease of unoccupied land for the purpose of subletting it;

(6) "landlord" means a person under whom a tenant holds land, and to whom the tenant is, or but for a special contract would be, liable to pay rent forthat land;

(7) "tenant" and 'landlord', include the predecessors and suecessors in interest of a tenant and landlord respectively:

(8) "tenancy" means a parcel of land held by a tenant of a landlord under one lease or one set of conditions:

* The Act came into force on Nov. 1, 1887.—See Notification No. 726, *Punjab Gazette*, Nov. 3, 1887, Pt. I., p. 578.

(9) "estate," "land owner," and "holding," have the meanings respectivly assigned to those words in the Punjab Land-revenue Act, 1887 :

(10) "land-revenue" means land-revenue assessed under any law for the time being in force or assessable under the Punjab Land-revenue Act, 1887, and includes—

(*a*) any rate imposed in respect of the increased value of land due to irrigation, and

(*b*) any sum payable in respect of land, by way of quit-rent or of commutation for service, to the Government or to a person to whom the Government has assigned the right to receive the payment :

(11) "rates and cesses" means rates and cesses which are primarily payable by land-owners, and includes—

(*a*) [*Repealed by Act XII. of 1891, Such. I.*]

(*b*) the local rate, if any, payable under the Punjab District Boards Act. 1883, and any fee leviable, under section 33 of that Act, from land-owners for the use of, or benefits derived from, such works as are referred to in section 20, clauses(*i*) and (*j*), of that Act ;

(*c*) any annual rate chargeable on owners of lands under section 59 of the Northern India Canal and Drainage Act, 1873 ;

(*d*) the zaildari and village-officers' cesses ; and

(*e*) sums payable on account of village-expences ;

(12) "village-cess" includes any cess, contribution, or due which is customarily leviable within an estate, and is neither a payment for the use of private property or for personal service, nor imposed by or under any enactment for the time being in force :

(13) "village-officer" means a chief-headman, headman, or patwari :

(14) "Revenue-officer" or "Revenue Court," in any provision of this Act means a Revenue-officer or Revenue Court having authority under this Act to discharge the functions of a Revenue-officer or a Revenue Court, as the case may be, under that provision:

(15) "Jagirdar" includes any person, other than a village-servant to whom the land revenue of any land has been assigned, in whole or part, by the Government, or by any officer of the Government :

(16) "legal practitioner" means any legal practitioner [within the meaning of the Legal Practitioner Act, 1879, except a mukhtar :]*

* In the N. W. F. Provinces for those words read "having authority from the Judicial Commissioner to appear and pratice as such" See Reg. VII of 1901.

(17) "agricultural year" means the year commencing on the sixteenth day of June, or on such other date as the Local Government* may, by notification, appoint for any local area:

(18) "notification" means a notification published by authority of the Local Government* in the official Gazette†; and

(19) "improvement" means, with reference to a tenancy, any work which is suitable to the tenancy, and consistent with the conditions on which it is held, by which the value of the tenancy has been and continues to be increased, and which, if not executed on the tenancy, is either executed directly for its benefit, or is, after execution, made directly beneficial to it.

Explanation I.—It includes, among other things.

(*a*) the construction of wells and other works for the storage or supply of water for agricultural purposes;

(*b*) the construction of works for drainage, and for protection against floods;

(*c*) the planting of trees, the reclaiming, enclosing, levelling, and terracing of land for agricultural purposes and other works of a like nature;

(*d*) the erection of buildings required for the more convenient or profitable cultivation of a tenancy; and

(*e*) the renewal or re-construction of any of the foregoing works, or such alterations therein, or additions thereto, as are not of the nature of mere repairs, and as durably increase their value.

But it does not include such clearances, embankments, levellings, enclosures, temporary wells, and water-channels as are made by tenants in the ordinary course of cultivation, and without any special expenditure, or any other benefit accuring to land from the ordinary operations of husbandry.

Explanation II.—A work which benefits several tenancies may be deemed to be, with rerpect to each of them, an improvement.

Explanation III.—A work executed by a tenant is not an improvement if it substantially diminishes the value of any other part of his landlord's property.

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* In the N. W. Frontier Province read "Chief Comissioner" Vide s. 6 (1) (b) of the N. W. Frontier Province Law and Regulation Reg. VII of 1901.

† In the N. W. Frontier Province, the official Gazette is the N. W. Frontier Gazette Vide s. 6 (1) (g) of the N. W. Frontier Province Law and Justice Regulation Reg. VII. of 1901.

CHAPTER II.

RIGHT OF OCCUPANCY.

Tenants having right of occupancy.

5.* (1) A tenant—

(*a*) who, at the commeneement of this Act, has, for more than two generations in the male line of descent through a grandfather or grand-uncle, and for a period of not less than twenty years, been occupying land paying no rent therefor beyond the amount of the land-revenue thereof and the rates and cesses for the time being chargeable thereon, or

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* In the Hazara District, the following section has been substituted for s. 5:
5. (1) A tenant—
(*a*) who had, before the tenth day of April 1873, occupied land for more than two generations in the male line of descent through a grandfather or grand-uncle, and paid no rent in respect of the land beyond the amount of the land-revenue thereof and the rates and cesses for the time being chargeable thereon, and has, since that date, continuously occupied the land, and paid no rent in respect thereof beyond such amount as aforesaid, or
(*b*) who having owned land, and having ceased to be land-owner thereof, otherwise than by forfeiture to the Government, or than by any voluntary act, has, since he ceased to be land-owner, continuously occupied the land, or
(*c*) who, in a village or estate in which he settled along with, or was settled by, the founders thereof, occupied land on the tenth day of April 1873, and has continuously occupied the land since that date, or
(*d*) who is or has been jagirdar of the estate or any part of the estate in which the land occupied by him is situate, and who,—
(i) being such jagirdar, has continuously occupied the land for not less than twenty years, or
(ii) having been such jagirdar, occupied the land while he was jagirdar, and has continuously occupied it for not less than twenty years, or
(*e*) who occupied land before the summary settlement, of 1847, and has continuously occupied it since that year, or
(*f*) who has continuously occupied land from a time within the currency of the first summary settlement, and paid no rent in respect of the land beyond the amount of the land-revenue thereof and the rates and cesses for the time being chargeable thereon, shall be deemed to have a right of occupancy in the land so occupied.
(*2*) the words in clause (*a*) of sub-section (*1*) denoting natural relations include relations by adoption.
(*3*) Occupancy which was interrupted during the rule of the Sikh Government, but was restored before the completion of the second summary settlement, and has since continued, shall, notwithstanding the interruption, be deemed, for the purposes of sub-section (*1*), to have been continuous.
(*4*) The word "land" in that sub-section does not include either land occupied by gardens or groves of fruit-bearing or other trees which were originally planted by the landlord or land held by a village-servant on condition of his rendering service in return therefor,—
See Reg. XIII. of 1887, s. 3 (*1*.)

(*b*) who, having owned land, and having ceased to be land-owner thereof otherwise than by forfeiture to the Government, or than by any voluntary act, has, since he ceased to be land-owner, continuously occupied the land, or

(*c*) who, in a village or estate in which he settled along with, or was settled by, the founder thereof as a cultivator therein, occupied land on the twenty-first day of October 1858, and has continuously occupied the land since that date, or

(*d*) who, being jagirdar of the estate or any part of the eestate in which the land occupied by him is situate, has continuously occupied the land for not less than twenty years, or, having been such jagirdar, occupied the land while he was jagirdar, and has continuously occupied it for not less than twenty years.

has a right of occupancy in the land so occupied, unless, in the case of a tenant belonging to the class specified in clause (*c*), the landlord proves that the tenant was settled on land previously cleared and brought under cultivation by, or at the expense of, the founder.

(*2*) If a tenant proves that he has continuously occupied land for thirty years, and paid no rent therefor beyond the amount of the land-revenue thereof and the rates and cesses for the time being chargeable thereon, it may be presumed that he has fulfilled the conditions of clause (*a*) of sub-section (1)

The words in that clause denoting natural relationship denote also relationship by adoption, including therein the customary appointment of an heir and relationship by the usage of a religious community.

Right of occupancy of other tenants recorded as having the right before passing of Punjab Tenancy Act, 1868.

6. A tenant recorded, in a record of rights sanctioned by the Local Government* before the twenty-first day of October 1868, as a tenant having a right of occupancy in land which he has, continuously occupied from the time of the preparation of that record, shall be deemed to have a right of occupancy in that land unless the contrary has been established by a decree of a competent Court in a suit instituted before the passing of this Act.

Right of occupancy in land taken in exchange.

7. If the tenant has voluntary exchanged the land or any portion of the land formerly occupied by him for other land belonging to the same landlord, the land taken in exchange shall be held to be subject to the same right of occupancy as that to which the land given in exchange would have been subject if the exchange had not taken place.

* In N. W. Frontier Province, read "Chief Commissioner," see Section 6 (1) (b) of Reg. VII of 1901.

Establishment of right of occupancy on grounds other than those expressly stated in Act.

8. Nothing in the foregoing sections of this chapter shall preclude any person from establishing a right of occupancy on any grounds other than the grounds specified in those sections.

Right of occupancy not to be acquired by mere lapse of time.

9. No tenant shall acquire a right of occupancy by mere lapse of time.

Right of occupancy not to be acquired by joint owner in land held in joint ownership.

10.* In the absence of a custom to the contrary no one of several joints owners of land shall acquire a rightof occupancy under this chapter in land jointly owned by them.

Continuance of existing occupancy-rights.

11. Notwithstanding anything in the foregoing sections of this chapter, a tenant, who, immediately before the commencement of this Act, has a right of occupancy in any land under an enactment specified in any line of the first column of the following table, shall, when this Act comes into force, be held to have, for all the purposes of this Act, a right of occupancy in that land under the enactment specified in the same line of the second column of the table :—

PUNJAB TENANCY ACT, 1838.		THIS ACT.		
FIRST COLUMN.		SECOND COLUMN.		
Section.	Clause.	Section,	Sub-section.	Clause.
5	(1)	5	(1)	(*a*)
5	(2)	5	(1)	(*b*)
5	(3)	5	(1)	(*c*)
5	(4)	5	(1)	(*d*)
6	...	6	...	...
8	...	8	...	...

* In the Hazara District the following has been added to s. 10: "A tribesman who has not been excluded by the rules of his tribe from being one of the owners of land owned by the tribe shall not acquire a right of occupancy under this chapter in any part of such land."—See Reg. XIII of 1887, s. 3 (2).

CHAPTER III.

RENT.

Rents generally

Respective rights of landlord and tenant to produce.

12. (1) The reat for the time being payable in respect of a tenancy shall be the the first charge on the produce thereof.

(2) A tenent shall be entitled to tend, cut, and harvest the produce of his tenancy in due course of husbandry without any interference on the part of his landlord.

(3) Except where rent is taken by division of the produce, the tenant shall be entitled to the exclusive possession of the produce

(4) Where rent is taken by division of the produce—

(*a*) the tenant shall be entitled to the exclusive possession of the whole produce until it is divided ;

(*b*) the landlord shall be entitled to be present at, and take part in, the division of the produce; and

(*c*) when the produce has been divided, the landlord shall be entitled to the possession of his share thereof.

Commutation and alteration of rent.

13. (1) Where rent is taken by any of the following methods, namely :—

(*a*) by division or appraisement of the produce,

(*b*) by rates fixed with reference to the nature of the crops grown,

(*c*) by rate on a recognized measure of arrea,

(*d*) by a rent in gross on the tenancy, or

(*e*) partly by one of the methods specified in clauses (*a*), (*b*), and (*c*) of the sub-section, and partly by another or others of them,

one of those methods shall not be commuted, in whole or in part, into another without the consent of both landlord and tenant.

(2) In the absence of a contract or a decree or order of competent authority, to the contrary, a tenant whose rent is taken by any of the methods specified in clauses (*a*), (*b*), and (*c*) of sub-section (1), or by the method specified in clause (*d*) of that sub-section, shall not be liable to pay for a tenancy rent at any higher rate, or of a higher amount, as the case may be, than the rate or amount payable in respect of the tenancy for the preceding agricultural year.

14. Any person in possession of land occupied without the consent of the landlord shall be liable to pay, for the use or occupation of that land, at the rate of rent payable in the preceding agricultural year, or, if rent was not payable in that year, at such rate as the Court may determine to be fair and equitable.

Payments for land occupied without consent of landlord.

15. When two or more persons are landlords of a tenant in respect of the same tenacy, the the tenant shall not be bound to pay part of the rent of his tenancy to one of those persons and part to another.

Collection of rents of undivided property.

Produce-rents.

16. Where rent is taken by division or appraisement of the produce, if the tenant removes any portion of the produce at such a time or in such a manner as to prevent the due division or appraisement thereof, or deals there-with in a manner contrary to established usage, the produce may be deemed to have been as full as the fullest crop of the same description on simular land in the neighbourhood for that harvest.

Presumption with respect to produce removed before division or appraisement.

17. If either the landlord or the tenant neglects to attend, either personally or by agent, at the proper time for making the division or appraisement of the produce, or if there is a dispute about the division or appraisement, a Revenue-officer may, on the application of either party, appoint such person as he thinks fit to be a referee to divide or appraise the produce.

Appointment of referee for division or appraisement.

18. (1) When a Revenue-officer appoints a referee under the last-fore-going section, he may, in his discretion, give him instructions with respect to the association with himself of any other persons as assessors, the number qualifications and selections of those assessors and the procedure to be followed in making the division or appraisement.

Appointment of assessors and procedure of refree.

(2) The referee so appointed shall make the division or appraisement in accordance with any instructions which he may have received from the Revenue-officer under the last-fore-going sub-section.

(3) Before making the division or appraisement. the referee shall give notice to the landlord and the tenant of the time and place at which the division or appraisement will be made ; but,

if either the landlord or the tenant fails to attend, either personally or by agent, the referee may proceed *ex parte.*

(4) For the purpose of making the division or appraisement, the referee, with his assessors, if any, may enter upon any land on which, or into any building in which, the produce is.

Procedure after division or appraisement.

19. (1) The result of the division or appraisement shall be recorded and signed by the referee, and the record shall be submitted to the Revenue-officer.

(2) The Revenue-officer shall consider the record, and, after such further inquiry, if any, as he may deem necessary, shall make an order either confirming or varying the division or appraisement.

(3) The Revenue-officer shall also make such order as to the costs of the reference as he thinks fit,

(4) The costs may include the remuneration of the referee and of the assessors, if any, and may be levied from the applicant before the appointment of the referee subject to adjustment at the close of the proceedings.

Enhancement of produce-rents of occupancy-tenants.

20. Where the rent of a tenant having right of occupancy in any land is a share of the produce, or of the appraised value thereof, with or without an addition in money, or is paid according to rates fixed with reference to the nature of the crops grown, or is rent in gross payable in kind, the tenant shall be entitled to occupy the land at that rent.

Provided that, when the land or any part thereof previously not irrigated or flooded becomes irrigated or flooded. the rent payable in respect of the land or part may, subject to the provisions of this Act, be enhanced to the share or rates, or, with reference to the rent in gross, as the case may be, paid by tenants having a similar right of occupancy for irrigated or flooded land of a similar description, and with similar advantages.

Reduction of rents referred to in the last foregoing section.

21. When the land, or any part of the land, held by a tenant having a right of ocupancy to whom the last fore-going section applies, ceases to be irrigated or flooded, the rent payable in respect of the land or part may be reduced to the share or rates, or, with reference to the rent in gross, as the case may be, paid by tenants having a similar right of occupancy for unirrigated or unflooded land of a similar description, and with similar advantages.

Cash-rents paid by Tenants having Right of Occupancy.

22.* (1) Where a tenant having a right of occupancy pays his rent entirely by a cash-rate on a recognized measure of area, or by a cash-rent in gross on his tenancy, the rent may be enhanced on the ground that, after deduction therefrom of the land revenue of, and the rates and cesses chargeable on, the tenancy, it is—

Enhancement of cash-rents of occupancy-tenants.

(*a*) if the tenant belongs to the class specified in cluse (*a*) of sub-section (*1*) of sectiou 5, less than two annas per rupee of the amount of the land-revenue;

(*b*) if he belongs to any of the classes specified in clauses (*b*), (*c*) and (*d*) of that sub-section, less than six annas per rupee of the amount of the land revenue;

(*c*) if he belongs to the class specified in section 6, or if his right of occupancy is established under section 8, and his rent is not regulated by contract, less than twelve annas per rupee of the amount of the land-revenue.

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* In the Hazara District the following section has been substituted for s. 22:—

22 (1) Where a tenant having a right of occupancy pays his rent entriely by a cash-rate on a recognized measure of area or by a cash-rent in gross on his tenancy, the rent, may be enhanced on the ground that after deduction therefrom of the land-revenue of, and the rates and cesses chargeable on, the tenancy, it is,—

Enhancement of cash-rents of occupancy-tenants.

(*a*) if the tenant belongs to the class specified in clause (*a*) of the sub-section (*1*) of section 5, less than two annas per rupee of the amount of land-revenue ;

(*b*) if he belongs to any of classes specified in classes (*b*), (*c*), and (*d*) of that sub-section, or if he belongs to the class specified in clause (*c*) of that sub-section, and has within the meaning of this Act, continuously occupied the tenancy from a time previous to the famine of 1783, less than six annas per rupee of the amount of the land-revenue;

(*c*) if he belongs to the class specified in clause (*e*) of that sub-section and has not, within the meaning of this Act, continuously occupied the tenancy from a time previous to the famine of 1783, or if he belongs to the class specified in clause (*f*) of that sub-section, or if his right of occupancy is established under section 8, and his rent is not regulated by contract. less than twelve annas per rupee of the amount of the land-revenue.

(*2*) In case to which sub-section (*1*) applies, the rent may be enhanced to an amount not exceeding two, six, or twelve annas per rupes of the amount of the land revenue, as the case may be, in addition to the amount of the land-revenue of the tenancy and the rates and cesses chargeable thereon—See Reg. XIII. of 1887, s. 3 (*4*).

(2) In a case to which sub-section (1) applies, the rent may be enhanced to an amount not exceeding two, six, or twelve annas per rupee of the amonnt of the land-revenue, as the case may be. in addition to the amount of the landrevenue of the tenancy and the rates and cesses chargeable thereon.

23. The rent payable by a tenant to whom the last foregoing section applies may be reduced on the ground that the productive powers of his tenancy have been decreased by a cause beyond his control.

Reduction of rents referred to in the last foregoing section.

General provisions relating to Suits for Enhancement or Reduction of Rent

24, (1) A Revenue Court, on the suit of either landlord or tenant, may, subject to the provisions of this and other sections of this Act, enhance or reduce the rent of any tenant having a right of occupancy.

Enhancement and reduction of rent by suit.

(2) Where a decree for the enhancement of the rent of such a tenant has been passed under the Punjab Tenancy Act, 1868, a suit for a further enhancement of his rent shall not lie till the expiration of five years from the date of the decree, unless in the meantime, the local area in which the land comprised in the decree is situate has been generally re assessed, and the revenue payable in respect of that land has been increased.

(3) subject to the provisions of sub section (2), a suit instituted for the enhancement of the rent of a tenant having a right of occupancy shall not be entertained in either of the following cases, namely:—

(*a*) if, within the ten years next preceeding its institution, his rent has been commuted under section 13, or enhanced under this section,

(*b*) if, within that period, a decree has been passed under this Act dismissing on the merits a suit for the enhancement of his rent,

unless the land or some part of the land comprised in his tenancy, not having been irrigated or flooded at the time of such commutation. enhancement, or decree, has become irrigated or flooded.

25. In enhancing or reducing the rent of any land under the foregoing provisions of this chapter, the Court shall, within the limits prescribed by those provisions, enhance or reduce the rent

Discretion as to extent of enhancement or reduction.

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* In the Hazara Diatrict, for "Pundjab Tenancy Act, 1868", in s. 24 (2), "Hazara Tenancy Regulation, 1873", is to be read —See Reg XIII of 1887. s. 3 (5). Act XXVIII. of 1868 has been repealed by this Act.—See s. 3 and sch.

to such an amount as it considers fair acd equitable, but shall not, in any case, fix the rent at a sum less than the amount of the land-revenue of the land and the rates and cesses chargeable thereon.

Time for enhancement or reduction to take effect.

26. (*1*) Unless the Court decreeing an enhancement of rent otherwise directs, the enhancement shall take effect from the commencement of the agricultural year next following the date of the decree.

(2) A Court decreeing a reduction of rent shall specify in the decree the date on and from which the reduction is to take effect.

Adjustment of Rents expressed in terms of the land-revenue.

Adjustment of rents expressed in terms of the land-revenue.

27. (*1*) Where the rent of a tenancy is the whole or a share of the land revenue thereof, with or without an addition in money, kind, or service, and the land-revenue of the holding in which the tenancy is situate is altered, a Revenue-officer, having authority, under section 56 of the Punjab Land-revenue Act, 1887, to determine the land-revenue payable in respect of the several holdings comprised in the estate in whice the tenancy is situate, shall determine also the amount of the land revenue of the tenancy, or the proportionate share thereof, payable by the tenant as rent.

(2) Where an addition referred to in sub-section (1) is a percentage fixed with reference to the land-revenue of the tenancy, or the whole or a share of the rates and cesses chargeable thereon, or both, the Revenue-officer shall in like manner, from time to time alter the amount of the addition in proportion to any alteration of such land-revenue or rates and cesses.

(3) The sum or sums determined under the foregoing sub-section together with any addition previously payable, other than the additions referred to in sub section (2), shall be the rent payable in respect of the tenancy until there is again an alteration of the land-revenue thereof. or of the rates and cesses chargeable thereon, or until the rent is enhanced by a suit under this Act.

(4) An alteration of rent under this section shall not be deemed an enhancement or reduction of rent within the meaning of this Act.

Adjustment of cash rents.

27A.* (1) Where a tenant having a right of occupancy pay his rent entirely by a cash-rate on a recognised measure of area or by a cash-rent in gross on his tenancy;

* Section 27 A has been added Reg. II of 1904.in Hazara district.

and the land-revenue of the holding in which the tenancy is situate is altered' a Revenue-officer having authority under section 56 of the Punjab-Land-revenue Act, 1887, to determine the land-revenue payable in respect of the several holdings comprised in the estate in which the tenancy is situate may, by written order,

subject to the provisions of this and other sections of this Act, and either upon the application of such tenant or his landlord or of his own motion, enhance or reduce the rent payable by such tenant to such extent as may seem to such Revenue-officer to be equitable, or confirm such rent without making any alteration therein.

(2) When a Revenue-officer makes any order under subsection (1) he shall, unless he considers it inexpedient to do so, state in the order—

(*a*) that the rent determined or confirmed under that sub-section consists of the following items, namely :—

(i) the land-revenue of the tenancy,

(ii) the rates and cesses chargeable on the tenancy, and

(iii) an addition fixed in proportion to the land-revenue of the tenancy ; and

(*b*) the amount of each such item.

(3) The rent determined or confirmed as aforesaid shall be the rent payable in respect of the tenancy until there is again an alteration of the land-revenue thereof or of the rates or cesses chargeable thereon, or until the rent is enhanced by a suit under this Act.

(4) A suit instituted for the enhancement of the rent of any tenant to whom any order made under sub section (1) applies shall not be entertained unless the land or some part of the land comprised in his tenancy has become irrigated or flooded since the date of such order.

Alteration of Rent on Alteration of Area.

Alteration of rent on alteration of area.

28. (1) Evey tenant shall—

(*a*) be liable to pay additional rent for all land proved to be in excess of the area for which rent has been previously paid by him, unless it is proved that the excess is due to the addition to his tenancy of land which, having previously belonged to the tenancy, was lost by diluvion or otherwise without any reduction of the rent being made; and

(*b*) be entitled to an abatement of rent in respect of any deficiency proved to exist in the area of his tenancy as compared with the area for which rent has been

previously paid by him, unless it is proved that the deficiency is due to the loss of land which was added to the area of the tenancy by alluvion or otherwise, and that an addition has not been made to the rent in respect of the addition to the area.

(2) In determining the area for which rent has been previously paid, the Court shall have regard to the following, among other matters, namely: -

(*a*) the origin and conditions of the tenant's occupancy, for instance, whether the rent was a rent in gross for the entire tenancy;—

(*b*) whether the tenant has been allowed to hold additonal land is consideration of an addition to his total rent or otherwise with the knowledge and consent of the landlord; and

(*c*) the length of time during which there has been no dispute as to rent or area.

(3) In adding to or abating rent under this section, the Court shall add to or abate the rent to such an amount as it deems to be fair and equitable, and shall specify in its decree the date on and from which the addition or abatement is to sake effect.

(4) An addition to or abatement of rent under this section shall not be deemed an enhancement or reduction of rent within the meaning of this Act.

Remission.

Remission of rent by Courts decreeing arrears.

29. Notwithstanding anything in the foregoing sections of this chapter, if it appears to a Court making a decree for an arrear of rent that the area of a tenancy has been so diminished by diluvion or otherwise, or that the produce thereof has been so diminished by drought, hail, deposit of sand, or other like calamity, that the full amount of rent payable by the tenant cannot be equitably decreed, the Court may, with the previous sanction of the Collector, allow such remission from the rent payable by the tenant as may appear to it to be just.

Remisston and suspension of rent-consequent or like treatment of land-revenue.

30.* (1) Whenever the payment of the whole or any part of the land-revenue payable in respect of any land is remitted or suspended, a Revenue officer may, if the rent be payable in cash or be rent payable in kind of which the amount is fixed, by order, remit or suspend, as the case may be, the payment of the rent of that land to an amount which may bear the same proportion to the whole of the rent payable in respect of the land as the land-

* Sub-sections (1) and (5) of section 30 have been substituted and sub-section (7) has been inserted by Punj. Act I of 1906.

revenue of which payment has been remitted or suspended bears to the whole of the land-revenue payable in respect of the land.

Provided that in the case of an occupancy tenant, whose rent is of the nature hereinbefore in this sub-section described, the remission or suspension of the land-revenue payable in respect of the land shall, in the absence of a written order by a Revenue-officer to the contrary carry with it a proportionate remission or suspension, as the case may be, of his rent."

"When the payment of the rent of any kind has been suspended under this clause it shall remain under suspension until the Collector orders the revenue of that land to be realized."

(2) An order passed under sub-section (1) shall not be liable to be contested by suit in any Court.

(3) A suit shall not lie for the recovery of any rent of which the payment has been remitted, or, during the period of suspension, of any rent of which the payment has been suspended.

(4) Where the payment of rent has been suspended, the period during which the suspension has continued shall be excluded in the computation of the period of limitatton prescribed for a suit for the recovey of the rent.

"(5) If the landlord collects from a tenant any rent of which payment has been remitted, or is under suspension, the Revenue-officer may recover from the landlord the amount or value of the rent so collected, and may also recover by way of penalty a further sum not exceeding such amount or value, and may cause to be refunded to the tenant the amount or value of the rent so collected for him."

(6) The provisions of this section relating to the remission and suspension of the payment of rent may be applied, so far as they can be made applicable, to land of which the land-revenue has been released, compounded for, or redeemed, in any case in which, if the land-revenue in respect of the land had not been released, compounded for, or redeemed, the whole or any part of it might, in the opinion of the Revenue-officer, be remitted or suspended under the rules for the time being in force for regulating the remission and suspension of land-revenue.

"(7) Any sum of which the recovery is ordered under sub-section (5) on account of rent or penalty may be recovered by the collector as if it were an arrear of land revenue."*

Deposits.

Power to deposit rent in certain cases with Revenue-officer.

31. In either of the following cases, namely :—

(*a*) when a landlord refuses to receive, or grant a receipt for, any rent payable in money when tendered to him by a tenant,

(*b*) when a tenant is in doubt as to the person entitled to receive rent payable in money,

the tenant may apply to a Revenue-officer for leave to deposit the rent in his office, and the Revenue-officer shall receive the deposit if, after examining the applicant, he is satisfied that there is sufficient ground for the application, and if the applicant pays the fee, if any, chargeable for the issue of the notice next hereinafter referred to.

Effect of depositing rent.

32. (1) When a deposit has been so received, it shall be deemed to be a payment made by the tenant to his landlord in respect of rent due.

(2) The Revenue-officer receiving the deposit shall give notice of the receipt thereof to every person who, he has reason to believe, claims or is entitled to the deposit, and may pay the amount thereof to any person appearing to him to be entitled thereto, or may, if he thinks fit, retain the deposit pending the decision of a competent Court as to the person so entitled.

(3) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue-officer under this section; but nothing in this sub-section shall prevent any person entitled to receive the amount of any such deposit from recovering it from a person to whom it has been paid by a Revenue-officer.

Recovery of Rent from attached Produce.

Recovery of rent from attached produce.

33. (1) If an order is made by any Court for the attachment of the produce of a tenancy, or of any part of a tenancy, the landlord may apply to the Revenue officer by whom the attachment is to be, or has been, made to sell the produce, and pay to him out of the proceeds of the sale thereof the amount or value of—

(*a*) any rent which has fallen due to him in respect of the tenancy within the year immediately preceding the application, and

(*b*) the rent which will be falling due after the harvesting of the produce, and is chargeable against it.

(2) The Revenue officer shall give the person, at whose instance the attachment was made, an opportunity of showing cause why the application of the landlord should not be granted, and, if he finds the landlord's claim to the whole or any part of the rent to be proved, he shall cause the produce, or such portion thereof as he may deem necessary, to be sold, and shall apply the proceeds of the sale in the first instance satisfy the claim.

(3) The finding of the Revenue-officer under sub-section (2) shall have the force of a decree in a suit between the landlord and the tenant.

Leases for period exceeding Term of Assessment of Land-revenue.

Treatment of leases for period exceeding or equal to term of assessment of land-revenue.

34. (1) Where a lease has been granted, or an agreement has been entered into, by a land-owner in respect of any land assessed to land-revenue, fixing, for a period exceeding the term for which the land-revenue has been assessed, the rent or other sum payable in respect of the land under the lease or agreement, and that term has expired, the lease or agreement shall be voidable—

(*a*) at the option of the land-owner, if the land-revenue of the land has been enhanced, and the person to whom the lease has been granted, or with whom the agreement has been entered into, refuses to pay such rent or other sum as a Revenue Court, on the suit of the land-owner, determines to be fair and equitable; and

where the relation of landlord and tenant exists between the grantor and grantee of the lease, or between the persons who entered into the agreement—

(*b*) at the option of the tenant if the land-revenue of the land has been reduced, and the landlord refuses to accept such rent as a Revenue Court, on the suit of the tenant, determines to be fair and equitable.

(2) Any agreement relative to the occupation, rent, profits, or produce of any land which has been entered into for the term of the currency of an assessment, shall, unless a contrary intention clearly appears in the agreement, or the agreement is terminated by consent of parties or course of law, continue in force until a revised assessment takes effect.

RELINQUISHMENT, ABANDONMENT, AND EJECTMENT.

Relinquishment.

Relinquishment by tenant for a fixed term.

35. A tenant holding for a fixed term under a contract or a decree or order of competent authority may relinquish his tenancy without notice at the end of that term.

Relinquishment by any other tenant.

36. (1) Aany other tenant may relinquish his tenancy by giving verbally or in writing to his landlord, or to his landlord's agent, on or before the fifteenth day of January in any year, notice of his intention to relinquish the tenancy at the end of the agricultural year then current.

(2) The tenant may, instead of, or in addition to, giving the notice in the manner mentioned in sub-section (1), apply to a Revenue-officer on or before the date aforesaid to cause the notice to be served on the landlord, and the Revenue-officer, on receiving the cost of service from the tenant, shall cause the notice to be served as soon as may be.

(3) If the tenant does not give notice in the manner prescribed in this section, he shall be liable to pay the rent of his tenancy for any part of the ensuing agricultural year during which the tenancy is not let by the landlord to some other person, or is not cultivated by the landlord himself.

Relinquishment of part only of a tenancy.

37. A tenant cannot, without the consent of his landlord, relinquish a part only of his tenancy.

Abandonment.

Abandonment of tenancy by occupancy tenant.

38. If a tenant having a right of occupancy fails, for more than one year, without sufficient cause, to cultivate his tenancy, either by himself or some other person, and to arrange for payment of the rent thereof as it falls due, the right of occupancy shall be extinguished from the end of that year.

Ejectment.

LIABILITY TO EJECTMENT.

Grounds of ejectment of occupancy tenant.

39. A tenant having a right of occupancy shall be liable to be ejected from his tenancy on any of the following grounds, namely :—

(*a*) that he has used the land comprised in the tenancy in a manner which renders it unfit for the purposes for which he held it;

(*b*) where rent is payable in kind, that he has, without sufficient cause, failed to cultivate that land in the manner, or to the extent, customary in the locality in which the land is situate;

(*c*) that a decree for an arrear of rent in respect of the tenancy has been passed against him, and remains unsatisfied.

Grounds of ejectment of tenant for a fixed term.

40. A tenant not having a right of occupancy, but holding for a fixed term under a contract or a decree or order of competent authority, shall be liable to be ejected from his

tenancy at the expiration of that term, and, on any of the following grounds, before the expiration thereof, namely :—

(*a*) that he has used the land comprised in the tenancy in a manner which renders it unfit for the purposes for which he held it ;

(*b*) where rent is payable in kind, that he has, without sufficient cause, failed to cultivate that land in the manner, or to the extent, customary in the locality in which the land is situate ;

(*c*) on any ground which would justify ejectment under the contract, decree, or order.

Ejectment of tenant from year to year,

41. A tenant who has not a right of occupancy, and does not hold for a fixed term under a contract or a decree or order of competent authority, may be ejected at the end of any agricultural year.

PROCEDURE ON EJECTMENT.

Restriction on ejectment,

42. A tenant shall not be ejected otherwise than in execution of a decree for ejectment except in the following cases, namely :—

(*a*) when a decree for an arrear of rent in respect of his tenancy has been passed against him, and remains unsatisfied ;

(*b*) when the tenant has not a right of occupancy, and does not hold for a fixed term under a contract or a decree or order of competent authority,

Application to Revenue-officer for ejectment.

43. In any such case as is mentioned in clause (*a*) or clause (*b*) of the last foregoing section, the landlord may apply to a Revenue-officer for the ejectment of the tenant in the case mentioned in the former clause, or for the service on the tenant of a notice of ejectment in the case mentioned in the latter clause.

Ejectment for failure to satisfy decree for arrear of rent.

44. (1) On receiving the application in any such case as is mentioned in clause (*a*) of section 42, the Revenue-officer shall, after such inquiry with respect to the existence of the arrear as he deems necessary, cause a notice to be served on the tenant, stating the date of the decree and the amount due thereunder, and informing him that, if he does not pay that amount to the Revenue-officer within fifteen days from receipt of the notice, he will be ejected from the land.

(2) If the amount is not so paid, the Reveuue-officer shall, subject to the provisions of this Act with respect to the payment of compensation, order the ejectment of the tenant, unless good cause is shown to the contrary.

Ejectment of tenant from year to year by notice.

45. (1) On receiving the application of the landlord in any such case as is mentioned in clause (*b*) of section 42, the Revenue-officer shall, if the application is in order, and not open to objection on the face of it, cause a notice of ejectment to be served on the tenant.

(2) A notice under sub-section (1) shall not be served after the fifteenth day of November in any agricultural* year.

(3) The notice shall specify the name of the landlord on whose appllcation it is issued, and describe the land to which it relates, and shall inform the tenant that he must vacate the land before the first day of May next following, or that, if intends to contest his liability to ejectment, he must institute a suit for that purpose in a Revenue Court within two months from the date of the service of the notice.

(4) The notice shall also inform the tenant that, if he does not intend to contest his liability to be ejected, and he has any claim for compensation on ejectment, he should, within two months from the date of the service of the notice, prefer his claim to the Revenue-officer having authority under the next following sub-section to order his ejectment in the circumstances described in that sub-section.

(5) If, within two months from the date of the service of the notice, the tenant does not institute a suit to contest his liabllity to be ejected, a Revenue-officer, on the application of the landlord, shall, subject to the provisions of this Act with respect to the payment of compensation, order the ejectment of the tenant :

Provided that the Revenue-officer shall not make the order until he is satisfied that the notice was duly served on the tenant.

(6) If, within those two months, the tenant institutes a suit to contest his liability to be ejected, and fails in the suit, the Court by which the suit is determined shall, by its decree, direct the ejectment of the tenant.

Power to make rules.

46. The Financial Commissioner† may make rules prescribing—

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* In s. 45, sub-s. (2), the word "agricultural" has been inserted by Act XII. of 1891, Sch. II.

† In the North-West Frontier Province read "Revenue Commissioner" Vide Reg. VII of 1901 S. 6 (1) (C).

(*a*) the form and language of applications and notice under the two last foregoing sections ; and

(*b*) the manner in which those applications and notices are to be signed and attested.

GENERAL PROVISIONS RESPECTING EJECTMENT.

Time for ejectment.

47. A decree or order for the ejectment of a tenant shall not be executed at any other time than between the first day of May and she fifteenth day of June (both days inclusive), unless the Court making the decree, or, where the order is made under section 44 the officer making the order, otherwise directs.

Relief against forfeiture,

48. (1) If, in a suit for the ejectment of a tenant on either of the grounds mentioned in clausc (*a*) and (*b*) of section 39, or of section 40, it appears to the Court that the injury caused by the act or omission on which the suit is based is capable of being remedied, or that an award of compensation will be sufficient satisfaction to the landlord therefor, the Court may, instead of making a decree for the ejectment of the tenant, order him to remedy the injury within a period to be fixed in the order, or order him to pay into Court, within such a period, such compensation as the Court thinks fit.

(2) The Court may, from time to time, for special reason, extend a period fixed by it under sub-section (1),

(3) If, within the period or extended period, as the case may be, fixed by the Court under this seetion, the injury is remedied, or the compensation is paid, a decree for the ejectment shall not be made.

Rights of ejected tenants in respect of crops and land prepared for sowing.

49. (1) Where, at the time of the prposed ejectment of a tenant from any land, his uncut or ungathered crops are standing on any part thereof, he shall not be ejected from that part until the crops have ripened, and he has been allowed a a reasonable time to harvest them.

(2) The Court or Revenue officer decreeing or ordering the ejectment of the tenant may, on the application of the landlord, determine any disputc arrising in consequence of the provisions of sub-section (1) between the landlord and the tenant, or between the landlord and any person entitled to harvest the crops of the tenant, and may, in its or his discretion,—

(*a*) direct that the tenant pay for the longer occupation of the land secured to him under sub-section (1) such as may be fair and equitable, or

(*b*) determine the value of the tenant's uncut and ungathered crops and, on payment thereof by the landlord to the Court or Revenue officer, forthwith eject the tenant.

(3) When a tenant for whose ejectment proceedings have been taken, has, conformably with local usage, prepared for sowing any land comprised in his tenancy, but has not sown or planted crops on that land, he shall be entitled to receive from the landlord before ejectment a fair equivalent in money for the labour and capital expended by him in so preparing the land and the Court or Revenue-officer before which or whom the proceedings are pending shall, on the application of the tenant, determine the sum payable to the tenant under this sub-section, and stay his ejectment until that sum has been paid to him.

RELIEF FOR WRONGFUL DISPOSSESSION.

Relief for wrongful dispossession or ejectment.

50. In either of the following cases, namely :—

(*a*) if a tenant has been dispossessed, without his consent, of his tenancy or any part thereof otherwise than in execution of a decree, or than in pursuance of an order under section 44 or section 45,

(*b*) if a tenant who, not having instituted a suit under section 45, has been ejected from his tenancy or any part thereof in pursuance of an order under that section, denies his liabilty to be ejected,

the tenant may, within one year from the date of his dispossession or ejectment, institute a suit for recovery of possession or occupancy, or for compensation, or for both.

Bear of relief by suit under section 9, Act I., 1877.

51. Possession of a tenancy, or of any land comprised in a tenancy, shall not be recoverable under section 9 of the Specific Relief Act, 1877, by a tenant dispossessed thereof.

Power to vary Dates prescribed by this Chapter.

Power for Local Government to fix dates for certain purposes.

52. (1) The Local Government* may, for all or any of the territories under its administration, by notification, fix, for the purposes of sections 36, 45, and 47, or of any of those sections, any other dates instead of those specified therein.

(2) A notification under this section shall not take effect till after the expiration of six months from the date of publication thereof.

* In the North-West Frontier Province read Chief Commissioner Vide Reg. VII of 1901.

CHAPTER V.

ALIENATION OF, AND SUCCESSION TO, RIGHT OF OCCUPANCY.

Alienation.

Private transfer of right of occupancy under section 5 by tenant.

53. (1) A tenant having a right of occupancy under section 5 may transfer that right by sale, gift, or mortgage, subject to the conditions mentioned in this section.

(2) If he intends to transfer the right by sale, gift, mortgage by conditional sale, or usufructuary mortgage, he shall cause notice of his intention to be served on his landlord through a Revenue-officer, and shall defer proceeding with the transfer for a period of one month from the date on which the notice is served.

(3) Within that period of one month the landlord may claim to purchase the right at such value as a Revenue-officer may, on application made to him in this behalf, fix.

(4) When the application to the Revenue-officer is to fix the value of a right of occupancy which is already mortgaged, he shall fix the value of the right as if it were not mortgaged.

(5) The landlord shall be deemed to have purchased the right if he pays the value to the Revenue-officer within such time as that officer appoints.

(6) On the value being so paid, the right of occupancy shall be extinct, and the Revenue-officer shall, on the application of the landlord, put the landlord in possession of the tenancy.

(7) If the right of occupancy was already mortgaged, the tenancy shall pass to the landlord unincumbered by the mortgage, but the mortgage-debt shall be a charge on the purchase-money.

(8) If there is no such charge as aforesaid, the Revenue-officer shall, subject, to any directions which he may receive from any Court, pay the purchase-money to the tenant.

(9) If there is such a charge, the Revenue-officer shall, subject as aforesaid, either apply, in discharge of the mortgage-debt, so much of the purchase-money as is required for that purpose, and pay the balance, if any, to the tenant or retain the purchase-money pending the decision of a Civil Court as to the person or persons entitled thereto.

(10) Where there are several landlords of a tenancy, any one of them may be deemed to be the landlord for the purposes of this section.

(11) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue officer under the two last foregoing sub-sections; but nothing in this sub-section shall prevent any person entitled to receive the whole or any part of the purchase-money from recovering it from a person to whom it has been paid by a Revenue officer.

Procedure on foreclosure of mortgage of right of occupancy under section 5.

54. Where a mortgagee of a right of occupancy under section 5 proposes to foreclose his mortgage, or otherwise enforce his lien on the land subject to the right, the provisions of the last foregoing section shall, so far as they can be made applicable, apply as if the mortgagee were the tenant.

Sale of right of occupancy under section 5 in execution of decree.

55. (1) A right of occupancy under section 5 may be sold in execution of a decree or order of a Court;

(2) But notice of an intended sale of any such right shall be given by the Court to the landlord, and if, at any time before the close of the day on which the sale takes place, the landlord pays to the Court, or to the officer conducting the sale, a deposit of twenty-five per centum on the highest bid made at the sale, he shall be declared to be the purchaser instead of the person who made that bid.

Transfer of right of occupancy under any other section than section 5.

56. A right of occupancy under any other section than section 5 shall not be attached or sold in execution of a decree or order of any Court, or, without the previous consent in writing of the landlord, be transferred by private contract.

Rights and liabilities of transferee of right of occupancy.

57. When a right of occupancy has been transferred by sale, gift, or usufructuary mortgage to a person other than the landlord, that person shall, in respect of the land in which the right subsists, have the same rights, and be subject to the same liabilities, as the tenant to whom, before the transfer, the right belonged had and was subject to.

Sub-letting.

58. (1) A tenant having a right of occupancy in land may, subject to the provisions of this Act, and to the conditions of any written contract between him and his landlord, sub-let the land or any part thereof for any term not exceeding seven years.

(2) A person to whom land is sub-let by a tenant having a right of occupancy therein shall, in respect of that land, and so far as regards the landlord, be, jointly with the tenant, subject to all the liabilities of the tenant under this Act.

Succession.

Succession to right of occupancy.

59. (1) When a tenant having a right of occupancy in any land dies, the right shall devolve –

(*a*) on his male lineal descendants, if any, in the male line of descent, and,

(*b*) failing such descendants, on his widow, if any, until she dies, or remarries, or abandons the land, or is, under the provisions of this Act, ejected therefrom, and,

(*c*) failing such descendants and widow, or, if the deceased tenant left a widow, then when her interest terminates under clause (*b*) of this sub-section, on his male collateral relatives in the male line of descent from the common ancestor of the deceased tenant and those relatives:

Provided, with respect to clause (*c*) of this sub-section, that the common ancestor occupied the land.

(2) As among descendants and collateral relatives claiming under sub-section (1), the right shall, subject to the provisions of that sub-section, devolve as if it were land left by the deceased in the village in which the land, subject to the right, is situate.

(3) When the widow of a deceased tenant succeeds to a right of occupancy, she shall not transfer the right by sale, gift, or mortgage, or by sub-lease for a term exceeding one year.

(4) If the deceased tenant has left no such persons as are mentioned in sub-section (1), on whom his right of occupancy may devolve under that sub-section, the right shall be extinguished.

Irregular Transfers.

Irregular transfer of right of occupancy.

60. Any transfer made of a right of occupancy in contravention of the foregoing provisions of this chapter shall be voidable at the instance of the landlord.

CHAPTER VI.

IMPROVEMENTS AND COMPENSATION.

Improvements by Landlords.

Improvements by landlords on tenancies of occupancy tenants.

61. (1) Without the previous permission of the Collector a landlord shall not make an improvement on the tenancy of a tenant having a right of occupancy.

(2) If a landlord desires to make such an improvement, he may apply to the Collector for permission to make it, and the Collector shall, before making an order on the application, hear the objection, if any, of the tenant.

(3) In making an order on an application under sub-section (2), the Collector shall be guided by such rules, if any, as the* Local Government may† make in this behalf.

Enhancement of rent in consideration of an improvement made by a landlord on the tenancy of an occupancy-tenant.

62. (1) When a landlord has, with the permission mentioned in the last foregoing section, made an improvement on the tenancy of a tenant having a right of occupancy, he may apply to the Collector for an enhancement of the rent of the tenant.

(2) If the tenant is a tenant to whom section 20 applies, the Collector shall enhance his rent to the share or rates, or with reference to the rent in gross, as the case may be, paid by tenants having a similar right of occupancy, for land of a similar description, and with similar advantages.

(3) If the tenant is a tenant to whom section 22 applies, the Collector shall enhance his rent to such amount as the tenant would be liable to pay under that section if the land-revenue were re-assessed.

(4) When the improvement ceases to exist, the Collector may, on the application of the tenant, reduce the tenant's rent,—

(*a*) in the case of a tenant to whom sub-section (2) applies, to the share or rates, or with reference to the rent in gross, as the case may be, paid by tenants, having a similar right of occupancy, for land of a similar description, and with similar advantages, and

(*b*) in the case of a tenant to whom sub-section (3) applies, to such an amount as the tenant would be liable to pay if the land-revenue were re-assessed.

(5) Sections 25 and 26 shall be construed as applying to an application under this section, and a suit shall not lie in any Court for any purpose for which an application might be made under this section.

Improvements by Tenants.

Title of occupancy-tenant to make improvements.

63. A tenant having a right of occupancy is entitled to make improvements on his tenancy.

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* In the N, W. Frontier Province read "Chief Commissioner" Vide Reg, VII of 1901.

† Certains words repealed by Act IV. of 1914 have been omited.

Title of tenants not having right of occupancy to make improvements.

64. (1) A tenant not having a right of occupancy may make improvements on his tenancy with the assent of his landlord.

(2) If at any time the question arises whether or not the landlord assented to the making of an improvement by a tenant not having a right of occupancy, the assent may be inferred from circumstances.

Improvements made before commencement of this Act.

65. Improvements made by a tenant before the commencement of this Act shall be deemed to have been made in accordance with this Act, unless, in the case a tenant not having a right of occupancy, it is shown that the improvement was made in contravention of a written agreement between him and his landlord.

Improvements begun in anticipation of ejectment.

66. A tenant ejected in execution of a decree, or in pursuance of a notice of ejectment, shall not be entitled to compensation for any improvement begun by him after the institution of the suit, or service of the notice, which resulted in his ejectment.

Tender of lease for twenty year tos tenant to be a bar to right to compensation.

67. If a landlord tenders to a tenant a lease of his tenancy for a term of not less than twenty years from the date of the tender at the rent then paid by the tenant, or at such other rent as may be agreed on, the tender, if accepted by the tenant, shall bar any claim by him to compensation in respect of improvements previously made on the tenancy.

Liability to pay compensation for improvements to tenant on ejectment, or on enhancement, of his rent.

68. Subject to the foregoing provisions of this chapter, a tenant who has made an improvement on his tenancy in accordance with this Act shall not be ejected, and the rent payable by him shall not be enhanced, until he has received compensation for the improvement.

Compensation for Disturbance of Clearing Tenants.

Compensation for disturbance of clearing tenants.

69. (1) A tenant who has cleared and brought under cultivation waste-land in which he has not a right of occupancy shall, if ejected from that land, be entitled to receive from the landlord as compensation for disturbance, in addition to any compensation for improvements, a sum to be determined by a Revenue Court or Revenue-officer in accordance with the merits of the case, but not exceeding five years' rent of the land :

Provided that a tenant who is a joint owner of land to which this section applies shall not be entitled to compensation for disturbance on ejectment from the land or any part thereof.

(2) If rent has been paid for the land by division or appraisement of the produce, or by rates fixed with reference to the nature of the crops grown, or if no rent other than the land-revenue of the land and the rates and cesses chargeable thereon, has been paid therefor, the compensation may be computed as if double the amount of the land-revenue of the land were the annual rent thereof.

Procedure in determining Compensation.

Determination of compensation by Revenue Courts.

70. (1) In every suit by a tenant to contest his liability to ejectment, or by a landlord to eject a tenant or to enhance his rent, the Court shall direct the tenant to file a statement of his claim, if any, to compensation for improvements or for disturbance, and of the grounds thereof.

(2) If the Court decrees the ejectment of the tenant or the enhancement of his rent, it shall determine the amount of compensation, if any, due to the tenant, and shall stay execution of the decree until the landlord pays into Court that amount less any arrears of rent or costs proved to the satisfaction of the Court to be due to him from the tenant.

Determination of compensation by Revenue officer.

71. In either of the following cases, namely :—

(*a*) when a notice has been served on a tenant under section 44,

(*b*) when a notice of ejectment has been served on a tenant under section 45, and the tenant has not instituted a suit to contest his liability to be ejected,

the tenant may apply to the Revenue-officer having authority to order his ejectment under section 44 or section 45, as the case may be, to determine the amount of compensation due to him for improvements, or for disturbance, or for both, and the Revenue-officer shall determine the amount, if any, accordingly, and stay the ejectment of the tenant until the landlord pays to the Revenue-officer the amount so determined less any arrears of rent or costs proved to the satisfaction of the Revenue-officer to be due to the landlord from the tenant.

Matters to be regarded in assessment of compensation for improvements.

72. In estimating the compensation to be awarded uuder this chapter to a tenant for an improvement, the Court or Revenue-officer shall have regard to—

(*a*) the amount by which the value or the produce of the tenancy, or the value of that produce, is increased by the improvement ;

(*b*) the condition of the improvement and the probable duration of its effects ;

(*c*) the labour and capital required for the making of such an improvement ;

(*d*) any reduction or remission of rent or other advantage allowed to the tenant by the landlord in consideration of the improvement ; and

(*e*) in the case of a reclamation, or of the conversion of unirrigated into irrigated land, the length of time during which the tenant has had the benefit of the improvement.

Form of compensation.

73. (1) The compensation shall be made by payment in money, unless the parties agree that it be made, in whole or in part, by the grant of a beneficial lease of land, or in some other way.

(2) If the parties so agree, the Court or Revenue-officer shall make an order accordingly.

Relief in case of Ejectment before Determination of Compensation.

Relief in case of ejectment before determination of compensation.

74. (1) If, from any cause, the amount of compensation payable to a tenant—

(*a*) under this chapter for improvements or disturbance ; or

(*b*) under section 49 for the value of uncut or ungathered crops or the preparation of land for sowing,

has not been determined before the tenant is ejected, the ejectment shall not be invalidated by reason of the omission, but the Court or Revenue-officer which decreed or who ordered the ejectment may, on application made by the tenant within one year from the date of the ejectment, correct the omission by making, in favour of the tenant, an order for the payment to him by the landlord of such compensation as the Court or officer may determine the tenant to be entitled to.

(2) An order made under sub-section (1) may be executed in the same manner as a decree for money may be executed by a Revenue Court.

CHAPTER VII.

JURISDICTION AND PROCEDURE.

Jurisdiction.

Revenue officers.

75. (1) There shall be the same classes of Revenue-officers under this Act as under the Punjab Land-revenue Act, 1887, and, in the absence of

any order of the Local Government* to the contrary, a Revenue-officer of any class having jurisdiction within any local limits under that Act shall be a Revenue-officer of the same class having jurisdiction within the same local limits under this Act.

(2) The expressions "Collector" and "Financial Commissioner" have† the same meaning in this Act as in the Punjab Land-revenue Act, 1887.

Applications and proceedings cognizable by Revenue-officers.

76. (1) The following applications and proceedings shall be disposed of by Revenue-officers as such, and no Court shall take cognizance of any dispute or matter with respect to which any such application or proceeding might be made or had :—

FIRST GROUP.

(*a*) proceedings under section 27 for the adjustment of rents expressed in terms of the land-revenue ;‡

(*b*) proceedings relating to the remission and suspension of rent under section 30 ;

(*c*) applications under section 43 for the ejectment of a tenant against whom a decree for an arrear of rent in respect of his tenancy has been passed and remains unsatisfied;

(*d*) applications under section 45, sub-section (5), for the ejectment of a tenant on whom a notice of ejectment has been served, and who has not instituted a suit to contest his liability to be ejected, but has claimed compensation under section 71 ;

(*e*) applications under section 53 or section 54 for the fixing of the value of a right of occupancy ;

(*f*) applications under section 53 or section 54 by landlords for possession of land the right of occupancy in which has become extinct ;

(*g*) proceedings under Chapter VI. with respect to the award of compensation for improvements or disturbance ;

SECOND GROUP.

(*h*) applications under section 17 with respect to the division or appraisement of produce ;

(*i*) applications under section 45, sub-section (5), for the ejectment of a tenant on whom a notice of ejectment has

* In the North-West Frontier Province read "Chief Commissioner" Vide Reg. VII of 1901.

† In N. W. F. Province read "expression Collector has."

‡ In Hazara District after clause (a) read (a a) proceedings under section 27A for the adjustment of cash rents.

been served, and who has not instituted a suit to contest his liability to be ejected, and has not claimed compensation under section 71 ;

(*j*) applications for the determination,—

(i) under section 49, of the rent payable for land occupied by crops uncut or ungathered at the time of an order being made for the ejectment of a tenant, or

(ii) under section 49 or section 74, of the value of such crops, or of the sum payable to the tenant for labour and capital expended by him in preparing land for sowing;

THIRD GROUP.

(*k*) applications under section 31 by tenants to deposit rent ;

(*l*) applications under section 36 for service of notice of relinquishment ;

(*m*) applications under section 43 for service of notice of ejectment;

(*n*) applications under section 53 or section 54 for service of notice of intended transfer, or of intended foreclosure or other enforcement of lien.

[Provided that—

(1) Where in a suit cognizable by and instituted in a Civil Court it becomes necessary to dicide any matter which can under this sub-section be heard and determined only by a Revenue Court the Civil Court shall endorse upon the plaint the nature of the matter for decision and the particulars required by order VII, rule 10, Civil Procedure Code, and return the plaint for presentation to the Collector.

(2) On the plaint being presented to the Collector, the Collector shall proceed to hear and determine the suit where the value thereof exceeds Rs. 1000 or the matter involved is of the nature mentioned in section 77 (3), First, Group, of the Punjab Tenancy Act, 1887, and in other cases may send the suit to an Assistant Collector of the first grade for decision.]*

(2) Except as otherwise provided by any rule made by the Financial Commissioner in this behalf,—

(*a*) a Collector or an Assistant Collector of the first grade may dispose of any of the applications and proceedings mentioned in sub-section (1) ;

* The proviso was added by Punj. Act III of 1912.

(*b*) an Assistant Collector of the second grade, not being a Naib-tahsildar, may dispose of any of the applications mentioned in the second and third groups of that sub-section ; and

(*c*) a Naib-tahsildar, when invested with the powers of an Assistant Collector of the second grade, may dispose of any of the applications mentioned in the third group of that sub-section.

Revenue Courts and suits cognizable by them.

77. (1) When a Revenue-officer is exercising jurisdiction with respect to any such suit as is described in sub section (3), or with respect to an appeal or other proceeding arising out of any such suit, he shall be called a Revenue Court.

(2) There shall be the same classes of Revenue Courts as of Revenue-officers under this Act ; and, in the absence of any order of the Local Government to the contrary, a Revenue-officer of any class, having jurisdiction within any local limits under this Act, shall be a Revenue Court of the same class having jurisdiction within the same local limits.

(3) The followlng suits shall be instituted in, and heard and determined by, Revenue Courts, and no other Courts shall take cognizance of any dispute or matter with respect to which any such suit might be instituted :—

FIRST GROUP.

(*a*) suits between landlord and tenant for enhancement or reduction of rent under section 24 ;

(*b*) suits between landlord and tenant for addition to, or abatement of, rent under section 28, or for commutation of rent ;

(*e*) suit s under section 34 for the determination of rent or other sum on the expiration of the term of an assessment of land-revenue ; "and suits relating to the rent to be paid under a mortgage made in accordance with form (*c*) as prescribed by section 6 of the Punjab Alienation of Land Act, 1900."*

SECOND GROUP.

(*d*) suits by a tenant to establish a claim to a right of occupancy, or by a landlord to prove that a tenant has not such a right ;

(*e*) suits by a landlord to eject a tenant ;

* These words have been added by Act XIII. of 1900, s. 22.

(*f*) suits by a tenant under section 45 to contest liability to ejectment, when notice of ejectment has been served ;

(*g*) suits by a tenant under section 50 for recovery of possession or occupancy, or for compensation, or for both ;

(*h*) suits by a landlord to set aside a transfer made of a right of occupancy, or to dispossess a person to whom such a transfer has been made, or for both purposes ;

(*i*) any other suit between landlord and tenant arising out of the lease or condition on which a tenancy is held ;

(*j*) suits for sums payable on account of village-cesses or village-expenses ;

(*k*) suits by a co-sharer in an estate or holding for a share of the profits thereof, or for a settlement of accounts ;

(*l*) suits for the recovery of over-payments of rent or land revenue, or of any other demand for which a suit lies in a Revenue Court under this sub-section ;

(*m*) suits relating to the emoluments of kanungos, zaildars, inamdars, or village-officers.

THIRD GROUP.

(*n*) suits by a landlord for arrears of rent or the money-equivalent of rent, or for sums recoverable under section 14 ;

(*o*) suits by a land-owner to recover moneys claimed as due for the enjoyment of rights in or over land or in water, including rights of irrigation, rights over fisheries, rights of pasturage, and forest-rights ;

(*p*) suits for sums payable on account of land revenue or of any other demand recoverable as an arrear of land-revenue under any enactment, for the time being in force, and by a superior land-owner for other sums due to him as such.

(4) Except as otherwise provided by any rule made by the Financial Commissioner* in this behalf,—

(*a*) a Collector may hear and determine any of the suits mentioned in sub-section (3) ;

(*b*) an Assistant Collector of the first grade may hear and determine any of the suits mentioned in the second and third groups of that sub-section ; and, if he has, by name, been specially empowered in this behalf

* In N. W. F. Province read "Revenue Commissioner" Vide Reg 7 of 1901.

by the Local Government,* any of the suits mentioned in the first group ; and

(*c*) an Assistant Collector of the second grade may hear and determine any of the suits mentioned in the third group.

Administrative Control.

Superintendence and control of Revenue-officers and Revenue Courts.

78. (1) The general superintendence and control over all other Revenue-officers and Revenue Courts shall be vested in, and all such officers and Courts shall be subordinate to, the Financial Commissioner.

(2) Subject to the general superintendence and control of the Financial Commissioner, a Commissioner shall control all other Revenue-officers and Revenue Courts in his division.†

(3) Sudject [as aforesaid, and to the control of the] Commissioner, a Collector shall control all other Revenue-officers and Revenue Courts in his district.

Power to distribute business and withdraw and transfer cases.

79. (1) The ‡ Financial Commissioner or a Commissioner or Collector may, by written order, distribute, in such manner as he thinks fit, any business cognizable by any Revenue-officer or Revenue Court under his control.

(2) The Financial Commissioner* or a Commissioner or Collector may withdraw any case pending before any Revenue-officer or Revenue Court under his control, and either dispose of it himself, or by written order refer it for disposal to any other Revenue-officer or Revenue Court under his control.

(3) An order under sub-section (1) or sub-section (2) shall not empower any Revenue-officer or Revenue Court to exercise any powers, or deal with any business, which he or it would not be competent to exercise or deal with within the local limits of his or its own jurisdiction.

Appeal, Review, and Revision.

Appeals.

80. Subject to the provisions of this Act and the rules thereunder, an appeal shall lie from an original or appellate order or decree made under this Act by a Revenue-officer or Revenue Court, as follows, namely :—

(*a*) to the Collector when the order or decree is made by an Assistant Collector of either grade ;

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* In N. W. F Province read "Chief Commissioner." Vide Reg 7 of 1901.

† Sub-section (2) has been omitted in N. W. F Province Vide Ibid.

‡ In N. W. Frontier Province read Chief Commissioner and Revenue Commissioner by Reg VII of 1901.

(*b*) to the Commissioner when the order or decree is made by a Collector ;

*(*c*) to the Financial Commissioner when the order or decree is made by a Commissioner :

Provided that—

(*i*) an appeal from an order or decree made by an Assistant Collector of the first grade specially empowered by name in that behalf by the Local Government† in a suit mentioned in the first group of sub-section (3) of section 77 shall lie to the Commissioner,† and not to the Collector ;

(*ii*) when an original order or decree is confirmed on first appeal, a further appeal shall not lie ;

(*iii*) when any such order or decree is modified or reversed on appeal by the Collector, the order or decree made by the Commissioner † on further appeal, if any, to him shall be final.

Limitation for Appeals.

81. The period of limitation for an appeal under the last foregoing section shall run from the date of the order or decree appealed against, and shall be as follows, that is to say :—

(*a*) when the appeal lies to the Collector—thirty days :

(*b*) when the appeal lies to the Commissioner†—sixty days :

*(*c*) when the appeal lies to the Financial Commissioner—ninety days.

Review by Revenue-officers.

82. (1) A Revenue-officer, as such, may, either of his own motion or on the application of any party interested, review and, on so reviewing, modify, reverse, or confirm any order passed by himself, or by any of his predecessors in officer :

Provided as follows :

(*a*) when a Commissioner† or Collector thinks it necessary to review any order which he has not himself passed, and when a Revenue-officer of a class below that of Collector proposes to review any order, whether passed by himself, or by any of his predecessors in office, he shall first obtain the sanction of the Revenue-officer to whose control he is immediately subject ;

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* clause (c) has been omitted Vide, Reg VII of 1901

† In N. W. Frontier Province read Chief Commissioner and Revenue Commissioner respectively Vide Reg VII of 1901.

(*b*) an application for review of an order shall not be entertained unless it is made within ninety days from the passing of the order, or unless the applicant satisfies the Revenue officer that he had sufficient cause for not making the application within that period ;

(*c*) an order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order ;

(*d*) an order against which an appeal has been preferred shall not be reviewed.

(2) For the purpose of this section the Collector shall be deemed to be the successor in office of any Revenue-officer of a lower class who has left the district, or has ceased to exercise powers as a Revenue-officer, and to whom there is no successor in office.

(3) An appel shall not lie from an order refusing to review, or confirming on review, a previous order.

Computation of periods limited for appeals and applications for review.

83. In the occupation of the period for an appeal from, or an application for the review of, an order under this Act, the limitation therefor shall be governed by the Indian Limitation Act, 1877.

Powe to call for, examine and revise proceedings of Revenue-officer and Revenue Courts.

84. (1) The Financial Commissioner* may, at any time, call for the record of any case pending before or disposed of by, any Revenue-officer or Revenue Court subordinate to him.

(2) A Commissioner† or Collector may call for the record of any case pending before, or disposed of by, any Revenue officer or Revenue Court under his control.

(3) If, in any case in which a †Commissioner or Collector has called for a record, he is of opinion that the proceedings taken or the order or decree made should be modified or reserved, he shall submit the record with his opinion on the case for the orders of the Financial Commissioner.

(4) If, after examining a record called for by himself under sub section (1), or submitted to him under sub section (3), the Financial Commissioner* is of opinion that it is inexpedient to interfere with the proceedings or the order or decree, he shall pass an order accordingly.

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* In N. W. Frontier Province read "Chief Commissioner and Revenue Commiseioner respectivly Vide Reg VII of 1901.

† In N. W. Frontier Province read "Revenne Commissioner Vide Reg VII. of 1901.

(5) If, after examining the record, the Financial Commissioner is of opinion that it is expedient to interfere with the proceedings or the order or decree on any ground on which the High* Court, in the exercise of its revisional jurisdiction, may, under the law for the time being in force, interfere with the proceedings or an order or decree of a Civil Court, he shall fix a day for hearing the case, and may, on that or any subsequent day to which he may adjourn the hearing, or which he may appoint in this behalf, pass such order as he thinks fit in the case.

(6) Except when the Financial Commissioner fixes under sub-section (5) a day for hearing the case, no party has any right to be heard before the Financial Commissioner when exercising his powers under this section.

Procedure.

Procedure of Revenue-officers.

85.† (1) The Local Government may make rules consistent with this Act for regulating the procedure of Revenue officers under this Act in cases in which a procedure is not prescribed by this Act.

(2) The rules may provide, among other matters, for the mode of enforcing orders of ejectment from, and delivery of possession of, immoveable property, and rules providing for those matters may confer on a Revenue-officer all or any of the powers in regard to contempts, resistance, and the like, which a Civil Court may exercise in the execution of a decree whereby it has adjudged ejectment from, or delivery of possession of, such property.

(3) The rules may also provide for the mode of executing orders as to costs, and may adapt to proceedings under this Act all or any of the provisions of the Punjab Land-revenue Act, 1887, with respect to arbitration.

(4) Subject to the rules under this section, a Revenue officer may refer any case which he is empowered to dispose of under this Act to another Revenue-officer for investigation and report, and may decide the case upon the report.

Persons by whom appearances may be made before Revenue-officers as such, and not as Revenue Courts.

86. (1) Appearances before a Revenue-officer as such, and applications to, and acts to be done before, him under this Act, may be made or done –

(*a*) by the parties themselves, or

(*b*) by their recognized agents or a legal practitioner :

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* The High Court have been established by Act 18 of 1919 but in N. W. Frontier Province read "Judicial Commissioner" Vide Reg VII of 1901.

† For rules under s. 85 (*1*), see Notification No. 77, *Punjab Gazette*, Extraordinary, March 1, 1888, p. 79.

Provided that the employment of a recognized agent or legal practitioner shall not excuse the personal attendance of a party to any proceeding in any case in which personal attendance is specially required by an order of the officer,

(2) For the purposes of sub-section (1), recognized agents shall be such persons as the Local Government may, by notification, declare in this behalf.

(3) The fees of a legal practitioner shall not be allowed as costs in any proceeding before a Revenue-officer under this Act, unless that officer considers, for reasons to be recorded by him in writing, that the fees should be allowed.

Costs.

87. (1) A Revenue-officer may give and apportion the costs of any proceeding under this Act in any manner he thinks fit.

(2) But, if he orders that the costs of any such proceeding shall not follow the event, he shall record his reasons for the order.

Procedure of Revenue Courts.

88. (1) The Local Government may,* make rules consistent with this Act for regulating the procedure of Revenue Courts in matters under this Act for which a procedure is not prescribed thereby, and may by any such rule direct that any provisions of the Code of Civil Procedure shall apply, with or without modification, to all or any classes of cases before those Courts,

(2) Until rules are made under sub-section (1), and subject to those rules when made, and to the provisions of this Act,—

(*a*) the Code of Civil Procedure shall, so far as it is applicable, apply to all proceedings in Revenue Courts, whether before or after decree ; and

(*b*) the Financial Commissioner shall, in respect of those proceedings, be deemed to be the High Court within the meaning of that Code, and shall, subject to the provisions of this Act, exercise, as regards the Courts under his control, all the powers of a High Court under the Code.

Power of Revenue-officer or Revenue Court to summon persons.

89. (1) A Revenue-officer or Revenue Court may summon any person whose attendance he or it considers necessary for the purpose of any application, suit, or other business before him or it as a Revenue-officer or Revenue Court.

(2) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person, or, if the summons so allows, by his recognized agent or a legal practitioner.

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

(3) The person attending in obedience to the summons shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as the Revenue-officer or Revenue Court may require.

Mode of service of summons.

90. (1) A summons issued by a Revenue officer or Revenue Court shall, if practicable, be served (*a*) personally on the person to whom it is addressed, or failing him on (*b*) his recognized agent, or (*c*) an adult male member of his family who is residing with him.

(2) If service cannot be so made, or if acceptance of service so made is refused, the summons may be served by posting a copy thereof at the usual or last-known place of residence of the person to whom it is addressed, or if that person does not reside in the district in which the Revenue-officer is employed, or the Revenue Court is held, and the case to which the summons relates has reference to land in that district, then by posting a copy of the summons on some conspicuous place in or near the estate wherein the land is situate.

(3) If the summons relates to a case in which persons having the same interest are so numerous that personal service on all of them is not reasonably practicable, it may, if the Revenue-officer or Revenue Court so directs, be served by delivery of a copy thereof to such of those persons as the officer or Court nominates in this behalf, and by proclamation of the contents thereof, for the information of the other persons interested.

(4) A summons may, if the Revenue officer or Revenue Court so directs, be served on the person named therein, either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a letter addressed to the person, and registered under Part III. of the Indian Post Office Act, 1866.

(5) When a summons is so forwarded in a letter, and it is proved that the letter was properly addressed and duly posted and registered, the officer or Court may presume that the summons was served at the time when the letter would be delivered in the ordinary course of post.

Mode of service of notice, order, or proclamation, or copy thereof.

91. A notice, order, or proclamation, or copy of any such document, issued by a Revenue-officer or Revenue Court for service on any person, shall be served in the manner provided in the last foregoing section for the service of a summons.

Mode of making proclamation.

92. When a proclamation relating to any land is issued by a Revenue Court, it shall, in addition to any other mode of publication which may be prescribed by any enactment for the

time being in force, be made by beat of drum or other customary method, and by the posting of a copy thereof on a conspicuous place in or near the land to which it relates.

Joindar of tenants as parties to proceedings relating to rent.

93. (1) Any number of tenants cultivating in the same estate may, in the discretion of the Revenue-officer or Revenue Court, and subject to any rules which the Local Government may make in this behalf, be made parties to any proceeding under Chapter III.

(2) But a decree or order shall not be made in any such proceeding unless the Revenue-officer or Revenue Court is satisfied that all the parties thereto have had an opportunity of appearing and being heard.

(3) A decree or order made in any such proceeding shall specify the extent to which each of the tenants is affected thereby.

Exception of suits under this Act from operation of certain enactments.

94. Nothing in section 424 of the Code of Civil Procedure, or in section 36 of the Punjab Municipal Act, 1884, shall be construed to apply to a suit of a class mentioned in section 77 of this Act.

Payment into Court of money admitted to be due to third person.

95. (1) When a defendant admits that money is due from him on account of rent, but pleads that it is due, not to the plaintiff, but to a third person, the Court shall, except for special reasons to be recorded by it, refuse to take cognizance of the plea unless the defendant pays into Court the amount so admitted to be due.

(2) Where such a payment is made, the Court shall forthwith cause notice of the payment to be served on the third person.

(3) Unless the third person, within three months from the receipt of the notice, institutes a suit against the plaintiff, and therein obtains an order restraining payment of the money, it shall be paid to the plaintiff on his application to the Court therefor.

(4) Nothing in this section shall affect the right of any person to recover from the plaintiff money paid to him under sub-section (3).

(5) When a defendant pays money into Court under this section the Court shall give the defendant a receipt, and the receipt so given shall operate as an acquittance in the same manner and to the same extent as if it had been given by the plaintiff or the third person, as the case may be.

Execution of decrees for arrears of rent.

96. A Court passing a decree for an arrear of rent may, on the oral application of the decree-holder, order execution thereof against the moveable property of the tenant, and against any uncut or ungathered crops on the tenancy in respect of which the arrear is decreed.

Prohibition of imprisonment of tenants in excution of decrees for arrears of rent.

97. A tenant shall not, during the continuance of his occupancy, be liable to imprisonment on the application of his landlord in execution of a decree for an arrear of rent.

Power to refer party to Civil Court.

98. (1) If, in any proceeding pending before a Revenue Court exercising original, appellate, or revesional jurisdiction, it appears to the Court that any question in issue is more proper for decision by a Civil Court, the Revenue Court may, with the previous sanction of the Court, if any, to the control of which it is immediately subject, require, by order in writing, any party to the proceeding to institute, within such time as it may fix in this behalf, a suit in the Civil Court for the purpose of obtaining a decision on the question, and, if he fails to comply with the requisition, may decide the question as it thinks fit.

(2) If the party institutes the suit in compliance with the requisition, the Revenue Court shall dispose of the proceeding pending before it in accordance with the final decision of the Civil Court of first instance or appeal, as the case may be.

Power to refer to Chief Court questions as to jurisdiction.

99. (1) If the presiding officer of a Civil or Revenue Court in which a suit has been instituted doubts whether he is precluded from taking cognizance of the suit, he may refer the matter through the Divisional Judge or Commissioner, or, if he is a District* Judge or Commissioner, directly to the High Court.†

(2) On any such reference being made, the High Court† may order the presiding officer either to proceed with the suit, or to return the plaint for presentation in such other Court as it may in its order declare to be competent to take conizance of the suit.

(3) The order of the High Court† on any such reference shall be conclusive as against persons who are not parties to the suit as well as against persons who are parties thereto.

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* Substituted by Punj. Act III of 1914.

† Substituted by Act 18 of 1919 but in N. W. F. Province read "Judicial Commissioner" Vide Reg. VII of 1901.

Power of Chief Court to validate proceedings had under mistake as to jurisdiction.

100. (1) In either of the following cases, namely.—

(*a*) if it appears to a Civil Court that a Court under its control has determined a suit of a class mentioned in section 77, which, under the provisions of that section, should have been heard and determined by a Revenue Court or

(*b*) if it appears to a Revenue Court that a Court under its Control has determined a suit which should have been heard by a Civil Court,

the Civil Court or Revenue Court, as the case may be, shall submit the record of the suit to the High Court.*

(2) If, on perusal of the record, it appears to the High Court* that the suit was so determined in good faith, and that the parties have not been prejudiced by the mistake as to jurisdiction, the "High Court"* may order that the decree be registered in the Court which had jurisdiction.

(3) If it appears to the "High Court"* otherwise than on submission of a record under sub-section (1), that a Civil Court under its control has determined a suit of a class mentioned in section 77, which, under the provisions of that section, should have been heard and determined by a Revenue Court, the "High Court"* may pass any order which it might have passed if the record had been submitted to it under that sub-section.

(4) With respect to any proceeding subse-quent to decree, the "Hight Court"* may make such order for its registration in a Revenue Court or Civil Conrt as, in the circumstances, appears to be just and proper.

(5) An order of the "High Court"* under this section shall be conclusive as against persons who were not parties to the suit or proceeding as well as against persons who were parties thereto, and the decree or proceeding to which the order relates shall have effect as if it had been made or had by the Court in which the order as required it to be registered.

(6) The provisions of this section shall apply to any suit instituted on or after the first day of November 1884, and to proceedings arising out of any such suit.

Miscellaneous.

Place of sitting.

101. (1) An Assistant Collector may exercise his powers under this Act at any place within the limits of the district in which he is employed.

* Substituted by Act 18 of 1919.

(2) Any other Revenue-officer or Revenue Court may only exercise his or its powers under this Act within the local limits of his or its jurisdiction.

Holidays..

102. (1) The Financial Commissioner, with the approval of the Local Government, shall publish, in the local official Gazette, before the commencement of each calender year, a list of days to be observed in that year as holidays by all or any Revenue-officers and Revenue Courts.

(2) A proceeding had before a Revenue-officer or Revenue Court on a day specified in the list as a day to be observed by the officer or Court as a holiday shall not be invalid by reason only of its having been had on that day.

Discharge of duties of Collector dying or being disabled.

103. When a Collector dies or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the district under any orders which may be generally or specially issued by the Local Government in this behalf shall be deemed to be a Collector under this Act.

Retention of powers by Revenue-officers on transfer.

104. When a Revenue-officer of any class who, either as such, or as a Revenue Court, has, under the foregoing provisions of this Act, any powers to be exercised in any local area, is transferred from that local area to another as a Revenue officer or Reveuue Court of the same or higher class, he shall continue to exercise those powers in that other local area, unless the Local Government otherwise directs or has otherwise directed.

Conferment of powers of Revenue-officer or Revenue Court.

105. (1) The Local Government may, by notification, confer on any person—

(*a*) all or any of the powers of a Financial Commissioner, Commissioner or Collector under this Act, or

(*b*) all or any of the powers with which an Assistant Collector of either grade is, or may be, invested thereunder,

and may, by notification, withdraw any powers so conferred.

(2) A person on whom powers are conferred under sub-section (1) shall exercise those powers within such local limits and in such classes of cases as the Local Government may direct, and, except as otherwise directed by the Local Government, shall for, all purposes connected with the exercise thereof, be deemed a Financial Commissioner, Commissioner, Collector, or Assistant Collector, as the case may be.

(3) Before conferring powers on the Judge of a Civil Court under sub section (1), the Local Government shall consult the "High Court."*

(4) If any of the powers of a Collector under section 78, section 79, section 80, or section 82, are conferred on an Assistant Collector, they shall, unless the Local Government, by special order, otherwise directs, be exercised by him subject to the control of the Collector.

Power for Financial Commissioner to make rules.

106.† (1) The Financial Commissioner may, in addition to the other rules which may be made by him under this Act, make rules, consistent with this Act and any other enactment for the time being in force,—

(*a*) determining notwithstanding anything in any record-of-rights, the number and amount of the instalments, and the times by and at which rent is to be paid ;

(*b*) for the guidance of Revenue-officers in determining, for the purposes of this Act, the amount of the land-revenue of any land ;

(*c*) prescribing, for all or any of the territories to which this Act extends, the periods during which, in proceeding held under this Act, a Revenue-officer or Revenue Court is not, except for reasons of urgency to be recorded, to issue any process of arrest against a tenant or against a land-owner who cultivates his own land ;

(*d*) regulating the procedure in cases where persons are entitled to inspect records of Revenue-officers of Revenue Courts, or to obtain copies of the same, and prescribing the fees payable for searches and copies :

(*e*) prescribing forms for such books, entires, statistics, and accounts as the Financial Commissioner thinks necessary to be kept, made, or compiled in Revenue-offices or Revenue Courts, or submitted to any authority ;

(*f*) declaring what shall be the language of any of those offices and Courts, and determining in what cases persons practising in those offices and Courts shall be permitted to address the presiding officers thereof in English ; and

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* Substituted by Act 18 of 1919. But in N. W. Frontier Province read Judicial Commissioner Vide Reg. VII. of 1901.

† For rules of the Financial Commissioner under s. 106 (*1*), see Notifications Nos. 78 and 79, *Punjab Gazette*, Extraordinary, March 1, 1888, pp. 81 and 86 respectively.

(*g*) generally for the guidance of Revenue-officers and other persons in matters connected with the enforcement of this Act.

(2) Until rules are made under clause (*a*) of sub-section (1), rent shall be payable by the instalments, and at the times by and at which it is now payable.

(3) Rules made by the Financial Commissioner under this or any other section of this Act shall not take effect until they have been sanctioned by the Local Government.

Rules to be made after previous publication.

107.* The power to make any rules under this Act is subject† to the condition of the rules being made after previous publication.

Powers exercisable by Financial Commissioner from time to time.

108. All powers conferred by this Act on the Financial Commissioner may be exercised from time to time as occasion requires.

CHAPTER VIII.

EFFECT OF THIS ACT ON RECORDS-OF-RIGHTS AND AGREEMENTS.

Nullity of certain entries in records-of-rights.

109. An entry in any record-of-rights providing—

(*a*) that a landlord may prevent a tenant from making, or eject him for making, such improvements on his tenancy as he is entitled to make under this Act, or

(*b*) that a tenant ejected from his tenancy shall not be entitled to compensation for improvements, or for disturbance, in any case in which he would, under this Act, be entitled to compensation therefor, or

(*c*) that a landlord may eject a tenant otherwise than in accordance with the provisions of this Act,

shall be void to that extent.

Nullity of certain agreements contrary to the Act.

110. (1) Nothing in any agreement made between a landlord and a tenant after the passing of this Act shall—

(*a*) override any of the provisions of this Act with respect to the acquisition of a right of occupancy, or the reduction, remission, or suspension of rent, or the enhancement of the rent of the tenant having a right of occupancy under section 5 or section 6, or

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* For provisions as to the making of rules after "previous publication," see Act I. of 1887, s. 6.

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

(*b*) take away or limit the right of a tenant as detsrmined by this Act to make improvements, and claim compensation therefor, or, where compensation for disturbance can be claimed under this Act, to claim such compensation, or

(*c*) entitle a landlord to eject a tenant otherwise than in accordance with the provisions of this Act.

(2) Nothing in clause (*a*) of sub section (1) shall apply to an agreement by which a tenant binds himself to pay an enhanced rent in consideration of an improvement which has been, or is to be, made in respect of his tenancy by, or at the expense of, his landlord, and to the benefit of which the tenant is not otherwise entitled.

Saving of other agreements when in writing.

111. Save as expressly provided in this Act, nothing in this Act shall affect the operation of any agreement between a landlord and a tenant, when the agreement either is in writing, or has been recorded in a record-of-rights, before the passing of the Punjab Land-revenue Act, 1887,* or been entered by order of a Revenue-officer in a record-of-rights or annual record under the provisions of that Act.

Effect of certain entries made in records-of-rights before November 1871.

112. An entry made with respect to any of the following matters before the eighteenth day of November 1871, and attested by the proper officer, in the record of a regular settlement sanctioned by the Local Government, namely,—

(*a*) the enhancement or abatement of the rent of a tenant having a right of occupancy, or the commutation of rent in kind into rent in money or of rent in money into rent in kind, or the taking of rent in kind by division or appraisement of the produce, or other procedure of a like nature, or

(*b*) the letting or under-letting of land in which there is a right of occupancy by the tenant having that right, or the alienation of, or succession to, land in which such a right subsists,

shall be deemed to be an agreement within the meaning of the last foregoing section.

THE SCHEDULE.

ENACTMENTS REPEALED.

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

* So much of s. 3 of Act XVI- of 1887 as related to Act XXVIII. of 1868 was excepted when the former Act was extended to the Hazra District.—See Reg. XIII. of 1887, s. 3.

(*g*) generally for the guidance of Revenue-officers and other persons in matters connected with the enforcement of this Act.

(2) Until rules are made under clause (*a*) of sub-section (1), rent shall be payable by the instalments, and at the times by and at which it is now payable.

(3) Rules made by the Financial Commissioner under this or any other section of this Act shall not take effect until they have been sanctioned by the Local Government.

Rules to be made after previous publication.

107.* The power to make any rules under this Act is subject† to the condition of the rules being made after previous publication.

Powers exercisable by Financial Commissioner from time to time.

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109. An entry in any record-of-rights providing—

(*a*) that a landlord may prevent a tenant from making, or eject him for making, such improvements on his tenancy as he is entitled to make under this Act, or

(*b*) that a tenant ejected from his tenancy shall not be entitled to compensation for improvements, or for disturbance, in any case in which he would, under this Act, be entitled to compensation therefor, or

(*c*) that a landlord may eject a tenant otherwise than in accordance with the provisions of this Act,

shall be void to that extent.

Nullity of certain agreements contrary to the Act.

110. (1) Nothing in any agreement made between a landlord and a tenant after the passing of this Act shall—

(*a*) override any of the provisions of this Act with respect to the acquisition of a right of occupancy, or the reduction, remission, or suspension of rent, or the enhancement of the rent of the tenant having a right of occupancy under section 5 or section 6, or

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* For provisions as to the making of rules after "previous publication," see Act I. of 1887, s. 6.

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

(*b*) take away or limit the right of a tenant as detsrmined by this Act to make improvements, and claim compensation therefor, or, where compensation for disturbance can be claimed under this Act, to claim such compensation, or

(*c*) entitle a landlord to eject a tenant otherwise than in accordance with the provisions of this Act.

(2) Nothing in clause (*a*) of sub section (1) shall apply to an agreement by which a tenant binds himself to pay an enhanced rent in consideration of an improvement which has been, or is to be, made in respect of his tenancy by, or at the expense of, his landlord, and to the benefit of which the tenant is not otherwise entitled.

Saving of other agreements when in writing.

111. Save as expressly provided in this Act, nothing in this Act shall affect the operation of any agreement between a landlord and a tenant, when the agreement either is in writing, or has been recorded in a record-of-rights, before the passing of the Punjab Land-revenue Act, 1887,* or been entered by order of a Revenue-officer in a record-of-rights or annual record under the provisions of that Act.

Effect of certain entries made in records-of-rights before November 1871.

112. An entry made with respect to any of the following matters before the eighteenth day of November 1871, and attested by the proper officer, in the record of a regular settlement sanctioned by the Local Government, namely,—

(*a*) the enhancement or abatement of the rent of a tenant having a right of occupancy, or the commutation of rent in kind into rent in money or of rent in money into rent in kind, or the taking of rent in kind by division or appraisement of the produce, or other procedure of a like nature, or

(*b*) the letting or under-letting of land in which there is a right of occupancy by the tenant having that right, or the alienation of, or succession to, land in which such a right subsists,

shall be deemed to be an agreement within the meaning of the last foregoing section.

THE SCHEDULE.

ENACTMENTS REPEALED.

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

* So much of s. 3 of Act XVI. of 1887 as related to Act XXVIII. of 1868 was excepted when the former Act was extended to the Hazra District.—See Reg. XIII. of 1887, s. 3.

ACT XVII. OF 1887.

The Punjab Land-revenue Act, 1887.*

RECEIVED THE G.-G.'S ASSENT ON THE 23RD SEPTEMBER 1887.

An Act to amend and declare the Land reve nue Law of the Punjab.

WHEREAS it is expedient to amend and declare the law in force in the Punjab with respect to the making and maintenance of records-of-rights in land, the assessment and collection of land-revenue, and other matters relating to land and the liabilities incident thereto; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent, and commencement.

1. (1) This Act may be called the Punjab Land-Revenue Act, 1887.

(2) It extends to the territories for the time being administered by the Lieutenant-Governor of the Punjab, including the Paragana of Spiti, but not so as to affect, otherwise than as expressly provided by this Act,† any Regulation in force under the provisions of the Statue 33 Victoria, chapter 3, section 1, in any portion of those territories; and

(3) It shall come into force‡ on such day as the Local Government, with the previous sanction of the Governor-General in Council, may, by notification, appoint in this behalf.

(4) [*Repealed by Act XII of 1891.*]

Repeal.

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

(2) But all rules, appointments, assessments, and transfers made, notifications and proclamations issued, authorities and powers conferred, farms and leases granted, records-of-rights and

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* Declared in force in the tahsil of Pishin on British Baluchistan, subject to certain modifications Vide Reg. 2 of 1913 s. 3.

Declared in force in territory transfered to Delhi Province. Act 7 of 1915, s. 2, Sch. II.

For changes made in the Act in North West Frontier Province, Vide Reg. VII of 1901.

† *E. g.*, s. 2nd schedule.

‡ The Act was brought into force on Nov. 1. 1887.—See Notification No. 727, *Punjab Gazette*, Nov. 3. 1887, Pt. I., p. 578.

other records framed, revised, or confirmed, rights acquired, liabilities incurred, times and places appointed, and other things done under any of the repealed enactments, shall, so far as may be, be deemed to have been respectively made, issued, conferred, granted, framed, revised, confimred, acquired, incurred, appointed, and done under this Act.

(3) Any enactment or document referring to any enactment hereby repealed shall be construed as referring to this Act.

Definitions.

3. In this Act, unless there is something repugnant in tjhe subect or context,—

(1) "estate" means any area—

(*a*) for which a separate record-of-rights has been made ; or

(*b*) which has been separately assessed to land-revenue, or would have been so assessed if the land-revenue had not been released, compounded for, or redeemed ; or

(*c*) which the Local Government may, by general rule or special order, declare to be an estate :

(2) "land-owner" does not include a tenant or an assignee of land-revenue, but does include a person to whom a holding has been transferred, or an estate or holding has been let in farm, under this Act for the recovery of an arrear of land-revenue, or of a sum recoverable as such an arrear, and every other person not hereinbefore in this clause mentioned who is in possession of an estate or any share or portion theeorf, or in the enjoyment of any part of the profits of an estate :

(3) "holding" means a share or portion of an estate held by one landowner, or jointly by two or more land-owners :

(4) "rent," "tenant," "landlord," and "tenancy" have the meanings respectively assigned to those words in the Punjab Tenancy Act' 1887 :

(5) "pay," with its grammatical variations and cognate expressions, includes, when used with reference to rent, "deliver" and "render," with their grammatical variations and cognate expressions :

(6) "land-revenue" includes assigned land-revenue and any sum payable in respect of land, by way of quit-rent or of commutation for service, to the Government, or to a person to whom the Government has assigned the right to receive the payment :

(7) "arrear of land-revenue" means land-revenue which remains unpaid after the date on which it becomes payable :

(8) "defaulter" means a person liable for an arrear of land-revenue, and includes a person who is responsible as surety for the payment of the arrear :

(9) "rates and cesses" means rates and cesses which are primarily payable by land-owners, and includes—

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

(*b*) the local rate, if any, payable under the Punjab District Boards Act, 1883, and any fee leviable under section 33 of that Act from land-owners for the use of, or benefits derived from, such works as are referred to in section 20, clauses (*i*) and (*j*), of that Act ;

(*c*) any annual rate chargeable on owners of lands under section 59 of the Northern India Canal and Drainage Act, 1873 ;

(*d*) the zaildari and village-officers' cesses ; and

(*e*) sums payable on account of village-expenses :

(10) "village-cess" includes any cess, contribution, or due which is customarily leviable within an estate, and is neither a payment for the use of private property or for personal service, nor imposed by or under any enactment for the time being in force:

(11) "village-officer" means a chief-headman, headman, or patwari :

(12) "Revenue-officer," in any provision of this Act, means a Revenue-officer having authority under this Act to discharge the functions of a Revenue-officer under that provision :

(13) "legal practitioner" means any legal practitioner within the meaning of the Legal Practitioners Act, 1879, except a mukhtar :

(14) "agricultural year" means the year commencing on the sixteenth day of June, or on such other date as the Local Government may, by notification, appoint for any local area :

(15) "notification" means a notification published by authority of the Local Government in the official Gazette :

(16) "incumbrance" means a charge upon, or claim against, land arising out of a private grant or contract : and

(17) "survey-mark" includes boundary-mark.

Exclusion of certain land from operation of Act.

4. (1) Except so far as may be necessary for the record, recovery, and administration of village-cesses, nothing in this Act applies to land which is occupied as the site of a town or village and is not assessed to land-revenue.

(2) A Revenue-officer may define, for the purposes of this Act, the limits of any such land.

Power to vary limits, and alter number of tahsils, districts, and divisions.

5. The Local Government may, by notification, vary the limits of the tahsils, districts, and divisions into which the territories administered by it are divided, and may, by notification, alter the number of those tahsils "and Districts† and with the previous sanction of the Governor-General in Council, the number of those‡ divisions.

CHAPTER II.

REVENUE-OFFICERS.

Classes and Powers.

Classes of Revenue-officers.

6. (1) There shall be the following classes of Revenue-officers, namely :—

(*a*) the Financial Commissioner ;

(*b*) the Commissioner ;

(*c*) the Collector;

(*d*) the Assistant Collector of the first grade; and

(*e*) the Assistant Collector of the second grade.

(2) The Deputy Commissioner of a district shall be the Collector thereof.

(3) The Local Government may appoint any Assistant Commissioner, Extra Assistant Commissioner, or Tahsildar to be an Assistant Collector of the first or of the second grade, as it thinks fit, and any Naib tahsildar to be an Assistant Collector of the second grade.

(4) Appointments under sub-section (3) shall be by notification, and may be of a person specially by name or by virtue of his office, or of more persons than one by any description sufficient for their identification.

(5) Subject to the provisions of this Act the jurisdiction of the Financial Commissioner extends to the whole of the territories for the time being administered by the Lieutenant-Governor of the Punjab, and of Commissioners and of Collectors and Assistant Collectors to the divisions and districts respectively in which they are for the time being employed.

Financial Commissioner.

7. (1) There shall be one or more Financial Commissioners, who shall be appointed, and may be removed, by the Local Government.‡

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

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

‡ Certain words after this repealed by Act IV of 1914 have been omitted.

(2) Where more Financial Commissioners than one have been appointed, the Local Government may make rules* as to the distribution among them of business under this or any other Act, and by those rules require any case or class or classes of cases to be considered and disposed of by the Financial Commissioners collectively.

(3) When there is a difference of opinion among the Financial Commissioners as to any decree or order to be made in a case which they are required, by rules under the last foregoing subsection, to consider and dispose of collectively, the following rules shall apply, namely :—

(*a*) where the case is an appeal or a case on review or revision, it shall be decided in accordance with the opinion of the majority of the Financial Commissioners, or, if there is no such majority which concurs in a decision modifying or reversing the decree or order under appeal, review, or revision, that decree or order shall be affirmed : and

(*b*) where the case is not an appeal or a case on review or revision, the matter respecting which there is the difference of opinion shall be referred to the Local Government for decision, and the decision of that Government with respect thereto shall be final.

(4) The expression "Financial Commissioner," in this or any other Act, shall, when there are more Financial Commissioners than one, be construed as meaning one or more of the Financial Commissloners as the rules for the time being in force under subsection (2) may require.

(5) The second Financial Commissioner appointed under section 52 of the Punjab Courts Act, 1884, shall be deemed to have had jurisdiction, on and after the first day of November 1884, to make any decree or order, or dispose of any other business which might have been made or disposed of by the other Financial Commissioner.

Appointment of Commissioners, and of Deputy, Assistant, and Extra Assistant Commissioners.

8. Commissioners, Deputy Commissioners, Assistant Commissioners, and Extra Assistant Commissioners, shall be appointed and may be removed by the Local Government.

* For rules under s. 7, (2), see Notification No. 132, *Punjab Gazette*, Extraordinary, March 1, 1888, p. 1.

Appointment of Tahsildars and Naib-tahsildars.

9.* The Local Government shall fix the number of Tahsildars and Naib-tahsildars to be appointed, and the Financial Commissioner may make rules for their appointment and removal.

Powers of Revenue-officers.

10.† Except where the class of the Revenue-officer by whom any function is to be discharged is specified in this Act, the Local Government may, by notification, determine the functions to be discharged under this Act by any class of Revenue-officers.

Admininistrative Control.

Superintendence and control of Revenue-officers.

11.‡ (1) The Financial Commissioner shall be subject to the control of the Local Government.

(2) The general superintendence and control over all other Revenue-officers shall be vested in, and all such officers shall be subordinate to, the Financial Commissioner.

(3) Subject to the general superintendence and control of the financial Commissioner, a Commissioner shall control all other Revenue officers in his division.

(4) Subject as aforesaid, and to the control of the Commissioner, a Collector shall control all other Revenue-officers in his district.

Power to distribute business, and withdraw and transfer cases.

12. (1) The Financial Commissioner or a Commissioner or Collector may, by written order, distribute, in such manner as he thinks fit, any business cognizable by any Revenue-officer under his control.

(2) The financial Commissioner or a Commissioner may withdraw any case pending before any Revenue-officer under his control, and either dispose of it himself, or, by written order, refer it for disposal to any other Revenue-officer under his control.

(3) An order under sub-section (1) or sub-section (2) shall not empower any officer to exercise any powers, or deal with any business, which he would not he competent to exercise or deal with within the local limits of his own jurisdiction.

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* For rules under s. 9, see Notification No. 76, *Punjab Gazette*, Extraordinary, March 1, 1888, p. 53.

† For directions under s. 10, see Notification No. 81, *Punjab Gazette*, Extraordinary, March 1, 1888, p. 93.

‡ For rules under s. 11 (*1*), see Notification No. 132, *Punjab Gazette*, Extraordinary, March 1, 1888, p. 1.

Appeal, Review, and Revision,

Appeals.

13. Save as otherwise provided by this Act, an appeal shall lie from an original or appellate order of a Revenue-officer as follows, namely—

(*a*) to the Collector when the order is made by an Assistant Collector of either grade ;

(*b*) to the Commissioner when the order is made by a Collector ;

(*c*) to the Financlal Commissioner when the order is made by a Commissioner :

Provided that—

(*i*) when an original order is confirmed on first appeal, a further appeal shall not lie ;

(*ii*) when any such order is modified or reversed on appeal by the Collector, the order made by the Commissioner on further appeal, if any to him shall be final.

Limitation for appeals.

14. Save as otherwise provided by this Act, the period of limitation for an appeal under the last foregoing section shall run from the date of the order appealed against, and shall be as follows, that is to say :—

(*a*) when the appeal lies to the Collector—thirty days ;

(*b*) when the appeal lies to the Commissioner—sixty days ;

(*c*) when the appeal lies to the Financial Commissioner—ninety days.

Review by Revenue-officer.

15. (1) A Revenue-officer may, either of his own motion, or on the application of any party interested, review, and, on so reviewing, modify, reverse, or confirm any order passed by himself, or by any of his predecessors in office.

Provided as follows :—

(*a*) when a commissioner or Collector thinks it necessary to review any order which he has not himself passed, and when a Revenue-officer of a class below that of Collector proposes to review any order, whether passed by himself, or by any of his predecessors in office, he shall first obtain the sanction of the Revenue-officer to whose control he is immediately subject ;

(*b*) an application for review of an order shall not be entertained unless it is made within ninenty days from the

passing of the order, or unless the applicant satisfies the Revenue-officer that he had sufficient cause for not making the application within that period ;

(*c*) an order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order ;

(*d*) an order against which an appeal has been preferred shall not be reviewed.

(2) For the purposes of this section, the Collector shall be deemed to be the successor in office of any Revenue-officer of a lower class who has left the district or has ceased to exercise powers as a Revenue-officer, and to whom there is no successor in office.

(3) An appeal shall not lie from an order refusing to review, or confirming on review, a previous order,

Power to call for, examine, and revise proceedings of Revenue-officers.

16. (1) The Financial Commissioner may, at any time call for the record of any case pending before, or disposed of by, any Revenue-officer subordinate to him.

(2) A commissioner or Collector may call for the record of any case pending before, or disposed of by, any Revenue-officer under his control.

(3) If, in any case in which a Commissioner or Collector has called for a record, he is of opinion that the proceedings taken or order made should be modified or reversed, he shall report the case, with his opinion thereon, for the orders of the Financial Commissioner.

(4) The Financial Commissioner may, in any case called for by himself under sub-section (1), or reported to him under sub-section (3), pass such order as he thinks fit :

Provided that he shall not, under this section, pass an order reversing or modifying any proceeding or order of a subordinate Revenue-officer, and affecting any question of right between private persons without giving those persons an opportunity of being heard,

Procedure.

Power to make rules as to procedure.

17.* (1) The Local Government may make rules consistent with this Act for regulating the procedure of Revenue-officers under this Act in cases in which a procedure is not prescribed by this Act.

* For rules under s. 17 (1), see Notification No. 75, *Punjab Gazette*, Extraordinary, March 1, 1888, p. 51.

(2) The rules may provide, among other matters, for the mode of enforcing orders of ejectment from, and delivery of possession of, immoveable property, and rules providing for those matters may confer on a Revenue-officer all or any of the powers in regard to contempts, resistance, and the like, which a Civil Court may exercise in the execution of a decree whereby it has adjudged ejectment from, or delivery of possession of, such property.

(3) Subject to the rules under this section, a Revenue-officer may refer any case which he is empowered to dispose of under this Act to another Revenue-officer for investigation and report, and may decide the case upon the report.

Persons by whom appearances and applications may be made before and to Revenue officer.

18. (1) Appearances before a Revenue-officer, and applications to, and acts to be done before, him, under this Act, may be made or done—

(*a*) by the parties themselves, or

(*b*) by their recognized agents or a legal practitioner:

Provided that the employment of a recognized agent or legal practitioner shall not excuse the personal attendance of a party to any proceeding in any case in which personal attendance is specially required by an order of the officer.

(2) For the purposes of sub-section (1), recognized agents shall be such persons as the Local Government may, by notification, declare in this behalf.

(3) The fees of a legal practitioner shall not be allowed as costs in any proceeding before a Revenue-officer under this Act unless that officer considers, for reasons to be recorded by him in writing, that the fees should be allowed.

Power of Revenue-officer to summon persons.

19. (1) A Revenue-officer may summon any person whose attendance he considers necessary for the purpose of any business before him as a Revenue-officer.

(2) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person, or, if the summons so allows, by his recognized agent or a legal practitioner.

(3) The person attending in obedience to the summons shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as the Revenue-officer may require.

20. (1) A summons issued by a Revenue-officer shall, if practicable, be served (*a*) personally on the person to whom it is addressed, or, failing him, on (*b*) his recognized agent, or (*c*) an adult male member of his family usually residing with him.

Mode of service of summons.

(2) If service cannot be so made, or if acceptance of service so made is refused, the summons may be served by posting a copy thereof at the usual or last-known place of residence of the person to whom it is addressed, or, if that person does not reside in the district in which the Revenue-officer is employed, and the case to which the summons relates has refererce to land in that district, then by posting a copy of the summons on some conspicuous place in or near the estate whereln the land is situate.

(3) If the summons relates to a case in which persons having the same interest are so numerous that personal service on all of them is not reasonably practicable, it may, if the Revenue-officer so directs, be served by delivery of a copy thereof to such of those persons as the Revenue-officer nomintes in this behalf, and by proclamation of the contents thereof for the information of the other persons interested.

(4) A summons may, if the Revenue-officer so directs, be served on the person named therein, either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a letter addressed to the person, and registered under Part III. of the Indian Post Office Act, 1866.

(5) When a summons is so forwarded in a letter, and it is proved that the letter was properly addressed and duly posted and registered, the Revenue-officer may presume that the summons was served at the time when the letter would be delivered in the ordinary course of post.

21. A notice, order, or proclamation, or copy of any such document, issued by a Revenue-officer for service on any person, shall be served in the manner provided in the last fore-going section for the service of a summons.

Mode of service of notice, order, or proclamation, or copy thereof.

22. When a proclamation relating to any land is issued by a Revenue-officer, it shall, in addition to any other mode of publication which may be prescribed in any provision of this Act, be made by beat of drum or other customary method and by the posting of a copy thereof on a conspicuous place in or near the land to which it relates.

Mode of making proclamation.

Supplemental Provisions.

Place of sitting.

23. (1) An Assistant Collector may exercise his powers under this Act at any place within the limits of the district in which he is employed.

(2) Any other Revenue-officer may only exercise his powers under this Act within the local limits of his jurisdiction.

Holidays.

24. (1) The Financial Commissioner, with the approval of the Local Government, shall publish in the local official Gazette, before the commencement of each calendar year, a list of days to be observed in that year as holidays by all or any Revenue-officers.

(2) A proceeding had before a Revenue-officer on a day specified in the list as a day to be observed by him as a holiday shall not be invalid by reason only of its having been had on that day.

Discharge of duties of Collector dying or being disabled.

25. When a Collector dies or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the district under any orders which may be generally or specially issued by the Local Government in this behalf shall be deemed to be a Collector under this Act.

Retention of powers by Revenue-officers on transfer.

26. When a Revenue-officer of any class, who has been invested, under the foregoing provisions of this Act, with any powers to be exercised in any local area, is transferred from that local area to another as a Revenue-officer of the same or a higher class, he shall continue to exercise those powers in that other local area unless the Local Government otherwise directs or has otherwise directed.

Conferment of powers of Revenue-officer.

27. (1) The Local Government may, by notification, confer on any person—

(*a*) all or any of the powers of a Financial Commissioner, Commissioner, or Collector under this Act, or

(*b*) all or any of the powers with which an Assistant Collector may be invested thereunder,

and may, by notification, withdraw any powers so conferred,

(2) A person on whom powers are conferred under sub-section (1) shall exercise those powers within such local limits, and in such classes of cases, as the Local Government may direct, and, except as otherwise directed by the Local Government, shall for all purposes connected with the exercise thereof, be deemed to be a Financial Commissioner, Commissioner, Collector, or Assistant Collector, as the case may be.

(3) If any of the powers of a Collector under this Act are conferred on an Assistant Collector, they shall, unless the Local Government, by special order, otherwise directs, be exercised by him subject to the control of the Collector.

CHAPTER III.

KANUNGOS, ZAILDARS, INAMDARS, AND VILLAGE-OFFICERS,

Rules respecting kanungos, Zaildars, inamdars, and Village-officers.

28,* (1) The Financial Commissioner may make rules to regulate the appointment, duties, emoluments, punishment, suspension, and removal of kanungos, zaildars, inamdars, and village-officers.

(2) †When the Government undertakes to pay the zaildars and inamdars in any district, tahsil or other local area from the land-revenue realized in that local area, a rule under sub-section (1) may direct that from every person to whom the land-revenue of any land in that local area has been released or assigned, or who has redeemed or compounded for the same, there shall be levied, as a contribution towards the payment of such zaildars and inamdars a rate not exceeding one-and-a-half per cent, on the land-revenue which has been, or, but for such release, assignment, redemption, or composition, would have been, assessed on such land ; and, in any case in which land-revenue is Collected on account of such land by any Revenue-officer for any such person, such officer may deduct that percentage from the amount payable by him to that person.

Village-officers' cess.

29.‡ (1) The Local Government may, by notification, impose on all or any estates in the territories for the time being administered by it a cess, to be called the Village-officers' cess at such rate or rates not exceeding "half anna"§ for every rupee of the annual value as it may think fit, for remunerating "headmen and chief headmen"§ in those territorries, and for defraying other expenditure directly connected with the supervision of those officers or with the performance of their duties.

(2) 'Annual value' in sub-section (1) has the meaning assigned to that expression in the Punjab District Boards Act, || 1883 ; that is to say—

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* For rules under ss. 28 and 29, see Notifications Nos. 74 and 76, *Punjab Gazette*, Extraodinary. March 1, 1888, pp, 3 and 53.

† Sub-section (2) of s. 28 has been substituted for the original by Act XVII. of 1896, s. 1.

‡ S. 29 has been re-enacted by Act XVII. of 1896, s. 2,

§ The words within quotations have been substituted by Act 4 of 1907.

|| Act XX of 1883.

(*a*) double the land-revenue for the time being assessed on any land, whether the assessment is leviable or not; or,

(*b*) where the land-revenue has been permanently assessed, or has been wholly or in part compounded for or redeemed, double the amount which, but for such permanent assesement, composition, or redemption, would have been leviable; or,

(*c*) where no land-revenue has been assessed, double the amount which would have been assessed if the average village-rate had been applied.

Provided that, in any tract in which, under the settlement for the time being in force, the improvement of the land due to canal-irrigation has been excluded from account in assessing the land revenue, and a rate has been imposed in respect of such improvement, that rate shall be added to the land-revenue for the purpose of computing the annual value.

(3) The Financial Commissioner may make rules for the collection, control, and expenditure of the village-officers' cess,

(4) All cesses now levied in any local area for the purposes mentioned in sub-section (1) shall be deemed to have been lawfully imposed, and shall, until the village-officers' cess is imposed in that local area under that sub-section, be deemed to be leviable, and, for the purposes of this section, to be that cess.

Restriction on attachment or assignment of remuneration of kanungos, zaildars, inamdars, and village officers.

30. (1) The emoluments of a kanungo, zaildar, inamdar, or village-officer, shall not be liable to attachment in execution of a decree or order of any Civil or Revenue Court.

(2) An assignment of, or charge on, or an agreement to assign or charge, any such emoluments, shall be void unless it is authorized by rules made by the Financial Commissioner in this behalf.

CHAPTER IV.*

RECORDS,

Records-of-rights and Annual Records.

Record-of-rights and documents included therein.

31. (1) Save as otherwise provided by this Chapter, there shall be a record-of-rights for each estate.

* The provisions of this chapter shall apply to all village cities in a colony.

(2) The record-of-rights for an estate shall include the following documents, namely :—

(*a*) statements showing, so far as may be practicable,—

(i) the persons who are land-owners, tenants, or assignees of land-revenue in the estate, or who are entitled to receive any of the rents, profits, or produce of the estate, or to occupy land therein ;

(ii) the nature and extent of the interests of those persons, and the conditions and liabilities attaching thereto ; and

(iii) the rent, land-revenue, rates, cesses, or other payments due from and to each of those persons and to the Government ;

(*b*) a statement of customs respecting rights and liabilities in the estate ;

(*c*) a map of the estate ; and

(*d*) such other documents as the Financial Commissioner may, with the previous sanction of the Local Government, prescribe.*

Making or special revision of record-of-rights.

32. (1) When it appears to the Local Government that a record-of-rights for an estate does not exist, or that the existing record-of rights for an estate requires special revision, the Local Government may, by notification, direct that a record-of-rights be made, or that the record-of-rights be specially revised, as the case may be.

(2) The notification may direct that records of-rights shall be made or specially revised for all or any estates in any local area.

(3) A record-of rights made or specially revised for an estate under this section shall be deemed to be the record-of-rights for the estate, but shall not affect any presumption in favour of the Government which has already arisen from any previous record-of-rights.

Annual record.

33. (1) The Collector shall cause to be prepared by the patwari of each estate yearly, or at such other intervals as the Financial Commissioner may prescribe, an edition of the record of-rights amended in accordance with the provisions of this chapter.

(2) This edition of the record-of-rights shall be called the annual record for the estate, and shall comprise the statements mentioned in sub-section (2) clause (*a*), of section 31, and such other documents, if any, as the Financial Commissioner may, with the previous sanction of the Local Government, prescribe.

‡ For rules unders. 31 (2) see Notification No. 76, *Punjab Gazette*, Extraordinary, March 1 1888, p. 53.

(3) For the purposes of the preparation of the annual record, the Collector shall cause to be kept up by the patwari of each estate a register of mutations and such other registers as the Financial Commissioner may prescribe.

Procedure for making Records.

Making of that part of the annual record which relates to land-owners, assignees of revenue, and occupancy tenats.

34. (1) Any person acquiring by inheritance, purchase, mortgage, gift, or otherwise, any right in an estate as a land-owner, assignee of land-revenue, or tenant having a right of occupancy, shall report his acquisition of the right to the patwari of the estate.

(2) If the person acquiring the right is a minor or otherwise disqualified, his guardian or other person having charge of his property shall make the report to the patwari.

(3) The patwari shall enter in his register of mutations every report made to him under sub-section (1) or sub-section (2), and shall also make an entry therein respecting the acquisition of any such right as aforesaid which he has reason to believe to have taken place and of which a report should have been made to him under one or other of those sub-sections, and has not been so made.

(4) A Revenue-officer shall, from time to time, inquire into the correctness of all entries in the register of mutations, and into all such acquisitions as aforesaid coming into his knowledge, of which, under the foregoing sub-sections, report should have been made to the patwari and entry made in that register, and shall, in each case, make such order as he thinks fit with respect to the entry in the annual record of the right acquired.

(5) Such an entry shall be made by the insertion in that record of a description of the right acquired, and by the omission from that record of any entry in any record previously prepared, which by reason of the acquisition, has ceased to be correct *

Making of that part of the annual record which relates to other persons.

35. The acquisition of any interest in land other than a right referred to in sub-section (1) of the last foregoing section shall,—

(*a*) if it is undisputed, be recorded by the patwari in such manner as the Financial Commissioner may, by rules in this behalf, prescribe; and,

(*b*) if it is disputed, be entered by the patwari in the register of mutations, and dealt with in the manner prescribed in sub-sections (4) and (5) of the last foregoing section.*

* For fees leviable under ss. 34 (5) and 35 (*b*), see Notification No. 80 *Punjab Gazette*, Extraordinary, March 1, 1888, p. 93.

Determination of disputes.

36. (1) If, during the making, revision, or preparation of any record, or in the course of any inquiry under this chapter, a dispute arises as to any matter of which an entry is to be made in a record, or in a register of mutations, a Revenue-officer may, of his own motion, or on the application of any party interested, but subject to the provisions of the next following section, and after such inquiry as he thinks fit, determine the entry to be made as to that matter.

(2) If in any such dispute the Revenue-officer is unable to satisfy himself as to which of the parties thereto is in possession of any property to which the dispute relates, he shall ascertain by summary inquiry who is the person best entitled to the property, and shall, by order direct that that person be put in possession thereof, and that an entry, in accordance with that order, be made in the record or register.

(3) A direction of a Revenue-officer under sub-section (2) shall be subject to any decree or order which may be subsequently passed by any Court of competent jurisdiction.

Restrictions on variation of entries in records.

37. Entries in records-of-rights or in annual records, except entries made in annual records by patwaris under clause (*a*) of section 35 with respect to undisputed acquisitions of interests referred to in that section, shall not be varied in subsequent records otherwise than by—

(*a*) making entries in accordance with facts proved or admitted to have occurred ;

(*b*) making such entires as are agreed to by all the parties interested therein, or are supported by a decree or order binding on those parties ;

(*c*) making new maps where it is necessary to make them.

Mutation-fees.

38. (1) The Local Government may fix a scale of fees for all or any classes of entries in any record or register under this chapter, and for copies of any such entries.

(2) A fee in respect of an entry shall be payable by the person in whose favour the entry is made.

Penalty for neglect to report acquisition of any right referred to in section 34.

39. Any person neglecting to make the report required by section 34 within three months from the date of his acquisition of a right referred to in that section shall be liable, at the discretion of the Collector, to a fine not exceeding five times the amount of the fee which would have been payable according to the scale fixed under the last foregoing section if the acquisition of the right had been reported immediately after its accrual.

40. Any person whose rights, interests, or liabilities, are required to be entered in any record under this chapter shall be bound to furnish, on the requisition of any Revenue-officer or village-officer engaged in compiling the record, all information necessary for the correct compilation thereof.

Obligation to furnish information necessary for the preparation of records.

Right of the Government and Presumptions with respect thereto, and to other matters.

41. All mines of metal and coal, and all earth-oil and gold-washings, shall be deemed to be the property of the Government, and the Government shall have all powers necessary for the proper enjoyment of its right thereto.

Rights of the Government in mines and minerals.

42. (1) When, in any record-of-rights completed before the eighteenth day of November 1871, it is not expressly provided that any forest, quarry, unclaimed, unoccupied, deserted, or waste-land, spontaneous produce, or other accessory interest in land, belongs to the land-owners, it shall be presumed to belong to the Government.

Presumption as to ownership of forests, quarries, and waste-lands.

(2) When, in any record-of-rights completed after that date it is not expressly provided that any forest or quarry, or any such land or interest, belongs to the Government, it shall be presumed to belong to the land-owners.

(3) The presumption created by sub-section (1) may be rebutted by showing,—

(*a*) from the record or report made by the assessing officer at the time of assessment, or

(*b*) if the record or report is silent, then from a comparison between the assessment of villages in which there existed, and the assessment of villages of similar character in which there did not exist any forest or quarry, or any such land or interest,

that the forest, quarry, land, or interest, was taken into account in the assessment of the land-revenue.

(4) Until the presumption is so rebutted, the forest, quarry, land, or interest, shall be held to belong to the Government.

43. (1) Whenever, in the exercise of any right of the Government referred to in either of the two last foregoing sections, the rights of any person are infringed by the occupation or disturbance of the surface of any land, the Government shall pay, or cause to be paid, to that person compensation for the infringement.

Compensation for infringement of rights of third parties in exercise of a right of the Government.

(2) The compensation shall be determined as nearly as may be in accordance with the provisions of the Land Acquisition Act, 1870.

Presumption in favour of entries in records-of-rights and annual records.

44. An entry made in a record-of-rights in accordance with the law for the time being in force, or in an annual record in accordance with the provisions of this chapter and the rules thereunder, shall be presumed to be true until the contrary is proved, or a new entry is lawfully substituted therefor.

Suit for declaratory decree by person aggrieved by an entry in a record.

45. If any person considers himself aggrieved as to any right of which he is in possession by an entry in a record-of-rights, or in an annual record, he may institute a suit for a declaration of his right under Chapter VI. of the Specific Relief Act, 1877.

Supplemental Provisions.

Power to make rules respecting records and other matters connected therewith.

46 * The Financial Commissioner may make rules—

(*a*) prescribing the language in which records and registers under this chapter are to be made;

(*b*) prescribing the form of those records and registers, and the manner in which they are to be prepared, signed, and attested;

(*c*) for the survey of land so far as may be necessary for the preparation and correction of those records and registers;

(*d*) for the conduct of inqiries by Revenue-officers under this chapter; and

(*e*) generally for the guidance of Revenue-officers and village-officers in matters pertaining to records and registers mentioned or referred to in this chapter.

Record-of-rights and annual records for groups of estates

47. (1) The Financial Commissioner may direct that a record-of-rights be made for any group of neighbouring estates instead of separately for each of the estates.

(2) The provisions of this chapter with respect to a record-of-rights and annual record for an estate shall then, so far as they can be made applicable, apply to a record-of-rights and annual record for a group of estates.

* For rules under s. 46, see Notifications Nos. 74, 76 and 78, *Punjab Gazette*, Extraordinary, March 1, 1888, pp. 3, 53, and 81.

CHAPTER V.

ASSESSMENT.

Assessment of land-revenue.

48. (1) All land, to whatever purpose applied, and wherever situate, is liable to the payment of land-revenue to the Government, except such land as has been wholly exempted from that liability by special contract with the Government, or by the provisions of any law for the time being in force.

(2) Land-revenue may be assessed in cash or in kind, or partly in cash and partly in kind, as the Local Government may direct.

(3) Land may be assessed to land-revenue notwithstanding that that revenue, by reason of its having been assigned, released, compounded for, or redeemed, is not payable to the Government.

General Assessments.

Notification of intended re-assessment and instructions as to principles of assessment.

49. (1) A general re-assessment of the land-revenue of a district or tashil shall not be undertaken without the previous sanction of the "Local Government"* and notification of that sanction.

(2) In granting the sanction the "Local Government"* may prescribe such principles of assessment, and give such other instructions, as "it"* thinks fit.

Mode of determining assessment.

50. (1) The assessment shall be made by a Revenue-officer.

(2) Before making it that officer shall report his proposed method of assessment for the sanction of the Financial Commissioner in such from as the Financial Commissioner, with the previous sanction of the Local Government, may prescribe.

Announcement of assessment.

51. (1) When the Revenue-officer has obtained the sanction of the Financial Commissioner to his proposed method of assessment, he shall make an order determining the assessment proper for each estate, and announce it in such manner as the Local Government may prescribe.

(2) At the time of announcing the assessment he shall also declare the date from which it is to take effect, and, subject to the other provisions of this Act, it shall take effect accordingly.

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* The words within quotations have been substituted by Punj Act 2 of 1912.

Application for re-consideration of assessment.

52. (1) The land-owner may, within thirty days from the date of the announcement of the assessment, present a petition to the Revenue-officer for a re-consideration of the amount, form, or conditions of the assessment.

(2) Where the land-revenue is assigned, the assignee thereof may, within thirty days from that date, present a like petition to the Revenue-officer.

(3) The order passed by the Revenue-officer on the petition shall set forth his reasons for granting or refusing it,

Confirmation and duration of assessment.

53. (1) An assessment of the land-revenue of a district or tashil shall not be considered final until it has been confirmed by the Local Government.

(2) At any time before an assessment is so confirmed, the Commissioner or Financial Commissioner may modify the assessment of any estate in the district or tashil.

(3) The Local Government shall, when confirming an assessment under sub-section (1), fix the period for which the assessment is to be in force.

Assessment to remain in force till new a assessment takes effect.

54. Notwithstanding the expiration of the period fixed for the continuance of an assessment under sub-section (3) of the last foregoing section, the assessment shall remain in force till a new assessment takes effect.

Refusal to be liable for assessment, and consequences thereof.

55. (1) At any time within ninety days from the date of the announcement of an assessment, the land-owner or, where there are more land-owners than one, any of them who would be individually or collectively liable for more than half the sum assessed, may give notice to the Revenue officer of refusal to be liable for the assessment.

(2) When the Revenue-officer receives a notice under sub-section (1), the Collector may take possession of the estate, and deal with it, as nearly as may be, as if the annulment of the assessment thereof had been ordered as a process for the recovery of an arrear of land-revenue due thereon.

(3) While the estate is in the possession of the Collector, the land-owners shall be entitled to receive from the Government an allowance to be fixed by the Financial Commissioner, which shall not be less than five or more than ten per cent. of the net income realized by the Government from the estate.

Distribution of the assessment of an estate over the holdings comprised therein.

56 (1) If the assessment announced under section 51 is, in whole or in part, a fixed assessment of an estate for a term of years, the Revenue-officer shall, before the date on which the first instalment thereof becomes payable, make an order distributing it over the several holdings comprised in the estate, and make and publish a record of the distribution.

(2) The Collector may, for sufficient reason, make an order revising that record at any time while the assessment continues to be in force, and publish the record so revised.

(3) If the assessment announced under section 51 is in the form of rates chargeable according to the results of each year or harvest, a Revenue-officer shall, from year to year, or from harvest to harvest, as the conditions of the assessment may require, make and publish, not later than one month before the first instalment of the land-revenue falls due, a record of the amount payable in respect of each holding.

(4) The Financial Commissioner may make rules for the guidance of Revenue-officers in making, publishing, and revising records under this section.*

Application for amendment of the distribution of an assessment.

57. (1) Any person affected by a record made under sub-section (1) or sub-section (2) of the last foregoing section, or by the revision of a record under sub-section (2) of that section, may, within thirty days from the date of the publication of the record, present a petition to the Revenue-officer for a re-consideration of the record so far as it affects him.

(2) The order passed by the Revenue officer on the petition shall set forth his reasons for granting or refusing it.

Appeals from orders under sections 52 and 57.

58. An appeal from an order under the last foregoing section or section 52 shall lie to the Commissioner, and from the appellate order of the Commissioner to the Financial Commissioner.

Special Assessments.

Special assessments.

59. (1) Special assessments may be made by Revenue-officers in the following cases, namely :—

(*a*) when estates are formed under the next following section ;

(*b*) when land-revenue which has been released or assigned is resumed ;

* For rules under s. 56 (*4*), see Notification No. 76 *Punjab Gazette*, Extraordinary, March 1, 1888, p. 53.

(*c*) when waste-lands are sold, leased, or granted by the Government.

(*d*) when the assessment of any land has been annulled, or the land-owner has refused to be liable therefor, and the term for which the land was to be managed by the Collector or his agent or let in farm has expired ;

(*e*) when assessments of land-revenue require revision in consequence of the action of water or sand, or of calamity of season, or from any other cause ;

(*f*) when revenue due to the Goverment on account of pasture or other natural products of land, or on account of mills, fisheries, or natural products of water, or on account of other rights described in section 41 or section 42, has not been included in an assessment made under the foregoing provisions of this chapter.

(2)* The Financial Commissioner may make rules for the guidance of Revenue-officers in making special assessments, and may cofirm such assessments.

(3) The foregoing provisions of this chapter with respect to general assessments shall, subject to such notifications thereof as the Financial Commissioner may prescribe by rules under the last foregoing sub-section, regulate the procedure of Revenue-officers making special assessments.

Formation of water-land into seperate estates.

60. (1) When, in the opinion of the Collector, or of an officer making a general re assessment of land revenue under the foregoing provisions of this chapter, the waste-land belonging to or adjoining an estate is so extensive as to exceed the requirements of the owners of the estate with reference to pasturage or other useful purpose, the Collector or officer may at any time, with the previous sanction of the Financial Commissioner, make a separate assessment of the waste-land which he considers to be so in excess, and offer that land at that assessment, for such term and on such conditions as he thinks fit, to the owners of the estate to which it belongs, and, if they refuse the offer, to the owners of any estate which the land adjoins, and, if they also refuse the offer, to any other person.

(2) When the owners of the estate to which the waste-land belongs refuse the offer, the Collector shall assign to them an annual allowance not less than five and not more than ten per cent, of the net income realized by the Government from the land,

* For rules under s. 59 (2), see Notification No. 76, *Punjab Gazette*, Extraordinary, March 1, 1888, p. 53.

CHAPTER. VI,

COLLECTION OF LAND-REVENUE.

Security for payment of land-revenue.

61. (1) In the case of every estate, the entire estate and the land-owner, or, if there are more than one, the land-owners jointly and severally, shall be liable for the land-revenue for the time being assessed on the estate.

(*a*) the Local Government* may, by notification, declare that in any estate a holding or its owner shall not be liable for any part of the land-revenue for the time being assessed on the estate except that part which is payable in respect of the holding, and

(*b*)† when there are superior and inferior land-owners in the same estate, the Financial Commissioner may by rule, or special order in each case, determine whether the superior or inferior land-owners shall be liable for the land-revenue, or whether both shall be so liable and, if so, in what proportions.

(2) A notification under proviso (*a*) to sub-section (1) may have reference to any single estate, or to any class of estates generally, in any local area.

Further security for payment of land-revenue.

62. (1) The land-revenue for the time being assessed on an estate or payable in respect of a holding shall be the first charge upon the rents, profits, and produce thereof.

(2) Without the previous consent of the Collector, the rents, profits, or produce of an estate or holding, shall not be liable to be taken in execution of a decree or order of any Court until the land-revenue chargeable against the rents, profits, or produce, and any arrear of land-revenue due in respect of the estate or holding, have been paid.

Order to regulate payment of land-revenue.

63.* (1) Notwithstanding anything in any record-of-rights, the Financial Commissioner may fix the number and amount of the instalments, and the times, places, and manner by, at and in which land-revenue is to be paid.

(2) Until the Financial Commissioner otherwise directs, land-revenue shall be payable by the instalments, at the times and places and in the manner by, at, and in which it is payable at the Commencement of this Act.

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

† For rules of Financial Commissioner under ss. 61, 63, and 64 see Notification No. 76. *Punjab Gazette*, Extraordinary, March 1. 1898, p. 63.

Rules to Regulate collection, remission, and suspension of land-revenue.

64.* (1) The Financial Commissioner may make rules consistent with this Act to regulate the collection, remission, and suspension of land-revenue, and may by those rules determine the circumstances and terms in and on which assigned land-revenue may be collected by the assignee.

(2) Where land-revenue due to an assignee is collected by a Revenue-officer, there shall be deducted from the sum collected such a percentage on account of the cost of collection as the Financial Commissioner may, by rule in this behalf, prescribe.

(3) A suit for an arrear of assigned land-revenue shall not be entertained unless there is annexed to the plaint, at the time of the presentation thereof, a document under the hand of the Collector specially authorizing the institution of the suit.

Costs recoverable as part of arrear.

65. The costs of any process issued under this chapter shall be recoverable as part of the arrear of land-revenue in respect of which the process was issued.

Certified account to be evidence as to arrear.

66. A statement of account certified by a Revenue-officer shall be conclusive proof of the existence of an arrear of land-revenue, of its amount, and of the person who is the defaulter.

Processes for recovery of arrears.

67. Subject to the other provisions of this Act, an arrear of land-revenue may be recovered by any one or more of the following processes, namely :—

(*a*) by service of a writ of demand on the defaulter ;

(*b*) by arrest and detention of his person ;

(*c*) by distress and sale of his moveable property and uncut or ungathered crops ;

(*d*) by transfer of the holding in respect of which the arrear is due ;

(*e*) by attachment of the estate or holding in respect of which the arrear is due ;

(*f*) by annulment of the assessment of that estate or holding ;

(*g*) by sale of that estate or holding;

(h) by proceeding against other immoveable property of the defaulter.

* For rules of Financial Commissioner under ss, 61 63 and 64 see Notification No 76, Punjab Gazette, Extraordinary March 1, 1888, p.53.

Writ of demand.

68. A writ of demand may be issued by a Revenue-officer on or after the day following that on which an arrear of land-revenue accrues.

Arrest and detention of defaulter.

69. (1) At any time after an arrear of land-revenue has accrued a Revenue-officer may issue a warrant directing an officer named therein to arrest the defaulter and bring him before the Revenue-officer.

(2) when the defaulter is brought before tne Revenue-officer the Revenue-officer may cause him to be taken before the Collector, or may keep him under personal restraint for a period not exceeding ten days, and then, if the arrear is still unpaid, cause him to be taken before the Collector.

(3) When the defaulter is brought before the Collector, the Collector my issue an order to the officer in charge of the civil jail of the district directing him to confine the defaulter in the jail for such period not exceeding one month from the date of the order, as the Collector thinks fit.

(4) The process of arrest and detention shall not be executed against a defaulter who is a female, a minor, a lunatic, or an idiot.

Distress and sale of moveable property and crops.

70. (1) At any time after an arrear of land revenue has accrued, the moveable property and uncut or ungathered crops of the defaulter may be distrained and sold by order of a Revenue-officer.

(2) The distress and sale shall be conducted, as nearly as may be in accordance with the law for the time being in force for the attachment and sale of moveable property under the decree of a Revenue Court constituted under the Punjab Tenancy Act, 1887 ;

Provided that, in addition to the particulars exempted by that law from liability to sale, so much of the produce of the land of the defaulter as the Collector thinks necessary for seed-grain and for the subsistence, until the harvest next following, of the defaulter and his family, and of any cattle exempted by that law, shall be exempted from sale under this section.

Transfer of holding.

71. (1) At any time after an arrear of land-revenue has accrued on a holding, the Collector may transfer the holding to any person being a land-owner of the estate in which the holding is situate, and not being a defaulter in respect of his own holding, on condition of his paying the arrear before being put in possession of the holding, and on such further conditions as the Collector may see fit to prescribe.

(2) The transfer may, as the Collector thinks fit, be either till the end of the agricultural year in which the defaulter pays to the transferee the amount of the arrear which the transferee paid before being put in possession of the holding, or for a term not exceeding fifteen years from the commencement of the agricultural year next following the date of the transfer.

(3) The Collector shall report to the Financial Commissioner any transfer made by him under this section, and the Financial Commissioner may set aside the transfer, or alter the conditions therefor, or pass such other order as he thinks fit.

(4) A transfer under this section shall not affect the joint and several liability of the land-owners of the estate in which it is enforced.

(5) In respect of all rights and liabilties arising under this Act, the person to whom the holding is transferred shall subject to the conditions of the transfer, stand in the same position as that in which the defaulter would have stood if the holding had not been transferred.

(6) When the transfer was for a term, the holding shall on expiration of the term be restored by the Collector to the defaulter free of any claim on the part of the government or the transferee for any arrear of land-revenue or rates and cesses due in respect thereof.

Attachment of estate or holding.

72. (1) At any time after an arrear of land-revenue has accrued, the Collector may cause the estate or holding in respect of which the arrear is due to be attached and taken under his own management or that of an agent appointed by him for that purpose.

(2) The Collector or the agent shall be bound by all the engagements which existed between the defaulter and his tenants, if any, and shall be entitled to manage the land, and to receive all rents and profits accuring therefrom to the exclusion of the defaulter until the arrear has been satisfied, or until the Collector restores the land to the defaulter.

(3) All surplus profits of the land attached beyond the cost of attachment and management and the amount necessary to meet the current demand for land-revenue and rates and cesses shall be applied in discharge of the arrear.

(4) Land shall not be attached for the same arrear for a longer term than five years from the commencement of the agricultural year next following the date of the attachment; but, if the arrear is sooner discharged, the land shall be released, and the surplus receipts, if any, made over to the land-owner.

Annulment of assessment of estate or holding.

73. (1) When an arrear of land-revenue has been due for a longer period than one month, and the foregoing processes are not deemed sufficient for the recovery thereof, the Financial Commissioner may, in addition to or instead of all or any of those processes, order the existing assessment of the estate or holding in respect of which the arrear is due to be annulled,

(2) The provisions of this section shall not be put in force for the recovery of an arrear of land revenue which has accrued on land—

(*a*) while under attachment under the last foregoing section, or

(*b*) while under the charge of the Court of Wards.

(3) When the assessment of any land has been annulled, the Collector may, with the previous sanction of the Financial Commissioner, either manage the land himself or through an agent, or let it in farm, to any person willing to accept the farm for such term and on such conditions as may be sanctioned by the Financial Commissioner.

Provided that the term for which land may be so managed or farmed shall not be longer than fifteen years from the commencement of the agricultural year next following the date of the annulment.

(4) At some time before the expiration of that term the Collector shall determine the assessment to be paid in respect of the estate or holding for the remainder of the term of the current assessment of the district or tahsil ; and, when that assessment bas been sanctioned by the Financial Commissioner, shall announce it to the land-owner,

(5) The land-owner may give notice to the Collector of refusal to be liable for the assessment within thirty days from the date on which the assessment was announced to him.

(6) If notice is so given, the Collector may, with the previous sanction of the Financial Commissioner, take the estate or holding under direct management, or farm it for the remainder of the term of the current assessment of the district or tahsil, or for any period within that term which the Financial Commissioner may fix.

(7) When the assessment of a holding is annulled, the joint responsibility of the other land-owners of the estate for the land-revenue of that holding becoming due after the annulment shall be in abeyance until a new assessment takes effect.

(8) The Financial Commissioner may direct that any contract made by the defaulter, or by any person through whom the defaulter claims, with respect to any land comprised in an estate

or holding of which the assessment has been annulled, shall not be binding on the Collector or his agent or farmer during the period for which the estate or holding remains under the management of the Collector or his agent, or is let in farm.

Proclamation of attachment or annulment of assessment, and consequences of the proclamation.

74. (1) When any land is attached under section 72, or when the assessment of any land has been annulled under the last foregoing section, the Collector shall make proclamation thereof.

(2) No payment made by any person to the defaulter before the making of the proclamation on account of rent or any other asset in anticipation of the usual time for the payment shall, without the special sanction of the Collector, be credited to that person, or relieve him from liability to make the payment to the Collector or his agent or farmer.

(3) No payment made after the making of the proclamation on account or rent or any other asset of the estate or holding to any person other than the Collector or his agent or farmer shall be credited to the person making the payment, or relieve him from liability to make the payment to the Collector or his agent or farmer.

Sale of estate or holding.

75. When an arrear of land-revenue has accrued, and the foregoing processes are not deemed sufficient for the recovery thereof, the Collector, with the previous sanction of the Financial Commissioner may, in addition to, or instead of, all or any of those processes, and subject to the provisions hereinafter contained, sell the estate or holding in respect of which the arrear is due :

Provided that land shall not be sold for the recovery of—

(*a*) any arrear which has accrued while the land was under the charge of the Court of Wards, or was so circumstanced that the Court of Wards might have exercised jurisdiction over it under the provisions of section 35 of the Punjab Laws Act, 1872, clause (*a*), (*b*), (*c*), or (*d*) ; or

(*b*) any arrear which has accrued while the land was under attachment under section 72 or this Act ; or

(*c*) any arrear which has accrued while the land was held under direct management by the Collector, or in farm by any other person, under section 73, after either an annulment of assessment, or a refusal to be liable therefor.

Effect of sale on incumbrances.

76. (1) Land sold under the last foregoing section shall be sold free of all incumbrances; and all grants and contracts previously made by any person other than the purchaser in respect of the land shall become void as against the purchaser at the sale.

(2) Nothing in sub section (1) shall affect—

(*a*) a tenant's right of occupancy, unless the right was created by the defaulter himself, or

(*b*) any lease at a fair rent, temporary or perpetual, for the erection of a dwelling-house or manufactory, or for a mine, garden, tank, canal, place of worship, or burial-ground, so long as the land continues to be used for the purpose specified in the lease, or

(*c*) any incumbrance, grant, contract, or right of occupancy specially saved by order of the Financial Commissioner, and proclaimed as hereinafter provided.

Proceedings against other immoveable property of defaulter.

77. (1) If the arrear cannot be recovered by any of the processes herein-before provided, or if the Financial Commissioner considers the enforcement of any of those processes to be inexpedient, the Collector may, where the defaulter owns any other estate or holding, or any other immoveable property, proceed under the provisions of this Act, against that property as if it were the land in respect of which the arrear is due;

Provided that no interests save those of the defaulter alone shall be so proceeded against, and no incumbrances created, grants made, or contracts entered into by him in good faith, shall be rendered invalid by reason only of his interests being proceeded against.

(2) When the Collector determines to proceed under this section against immoveable property other than the land in respect of which the arrear is due, he shall issue a proclamation prohibiting the transfer or charging of the property.

(3) The Collector may at any time by order in writing withdraw the proclamation, and it shall be deemed to be withdrawn when either the arrear has been paid or the interests of the defaulter in the property have been sold for the recovery of the arrear.

(4) Any private alienation of the property, or of any interest of the defaulter therein, whether by sale, gift, mortgage, or otherwise, made after the issue of the proclamation, and before the withdrawal thereof, shall be void.

(5) In proceeding against property under this section the Collector shall follow, as nearly as the nature of the property will admit, the procedure prescribed for the enforcement of process against land on which an arrear of land-revenue is due.

Remedies open to person denying his liability for an arrear.

78. (1) Notwithstanding anything in section 66, when proceedings are taken under this Act for the recovery of an arrear, the person against whom the proceedings are taken may, if he denies his liability for the arrear, or any part thereof, and pays the same under protest made in writing at the time of payment, and signed by him or his agent, institute a suit in a Civil Court for the recovery of the amount so paid.

(2) A suit under sub-section (1) must be instituted in a Court having jurisdiction in the place where the office of the Collector of the district in which the arrear or some part thereof accrued is situate.

Procedure in Sales.

Proclamation of sale.

79. (1) On the receipt of the sanction of the Financial Commissioner to the sale of any immoveable property, the Collector shall issue a proclamation of the intended sale, specifying—

(*a*) the date, time, and place of the sale ;

(*b*) the property to be sold, and, if it is an estate or holding the land-revenue assessed thereon or payable in respect thereof ;

(*c*) if the property is to be sold for the recovery of an arrear due in respect thereof, the incumbrances, grants, contracts, and rights of occupancy, if any, specially saved by order of the Financial Commissioner under section 76, sub-section (2), clause (*c*) ;

(*d*) if the property is to be sold otherwise than for the recovery of an arrear due in respect thereof, any incumbrance, grant, or contract to which the property is known to be liable ; and

(*e*) the amount for the recovery of which the sale is ordered.

(2) [*Repealed by Punjab Act II. of 1905, sch. and Reg. II. of 1906.*]

(3) The place of sale specified under clause (*a*) of sub-section (1) must be either the office of the Collector or some place appointed by the Collector in this behalf, and situate in or near the property to be sold.

Indemnity to Revenue-officer with respect to contents of proclamation.

80. A Revenue-officer shall not be answerable for any error, mis-statement, or omission in any proclamation under the last foregoing section unless the same has been committed or made dishonestly.

Publication of proclamation.

81. (1) A copy of the proclamation shall be served on the defaulter, and be pested in a conspicuous part of the office of the Tahsildar of the tahsil in which the property to be sold is situate.

(2) After a copy of the proclamation has been served on the defaulter and posted in the office of the Tahsildar, a copy thereof shall be posted in the office of the Collector.

(3) The proclamation shall be further published in manner prescribed in section 22, and in such other manner as the Collector thinks expedient.

Time and conduct of sale.

82. (1) The sale shall not take place on a Sunday or other holiday, or till after the expiration of at least thirty days from the date on which the copy of the proclamation was posted in the office of the Collector.

(2) The sale shall be by public auction, and shall be conducted either by the Collector in person or by a Revenue-officer specially appointed by him in this behalf.

Power to postpone sale.

83. The Collector may from time to time postpone the sale.

Stay of sale.

84. If, at any time before the bidding at the auction is completed, the defaulter pays the arrear in respect of which the property has been proclaimed for sale, together with the costs incurred for the recovery thereof, to the officer conducting the sale, or proves to the satisfaction of that officer that he has already paid the same either at the place and in the manner prescribed under section 63 or into the Government treasury, the sale shall be stayed.

Payment of deposit by highest bidder.

85. When the highest bid at the auction has been ascertained, the person who made that bid shall, on the requisition of the officer conducting the sale, pay to that officer a deposit of twenty-five per centum on the amount of his bid, and shall, on payment thereof, be declared to be the purchaser subject to the provisions of this chapter with respect to the exercise of any right of pre-emption.

Consequences of failure to pay deposit.

86. If the person who made the highest bid fails to pay the deposit as required by the last foregoing section, the property shall forthwith be put up again and sold, and all expenses attending the first sale, and the deficiency of price, if any, which may happen on the re-sale, may be recovered from him by the Collector as if the same where an arrear of land-revenue.

87. [*Repealed by Punjab Act II. of 1905, sch. and Reg II of* 1906.]

Time for payment in full.

88. The full amount of the purchase-money shall be paid by the purchaser before the close of the fifteenth day from that on which the purchaser was declared.

Procedure in default of payment.

89. In default of payment of the full amount of the purchase-money within the period mentioned in the last foregoing section, the deposit referred to in section 85 or section 87, as the case may be, shall, after defraying the expenses of the sale, be forfeited to the Government, and may, if the Collector, with the previous sanction of the Commissioner, so directs, be applied in reduction of the arrear, and the property shall be re-sold, and the defaulting purchaser shall have no claim to the property, or to any part of the sum for which it may subsequently be sold.

Report of sale to Commissioner.

90. Every sale of immoveable property under this Chapter shall be reported by the Collector to the Commissioner.

Application to set aside sale.

91. (1) At any time within thirty days from the date of the sale, application may be made to the Commissioner to set aside the sale on the ground of some material irregularity or mistake in publishing or conducting it.

(2) But a sale shall not be set aside on that ground unless the applicant proves to the satisfaction of the Commissioner that he has sustained substantial injury by reason of the irregularity or mistake.

Order Confirming or setting aside sale.

92. (1) After the expiration of thirty days from the date of the sale, if such application as is mentioned in the last foregoing section has not been made, or if such application has been made and rejected, the Commissioner shall make an order confirming the sale, and, if such application has been made and allowed, the Commissioner shall make an order setting aside the sale.

(2) An order made under this section shall be final.

Refund of purchase-money on setting aside of sale.

93. Whenever the sale of any property is set aside, the purchaser shall be entitled to receive back his purchase-money.

Proclamation after postponement, or on re-sale.

94. A sale made after a postponement under section 83, and a re-sale consequent on a purchaser's default under section 86, or on the setting aside of a sale under section 92, shall be made after the issue of a fresh proclamation in the manner hereinbefore prescribed for the sale.

On confirmation of sale, possession and certificate to be granted to purchaser.

95. (1) After a sale has been confirmed in manner aforesaid, the Collector shall put the person declared to be the purchaser into possession of the property sold, and shall grant him a certificate to the effect that he has purchased that property,

(2) The certificate shall state whether or not the property was sold for the recovery of an arrear due in respect thereof, and, if it was so sold, shall set forth the incumbrances, grants, contracts, and rights of occupancy, if any, specified in the proclamation of the sale as specially saved by order of the Financial Commissioner under section 76, sub-section (2), clause *(c)*.

(3) The certificate shall be deemed to be a vaild transfer of the property, but need not be registered as a conveyance.

(4) Any suit brought in any Court against the certified purchaser on the ground that the purchase was made on behalf of a person other tnan the certified purchaser shall be dismissed with costs.

(5) The certified purchaser of any immoveable property shall be entitled to all rents and profits falling due in respect of the property after the date of the confirmation of the sale, and be liable for all instalments of land-revenue and rates and cesses falling due in respect thereof after that date.

Proceeds of sale.

96. (1) When a sale of immoveable property under this chapter has been confirmed, the proceeds of the sale shall be applied, in the first place. to the payment of any arrears, including costs incurred for the recovery thereof, due to the Government from the defaulter at the date of the confirmation of the sale, whether the arrears are of land-revenue, or of sums recoverable as arrears of land-revenue, and the surplus, if any, shall be paid to the person whose property has been sold, or, if the property sold was owned by more than one person, then to the owners, either collectively or according to the amount of their recorded interests, as the Collector thinks fit.

(2) The surplus shall not, except under an order of a Court, be paid to a any creditor of a person whose property has been sold.

(3) If the proceeds of the sale fall short of such arrears as are referred to in sub-section (1), the balance remaining due from the defaulter may be recovered from him by further proceedings under this chapter, or by any other means authorized by law.

CHAPTER VII.

RECOVERY OF OTHER DEMANDS BY REVENUE-OFFICERS.

Recovery of certain arrears through revenue-officer instead of by suit.

97.* When a village officer required, by rules under section 28, to collect any land-revenue, or sum recoverable as an arrear of land-revenue, satisfies a Revenue-officer that the revenue or sum has fallen due, and has not been paid to him, the Revenue-officer may, subject to any rules which the Financial Commissioner may make in this behalf, recover it as if it were an arrear of land-revenue.

Other sums recoverable as arrears of land-revenue.

98. In addition to any sums recoverable as arrears of land-revenue under this Act or any other enactment for the time being in force, the following sums may be so recovered, namely:—

(*a*) fees, fines, and other charges, including the village-officers' cess, payable under this Act;

(*b*) revenue due to the Government on account of pasture or other natural products of land, or on account of mills, fisheries or natural products of water, or on account of other rights described in section 41 or section 42 in cases in which the revenue so due has not been included in the assessment of an estate;

(*c*) fees payable to district boards or local boards under section 33 of the Punjab District Boards Act, 1883, for the use of, or benefits derived from, such works as are referred to in section 20, clauses (*i*) and (*j*), of of that Act;

(*d*) sums leviable by, or under the authority of, the Government as water-rates, or on account of the maintenance or management of canals, embankments, or other irrigation-works, not being sums recoverable as arrears of land-revenue under any enactment for the time being in force; and

(*e*) sums payable to the Government by a person who is surety for the payment of the foregoing sums, or of any other sum recoverable as an arrear of land-revenue.

* For rules under s. 97, see Notification No. 76, *Punjab Gazette*, Extraordinary, March 1, 1888 l. 53.

Application of Chapter VI to sums recoverable under this chapter.

99. (1) The provisions of Chapter VI. shall, with respect to any sum mentioned or referred to in this chapter, apply, so far as they can be made applicable, as if the sum were an arrear of land-revenue, and the person from whom, either as principal or as surety, it is due, were a defaulter in respect of such an arrear.

(2) Unless any such sum is declared by any enactment for the time being in force to be recoverable as if it were an arrear of land-revenue due in respect of the land charaged therewith, the provisions of section 77 shall apply, under sub-section (1), to the recovery thereof.

CHAPTER VIII.

SURVEYS AND BOUNDARIES.

Power of Financial Commissioner to make rules for demarcation of boundaries and erection of survey-marks.

100.* (1) The Financial Commissioner may make rules as to the manner in which the boundaries of all or any estates in any local area are to be demarcated, and as to the survey marks to be erected within those estates.

(2) Rules under this section may prescribe, among other matters, the form of survey-marks and the material to be used in their construction.

Power of revenue-officers to define boundaries.

101. (1) A Revenue-officer may, for the purpose of framing any record, or marking any assessment under this Act, or on the application of any person interested, define the limits of any estate, or of any holding, field, or other portion of an estate, and may, for the purpose of indicating those limits, require survey-marks to be erected or repaired,

(2) In defining the limits of any land under sub-section (1), the Revenue-officer may cause survey-marks to be erected on any boundary already determined by, or by order of, any Court, Revenue-officer, or Forest-settlement officer, or restore any survey-mark already set up by, or by order of, any Court or any such officer.

Power to fix to boundary between riverain estates.

101A.† (1) When any two or more estates are subject to river action, and the limits of any such estates are, by any law, custom, decree, or order, applicable thereto liable to vary

* For rules under s. 100, see Notification No. 76, *Punjab Gazette*, Extra. ordinary, March 1, 1888, p. 53.

† Ss. 101A and 101B have been instituted by Punjab Act. I. of 1899, s. 2.

according as variations may from time to time occur in the course or action of such river, the Local Government may, in its discretion, order a permanent boundary line to be fixed between any such estates or such portions thereof as are liable to river action.

(2) Upon an order being made under sub-section (1), the Collector shall fix a boundary line between such estates or portions of such estates accordingly, and shall demarcate the same, in accordance with the rules (if any) made under section 100 and the provisions of section 101.

(3) Every such boundary line shall be fixed with due regard to the history of the estates and the interests of the persons respectively owning them, or possessing rights therein, in such manner as may be just and equitable in the circumstances of each case.

(4) No such boundary line shall be deemed to have been permanently fixed until it has been approved by the Financial Commissioner.

Effect of fixing a boundary between riverain estates : Proviso.

101B.* (1) Every boundary line fixed in accordance with the provisions of section 101A shall, notwithstanding any law or custom, or any decree or order of any Court of law, to the contrary, be the fixed and constant boundary, between the estates affected thereby, and the proprietary and all other rights in every holding field, or other portion of an estate situate on each side of the boundary line so fixed shall, subject to the following proviso, vest in the land-owners of the estate which lies on that side of the boundary line on which such holding, field, or other portion of an estate is situate :

Provided that, if, by the operation of this section, the proprietary or any other rights in any land which, at the time a boundary line is fixed, is under cultivation or reasenably fit for cultivation, or yields any produce of substantial value, would be transferred from the land-owners and other right-holders of any one estate to the land- owners of any other estate, the Collector shall, by written order, direct that the right in such land shall, subject to the provisions of section 101D, not be so transferred unless and until the land, in respect of which any such order is made, ceases to be reasonably fit for cultivation, or to yield any produce of substantial value; and, upon any such order being made, the transfer of the rights in such land shall be suspended accordingly :

Provided, further, that, when any portion of the land specified in any such order ceases to be reasonably fit for cultivation, or to yield any produce of substantial value, the order shall, when the Collector, in writing so directs, cease to operate as to that portion.

* Vide note in page 349 under section 101A.

(2) The decision of the Collector as to whether, for the purposes of the proviso to sub-section(1) of this section, any land is or is not reasonably fit for cultivation, or does or does not yield any produce of substantial value, shall be final.

Application for immediate transfer of rights reserved under the proviso to sub-section, (1) of section 101B, upon payment of compensation and procedure thereupon. Award of compensation and extinguishment of rights thereby.

101C.* (1) When any order has been made under the proviso to sub-section (1) of section 101B, the land-owners (or any of them) in whom, but for such order, the rights in the land specified there would vest, may apply, in writing to the Collector to forthwith transfer the rights, the transfer of which has been suspended by such order, upon payment of compensation for the same.

(2) When an application under sub-section (1) is made, the Collector shall—

(a) fix a day for the hearing of the application;

(b) cause notice of the application, and of the day fixed for the hearing thereof, to be served on, or proclaimed for the information of, all persons recorded as having rights in the land specified in the order made under the proviso to sub section (1) of section 101B, and all other persons interested or claiming to be interested, therein,

(c) upon the day so fixed for hearing, or any day to which the hearing may be adjourned, inquire into the rights in the land, and award campensation in respect of all right found established therein. to the persons severally entitled thereto;

(d) inform the applicant of the aggregate amount of compensation so awarded, and require him to deposit the amount with the Collector, on or before a day to be fixed by him in that behalf.

Provided that, notwithstanding anything in this sub section contained it shall be lawful for the Collector, in his discretion, and at any time before an award of compensation thereon has been made, to reject any application made under sub-section (1).

(3) In awarding compensation under sub-section (2), the Collector shall be guided by the provisions of section 23 and section 24 of the Land Acquisition Act, 1894† so far as the same may be applicable to the circumstances of the case.

(4) Upon the fifteenth day of May next, after the whole amount of compensation so awarded has been deposited with the Collector, the order made under the proviso to sub section (1) of section 101B shall cease to operate, and the rights specified therein shall be transferred and vest in the manner prescribed in sub-section (1) of

* Section 101C has been inserted by Punjab Act I of 1899, s. 2.

† Act I of 1894.

section 101B notwithstanding anything in the proviso thereof contained, and the Collector shall proceed to tender the compensation to the persons severally entitled to receive the same under his award. If any such person shall refuse to accept the sum so awarded and tendered to him, it shall be placed to his credit in the public treasury.

(5) When any order made under the proviso to sub-section (i) of section 101B shall, under the provisions of sub section (4) of this section, cease to operate and determine, all rights reserved to any person by such order shall be extinguished.

Order under the proviso to sub section (1) of section 101B to cease to apply to rights voluntalrily transferred to a land owner of the estate to which the land is transferred by fixing boundary.

101D.* When any person possessing any rights in any land, in regard to the rights in which an order has been made under the proviso to sub-section (1) of section 101B, voluntarily transfers such rights to any land-owner of the estate, in the land-owners of which, but for such order, such rights would vest under the operation of sub-section (1) of section 101B, the rights so transferred shall forthwith cease to be subject to such order.

Rights transferred to be liable to all the incidents of tenure of the estate to which the transfer is made.

101E.* In every case in which, by the operation of section 101B or section 101C or section 101D, proprietary or other rights in land are transferred from the land-owners and other right-holders of any one estate to the land-owners of any other estate, such rights shall be subject to all the incidents of tenure and liabilities which, under any law or custom for the time being in force, apply to the rights of the land-owners of the estate to which such rights are so transferred,

Meaning of the expression 'Collector' in sections 101A, 101B, 191C.

101F.* For the purposes of sections 101A, 101B, and 101C, respectively, the expression 'Collector' shall be deemed to include any Revenue Officer appointed by the Local Government to perform all or any of the functions of a Collector under any of the provisions thereof."

Cost of erection and repair of survey-marks

102, Subject to any rules which the Financial Commissioner may make in this behalf, survey-marks shall be erected and kept in repair by, or at the cost of, the persons interested in the land for the indication of the limits of which they are required :

* Ss. 101D to 101F have been inserted by Punjab Act I. of 1899, s. 2.

Provided that the Local Government may in any case direct that the cost of erection shall be borne by the Government, or be paid out of the proceeds of the village-officers' cess

Recovery of cost incurred by the Government.

103. (1) If the persons interested in the land fail to erect or repair a survey-mark within thirty days from the date of their being required by a Revenue-officer to do so, the Revenue-officer may cause it to be erected or repaired.

(2) Where the Revenue-officer causes a survey-mark to be erected or repaired, he shall, subject to any rules or direction under the last foregoing section, apportion the cost among the persons interested in the land in such manner as he deems just, and certify the same to the Collector.

(3) The Collector may recover the cost as if it were an arrear of land-revenue.

Power of Revenue-officers to enter on land for purposes of survey and demarcation.

104. Any Revenue-officer, and any person acting under the orders of a Revenue-officer, may, in the discharge of any duty under this Act, enter upon any survey-land, and erect survey-marks thereon, and demarcate the boundaries thereof, and do all other acts necessary for the proper performance of that duty.

Surveys for purpose of preparation of records.

105. (1) When any land is being surveyed in pursuance of rules under section 46, clause (*c*), any Revenue-officer directing the survey may, by notice or proclamation, require all persons having rights or interests in the land to indicate, within a specified time, by temporary marks of a kind to be deseribed in the notice or proclamation, the limits of those rights or interests.

(2) If a person to whom the notice or proclamation is addressed fails to comply with the requisition, he shall be liable, at the discretion of the Revenue-officer, to fine, which may extend to ten rupees.

Provision of flag-holders and chain-men for those surveys.

106. (1) For the purposes of the survey of any land in pursuance of rules under section 46, clause (*c*), the land-owners shall be bound to provide fit persons to act as flag-holders and chain-men.

(2) If the land owners fail to provide, such persons, or to provide them in sufficient number, such other persons as a Revenue-officer considers necessary may be employed, and the cost of employing them recovered from the land-owners as if it were an arrear of land-revenue.

Professional surveys.

107. (1) If it is necessary to make a survey by other agency than that of Revenue-officers or village-officers, the Local Government may publish a notification stating—

(*a*) the local area to be surveyed, and the nature of the survey;

(*b*) the names or official designations of the officers by whom the survey is to be made; and

(*c*) the kind of survey-marks to be erected by those officers.

(2) From the date of the notification the officers specified therein and the persons acting under their orders, shall have, for the purposes of the survey, the powers conferred on Revenue-officers by section 104.

Penalty for destruction, injury, or removal of survey-makers.

108. (1) If any person wilfully destroys or injures, or, without lawful authority, removes, a survey mark lawfully erected, he may be ordered by a Revenue officer to pay such fine not exceeding fifty rupees for each mark so destroyed, injured, or removed as may, in the opinion of the Revenue-officer, be necessary to defray the expense of restoring the same, and of rewarding the person, if any, who gave information of the destruction, injury, or removal.

(2) The imposition of a fine under this section shall not bar a prosecution under section 434 of the Indian Penal Code.

Report of destruction or removal of, or injury to, survey-marks.

109. Every village officer of an estate shall be legally bound to furnish a Revenue-officer with information respecting the destruction or removal of, or any injury done to, any survey-mark lawfully erected in the estate.

CHAPTER IX

PARTITION.

Effect of partitions of estates and tenancies on joint liability for revenue and rent.

110. (1) A partition of land, either under this chapter or otherwise, shall not, without the express consent of the Financial Commissioner, affect the joint liability of the land, or of the land-owners thereof, for the revenue payable in respect of the land, or operate to create a new estate; and if any conditions are attached to that consent, those conditions shall be binding on the parties to the partition.

(2) A partition of a tenancy shall not, without the express consent of the landlord, affect the joint liability of the co-sharers therein for the payment of the rent thereof.

Application for partition

111. Any joint owner of land, or any joint tenant of a tenancy in which a right of occupancy subsists, may apply to a revenue-officer for partition of his share in the land or tenancy, as the case may be, if—

(*a*) at the date of the application, the share is recorded, under Chapter IV., as belonging to him, or

(*b*) his right to the share has been established by a decree which is still subsisting at that date, or

(*c*) a written acknowledgment of that right has been executed by all persons interested in the admission or denial thereof.

Restrictions and limitations on partition.

112. Notwithstanding any thing in the last foregoing section—

(1) places of worship and burial grounds held in common before partition shall continue to be so held after partition, unless the parties otherwise agree among themselves, and record their agreement, and file it with the Revenue-officer ;

(2) partition of any of the following properties, namely :—

(*a*) any embankment, watercourse, well, or tank, and any land on which the supply of water to any such work may depend,

(*b*) any grazing-ground, and

(*c*) any land which is occupied as the site of a town or village, and is assessed to land-revenue,

may be refused if, in the opinion of the Revenue officer, the partition of such property is likely to cause inconvenience to the co-sharers or other persons directly or indirectly interested therein, or to diminish the utility thereof to those persons ;

(3) the fact that a partition on the application of a joint-owner of land would render necessary the severance, into two or more parts, of the land comprised in the tenancy of a tenant having a right of occupancy may, unless the tenant assents to the severance, be a sufficient reason for the disallowance of the partition in so far as it would affect that tenancy ; and

(4) the fact that the landlord objects to the partition of a tenancy may be sufficient reason for the absolute disallowance of the partition thereof.

Notice of application for partition.

113. The Revenue-officer, on receiving the application under section 111, shall, if it is in order and not open to objection on the face of it, fix a day for the hearing thereof, and—

(*a*) cause notice of the application, and of the day so fixed, to be served on such of the recorded co-sharers as have not joined in the application, and, if the share of which partition is applied for is a share in a tenancy, on the landlord also ; and,

(*b*) if he thinks fit, cause the notice to he served on, or proclaimed for the information of, any other persons whom he may deem to be directly or indirectly interested in the application.

Addition of parties to application.

114. On the day fixed for the hearing, or on any day to which the hearing may be adjourned, the Revenue-officer shall ascertain whether any of the other co-sharers desire the partition of their shares also ; and, if any of them so desire, he shall add them as applicants for partition

Absolute disallowance of partition.

115. After examining such of the co-sharers and other persons as may be present on that day, the Revenue-officer may, if he is of opinion that there is good and sufficient cause why partition should be absolutely disallowed, refuse the application, recording the grounds of his refusal.

Procedure on admission of application.

116. If the Revenue-officer does not refuse the application under the last foregoing section, he shall ascertain the questions, if any, in dispute between any of the persons interested, distinguishing between —

(*a*) questions as to title in the property of which partition is sought ; and

(*b*) questions as to the property to be divided, or the mode of making the partition,

Disposal of question as to title in property to be divided.

117, (1) When there is a questition as to the title in any of the property of which partition is sought, the Revenue-officer may decline to grant the application for partition until the question has been determined by competent Court, or he may himself proceed to determine the question as though he were such a Court.

(2) Where the Revenue-officer himself proceeds to determine the question, the following rules shall apply, namely :—

(*a*) If the question is one over which a Revenue Court has jurisdiction, the Revenue-officer shall proceed as a Revenue Court under the provisions of the Punjab Tenancy Act, 1887.

(*b*) If the question is one over which a Civil Court has jurisdiction, the procedure of the Revenue-officer shall be that applicable to the trial of an original suit by a Civil Court, and he shall record a judgment and decree containing the particulars required by the Code of Civil Procedure to be specified therein.

(*c*) An appeal shall lie from the decree of the Revenue-officer under clause (*b*) as though that decree were a decree of a "Subordinate Judge"* in an original suit.

(*d*) Upon such an appeal being made, the "District Court"* or "High Court"† as the case may be, may issue an injunction to the Revenue-officer requiring him to stay proceedings pending the disposal of the appeal.

(*e*) From the appellate decree of a "District Court"* upon such an appeal, a further appeal shall lie to the "High Court"† if such a further appeal is allowed by the law for the time being in force.

Disposal of other questions.

118. (1) When there is a question as to the property to be divided, or the mode of making a partition, the Revenue-officer shall, after such inquiry as he deems necessary, record an order stating his decision on the question and his reasons for the decision.

(2) An appeal may be preferred‡ from an order under sub-section (1) within fifteen days from the date thereof; and, when such an appeal is preferred, and the institution thereof has been certified to the Revenue-officer by the "authority to whom the appeal has been preferred"§ the Revenue-officer shall stay proceedings pending the disposal of the appeal.

(3) If an applicant for partition is dissatisfied with an original or appellate order under this section, and applies for permission to withdraw from the proceedings in so far as they relate to the partition of his shares, he shall be permited to withdraw therefrom on such terms as the Revenue-officer thinks fit.

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* The words within quotations have ben substituted by Punjab Act III of 1914.

† The words within quotations have been substituted by Act XIX of 1919.

‡ Certain words after rhis repealed by Act 4 of 1914 have been omitted.

§ The words within quotations have been substituted by Act 4 of 1914.

(4) When an applicant withdraws under the last foregoing sub-section, the Revenue officer may, where the other applicants, if any, desire the continuance of the proceedings, continue them, in so far as they relate to the partition of the shares of those other appplicants.

Administration of property excluded from partition.

119. When any such property as is referred to in section 112, clause (2), is excluded from partition, the Revenue-officer may determine the co-sharers and other persons interested therein may make use thereof, and the proportion in which expenditure incurred thereon, and profits derived thereform, respectively are to be borne by, and divided among, those persons or any of them.

Distribution of revenue and rent after partition.

120. (1) The amount of revenue to be paid in respect of each of the holdings into which land has been divided on a partition, and the amount of rent to be paid in respect of each of the portions into which a tenancy has been so divided, shall be determined by the Revenue-officer making the partition.

(2) The determination of the Revenue-officer as to the revenue to be paid in respect of each holding shall, where the estate in which the holding is situate is subject to a fixed assessment, be deemed to be an order under section 56, sub-section (1).

(3) Where new estates have been created at a partition, and the land revenue has been fraudulently or erroneously distributed among them, the Local Government may, within twelve years from the time of discovery of the fraud or error, order a new distribution of the land-revenue among the several estates, on an estimate of the assets of each estate at the time of the partition, to be made conformably to the best evidence and information procurable respecting the same.

Instrument of partition.

121. When a partition is completed, the Revenue officer shall cause an instrument of partition to be prepared, and the date on which the partition is to take effect to be recorded therein.

Delivery of possession of property allotted on partition.

122. An owner or tenant to whom any land or portion of a tenancy, as the case may be, is allotted in proceedings for partition, shall be entitled to possession thereof as against the other parties to the proceedings and their legal representatives, and a Revenue-officer shall, on application made to him for the purpose by any such owner or tenant at any time within three years from the date recorded in the instrument of partition under the last foregoing section, give effect to that instrument, so far as it concerns the applicant, as if it were a decree for immoveable property.

Affirmation of partitions privately effected.

123. (1) In any case in which a partition has been made without the intervention of a Revenue-officer, any party thereto may apply to a Revenue-officer for an order affirming the partition.

(2) On receiving the application, the revenue officer shall inquire into the case, and, if he finds that the partition has in fact been made, he may make an order affirming it, and proceed, under sections 119, 120, 121, and 122, or any of those sections, as circumstances may require, in the same manner as if the partition had been made on an application to himself under this chapter.

power to make rules as to costs of partitions.

124. The Financial Commissioner may make rules for determining the costs of partitions under this chapter and the mode in which such costs are to be apportioned.

Re-distribution of land according to custom.

125. When, by established custom, any land in an estate is subject to periodical re-distribution, a Revenue-officer may, on the application of any of the land-owners, enforce the re-distribution according to the custom, and for this purpose may exercise all or any of the powers of a revenue officer in proceedings for partition.

Officers who may be empowered to act under this chapter.

126. The Revenue-officer by whom proceedings may be taken under this chapter shall be a Revenue-officer of a class not below that of Assistant Collector of the first grade.

CHAPTER X.

ARBITRATION.

Power to refer to arbitration.

127. (1) Any Revenue-officer may, with the consent of the parties, refer to arbitration any dispute arising before him in any matter under this Act.

(2) A Collector or any Assistant Collector of the first grade may, without the consent of the parties, refer to arbitration any dispute before him with respect to—

(*a*) any matter of which an entry is to be made in any record or register under Chapter IV.;

(*b*) any matter relating to the distribution of an assessment under section 56;

(*c*) the limits of any estate, or of any holding, field, or other portion of an estate ; or

(*d*) the property to be divided at a partition or the mode of making a partition.

Order of reference and contents thereof.

128. (1) In referring a dispute to arbitration a Revenue-officer shall make an order of reference, and specify therein the precise matter submitted to arbitration, the number of arbitrators which each party to the dispute is to nominate, the period within which arbitrators are to be nominated, and the period within which the award is to be delivered,

(2) The number of arbitrators which each party may nominate must be the same and must not exceed two.

(3) If, from any cause, arbitrators are not nominated, or an award is not delivered, within the period, fixed therefor in the order of reference, the Revenue-officer may, from time to time, enlarge that period, or may cancel the order of reference.

Nomination of arbitrators.

129. (1) When an order of reference has beeen made, the parties may each nominate the number of arbitrators specified in the order, and the Revenue-officer shall nominate one other arbitrator.

(2) The Revenue officer may, for reasons to be recorded by him, make an order disallowing any nomination made by either party, and requiring the party to make another nomination within time to be specified in the order.

(3) An order under the last foregoing sub-section shall be final.

Substitution of arbitrators by parties.

130. If an arbitrator nominated by a party dies, desires to be discharged, or refuses or becomes incapable to act, the party may nominate another person in his stead.

Nomination and subsitution of arbitrators by Revenue officers.

331. In any of the following cases, namely :—

(*a*) if either of the parties fails to nominate an arbitrator, under sub-section (2) of section 129, within the order of reference, or

(*b*) if the nomination of an arbitrator has been disallowed under subsection (2) of section 129, and another arbitrator is not nominated within the time specified in the order under that sub-section, or, having been so nominated, his nominated, his nomination is also disallowed, or,

(*c*) if a party entitled to nominate an arbitrator in the place of another arbitrator under section 130 fails to nominate him within one week from the date of the communication to him of a notice requiring him to make the nomination, or.

(*d*) if an arbitrator nominated by the Revenue-officer dies, desires to be discharged, or refuses or becomes incapable to act,

the Revenue-officer may nominate a person as arbitrator.

Process for appearance before arbitrators.

132. (1) The Revenue-officer shall, on the application of the arbitrators, issue the same processes to the parties and witnesses whom the arbitrators desire to examine as he may issue in any proceeding under this Act before himself.

(2) Any such party or witness shall be bound to appear before the arbitrators in obedience to a process issued under sub-section (1), either in person or by agent, as the arbitrators may require,

(3) The person attending in obedience to the process shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as may be specified in the process.

Award of arbitrators and presentation thereof.

133. (1) The arbitrators shall make an award in writing under their hands concerning the matters referred to them for arbitration, and state therein their reasons therefor; and any arbitrator dissenting from the award made by a majority of the arbitrators shall state the grounds of his dissent.

(2) The arbitrators shall present the award to the Revenue-officer in person unless that officer permits them to present it by agent.

Procedure on presentation of award.

134. (1) When the award has been received, the Revenue-officer shall, if the parties are present, consider forthwith any objections which they may have to make thereto, and, if they are not present, fix a date for the consideration thereof.

(2) Where a date has been fixed for the consideration of an award, the Revenue-officer shall, on that date, or on any subsequent date to which an adjournment may be made, hear any objections which the parties may have to make to the award.

(3) The Revenue-officer may also, if he thinks fit, question the arbitrators as to the grounds of their award.

135. (1) The Revenue-officer may accept, modify, or reject the award, recording his reasons for doing so in his decision respecting the dispute which was referred to arbitration.

Effect of award.

(2) An appeal shall lie from the decision as if arbitrators had not been appointed.

CHAPTER XI.

SPECIAL JURISDICTION WITH RESPECT TO LAND.

136. (1) The Local Government may, be order published in the official Gazette, invest any Revenue-officer making or specially revising records-of-rights in any local area in pursuance of a notification under section 32, or making a general re-assessment of land-revenue in any local area in pursuance of a notification under sectiou 49, "or any Revenue-officer in a colony"* or any Revenue-officer to whose control that officer is subject, with all or any of the powers of any Court constituted under the Punjab Courts Act, 1884, for the purpose of trying all or any specified classes of suits or appeals .relating to land arising in the local area.

Powers to invest officer making records-of-right of general re-assessments with powers of Civil Courts.

(2) The Local Government may cancel an order under sub-section (1) wholly or in part.

(3) While an order or any part of an order under that sub-section continues in force, the powers conferred thereby shall be exercised by the officer invested therewith and not otherwise.

(4) Any cases pending before that officer under the order or a subsisting part of the order at the time of the cancellation thereof may be disposed of by him as if the order or that part of it continued in force, unless the Local Government directs, as it is hereby empowered to do, that those cases shall be transferred for disposal to the Courts by which they would have been disposed of if the order had not been published.

137. (1) The Local Government may, by notification, direct that the provisions of this Act with respect to the superintendence and control over Rovenue-officers shall, subject to any modification of those provisions which the Local Government thinks fit, apply to any Revenue-officer, except the Financial Commissioner, who has been invested with the powers of a Civil Court of any of the classes specified in clauses (*a*), (*b*) (*c*), and (*d*) of section 17 of the Punjab Courts Act, 1884, and that

Control over such officers, and appeals from and revision of their decrees and orders.

* The words within quotations have been inserted by Punj. Act. 2 of 1905.

appeals shall lie from his decrees and orders to, and his decrees and orders be subject to revision by, a Revenue-officer invested under the last feregoing section with the powers of a Court which would be competent, under the Punjab Courts Act, 1884, to hear appeals from, or revise, such decrees and orders if they had been made by a Court with the powers of which the Revenue-officer who made them has been invested.

(2) In the absence of any such notification, a Revenue-officer invested under the last foregoing section with the powers of any such Civil Court as aforesaid shall, with respect to the exercise of those powers, be deemed to be such a Civil Court for the purposes of the Punjab Courts Act, 1884.

CHAPTER XII.

SUPPLEMENTAL PROVISIONS.

Revenue Deposits.

Power to deposit certain sums other than rent.

138. (1) In either of the following cases, namely :—

(*a*) when a headman or other land-owner, or an assignee of land-revenue, to whom any sum other than rent is payable on account of a liability under this Act, refuses to receive the sum from, or to grant a receipt therefor to, the person by whom it is payable,

(*b*) when the person by whom any such sum is payable is in doubt as to the headman or other land-owner, or the assignee of land-revenue, entitled to receive it,

tnat person may apply to a Revenue-officer for leave to deposit the sum in his office, and the Revenue officer shall receive the deposit if, after examining the applicant, he is satisfied that there is sufficient ground for the application, and if the applicant pays the fee, if any, which may be chargeable on any notice to be issued of the receipt thereof.

(2) When a deposit has bsen so received, the liability of the depositor to the headman or other land-owner, or the assignee of the land-revenue, for the amount thereof, shall be discharged.

Procedure in case of deposit on account of a payment due to Government.

139. If the deposit purports to be made on account of any payment due to Government, it may be credited accordingly.

Procedure in case of other deposits.

140. (1) A Revenue officer receiving a deposit purporting to be made on any other account shall give notice of the receipt thereof to every person who he has reason to believe claims or is entitled to the deposit, and may pay the amount thereof to

any person appearing to him to be entitled to the same, or may, if he thinks fit, retain the deposit pending the decision of a Civil Court as to the person so entitled.

(2) No suit or other proceeding shall he instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue-officer under this section ; but nothing in this sub-section shall prevent any person entitled to receive the amount of any such deposit from recovering it from a person to whom it has been paid by a Revenue-officer.

Execution of Orders of Civil and Criminal Courts by Revenue-officers.

Orders of Civil and Criminal Courts for execution of processes against land or the produce thereof to be addressed to a Revenue-officer.

141. Orders issued by any Civil or Criminal Court for the attachment, sale, or delivery of any land or interest in land, or for the attachment or sale of the produce of any land, shall be addressed to the Collector or such Revenue-officer as the Collector may appoint in this behalf, and be executed by the Collector or that officer in accordance with the provisions of the law applicable to the Court issuing the orders. and with any rules consistent therewith made by the Financial Commissioner with the concurrence of the Chief Court and the previous sanction of the Local Government.

Attachment of assigned land-revenue.

142. (1) Notwithstanding anything in any other enactment for the time being in force, an order issued by any Court for the attachment of assigned land revenue shall require the person by whom the revenue is payable to pay it to the Collector, and the Collector to hold it subject to the further orders of the Court.

(2) A payment to the Collector under sub-section (1) shall be an effectual discharge to the person making it.

Preservation of attached Produce.

Preservation of attached produce.

143. (1) The attachment of the produce of any land in pursuance of an order of any Court or other authority shall not prevent the person to whom the produce belongs from reaping, gathering, or storing it, or doing any other act necessary for its preservation.

(2) The attaching officer shall do or cause to be done all acts necessary for the preservation of the produce if the person to whom it belongs fails to do so.

(3) When sale of produce follows on its attachment, the purchaser shall be entitled, by himself, or by any person appointed by him in this behalf, to enter on the place where the produce is, and do all that is necessary for the purpose of preserving and removing it.

Division of Produce

Division of produce.

144. In either of the following cases, namely :—

(*a*) where land-revenue is paid by division or appraisement of the produce,

(*b*) where a superior and an inferior land owner or two or more share-holders in a holding or tenancy are jointly interested in any produce, and either or any of the land-owners or tenants, as the case may be, desires the assistance of a Revenue-officer for the purpose of appraising the produce,

the provisions of the Punjab Tenancy Act, 1887, with respect to the division or appraisement of produce, shall apply so far as they can be made applicable.

Miscellaneous

Village cesses.

145.* (1) At any of the following times, namely :—

(*a*) when a record-of-rights is being made or specially revised for an estate,

(*b*) when the local area in which an estate is situate is being generally re-assessed, and before the assessment has been confirmed,

(*c*) at any other time on an order made with respect to any estate by the Local Government,†

a Revenue-officer shall prepare a list of village cesses, if any, levied in the estate which have been generally or specially approved by the Local Government, or the title to which has, before the passing of this Act. been judicially established.

(2) [*Repealed by Act XVII. of 1896, s. 3.*]

(3) The Local Government may impose on the collection of any village-cess comprised in the list such conditions as to police or other establishments connected with the village, market, or fair in or on account of which the cess is levied, as it thinks fit.

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* For rules of Financial Commissioner under s. 145, see Notification No. 76, *Punjab Gazette*, Extraordinary, March 1, 1888, p. 53.

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

(4) "The Local Government may"* declare whether any cess, contribution, or due levied in an estate, is or is not a village-cess.

(5) declaration of the Local Government under the last foregoing sub-section shall be conclusive, and shall not be liable to be questioned in any Court.

Superior land-owners' dues.

146. Where a superior land-owner is entitled to receive, in respect of any land, from an inferior land-owner, dues in kind or in cash of fluctuating quantity or amount, the Collector may,—

(*a*) on the application of both land-owners, or,

(*b*) with the previous sanction of the Local Government, on the application of either of them,

commute those dues into a fixed percentage of the land-revenue payable by the inferior land-owner in respect of the land.

Substitution of service for payment of land revenue.

147. (1) The Local Government may, with the previous sanction of the Governor-General in Council authorize the remission of land-revenue, in whole or in part, in consideration of the person liable therefor undertaking to render, in lieu thereof, such public service as may be specified in an agreement to be approved by the Local Government, and executed by that person.

(2) The Local Government may, with the like sanction, cancel any remission authorized, and agreement made under sub-section (1)

(3) If a land-owner bound by an agreement under that sub-section to render public service in lieu of paying land-revenue, fails to render the service to the satisfaction of the Collector, the Collector may determine the portion of the land-revenue remitted which is represented by the service in respect of which the land-owner is in default, and, with the previous sanction of the Financial Commissioner, recover that portion as if it were an arrear of land-revenue due in respect of the land for the land-revenue whereof the service was substituted.

Recovery of costs of assessing assigned land-revenue.

148. (1) When land of which the land-revenue has been assigned in whole or in part is re-assessed, the assignee shall be liable to pay such a share of the costs of making the re-assessment as the Financial Commissioner may determine to be just.

(2) That share may be recovered by the Collector by deduction of the amount thereof from the land-revenue due to the assignee.

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

Penalty for failure to attend within limits of estate in obedience to order of Revenue-officer.

149. If a person required by a summons, notice, order, or proclamation proceeding from a Revenue-officer to attend at a certain time and place within the limits of the estate in which he ordinarily resides, or in which he holds or cultivates land, fails to comply with the requisition, he shall be liable, at the discretion of the Revenue-officer, to fine which may extend to fifty rupees.

Prevention of encroachment on common lands.

150. (1) Where land which has been reserved for the common purposes of the co-sharers therein has been encroached on by any co-sharer, a Revenue-officer may, on the application of any other co-sharer, eject the encroaching co-charer from the land, and, by order proclaimed in manner mentioned in section 22, forbid repetition of the encroachment.

(2) The proceedings of the Revenue-officer under sub-section (1) shall be subject to any decree or order which may be subsequently passed by any Court of competent jurisdiction.

Papers kept by village-officers to be deemed public documents.

151. (1) Any record or paper which a village-officer is required by law, or by any rule under this Act, to prepare or keep, shall be deemed to be the property of the Government.

(2) A village-officer shall, with respect to any such record or paper in his custody, be deemed, for the purposes of the Indian Evidence Act, 1872, to be a public officer having the custody of a public document which any person has a right to inspect.

Costs.

152. (1) A Revenue-officer may give and apportion the costs of any proceeding under this Act in any manner he thinks fit.

(2) But if he orders that the costs of any such proceeding shall not follow the event, he shall record his reasons for the order.

Computation of periods limited for appeals and applications for review.

153. In the computation of the period for an appeal from, or an application for the review of, an order under this Act, the limitation therefor shall be governed by the Indian Limitation Act, 1877.

Restriction on revenue-officers bidding at auctions or trading.

154. (1) A Revenue-officer, or a person employed in a revenue-office, shall not—

(*a*) purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property which any Revenue-officer or Revenue Court in the district in which he is employed has ordered to be sold, or,

(*b*) in contravention of any rules made by the Local Government in this behalf, engage in trade in that district.

(2) Nothing in sub-section (1) shall be deemed to preclude any person from becoming a member of a company incorporated under the Indian Companies Act, 1882, or other law.

Power to make rules.

155. (1) The Financial Commissioner may, in addition to the other rules which may be made by him under this Act, make rules consistent with this Act and any other enactment for the time being in force—

(*a*)* fixing the number and amount of the instalments, and the times and places and the manner by, at, and in which any sum other than rent or land-revenue which is payable under this Act, or of which a record has been made thereunder, is to be paid ;

(*b*) fixing the dates on which profits are to be divisible by headmen or other persons by whom they are realized on behalf of co-sharers ;

(*c*) prescribing the fees to be charged for the service and execution of processes issued by Revenue-officers and Revenue Courts, the mode in which those fees are to be collected, the number of persons to be employed in the service and execution of those processes, and the remuneration and duties of those persons ;

(*d*)† regulating the procedure in cases where persons are entitled to inspect records of Revenue-officers, or records or papers in the custody of village-officers, or to obtain copies of the same, and prescribing the fees payable for searches and copies ;

(*e*) prescribing forms for such books, entries, statistics, and accounts as the Financial Commissioner thinks necessary to be kept, made or compiled in Revenue-offices, or submitted to any authority ;

(*f*)‡ declaring what shall be the language of any of those offices, and determining in what cases persons practising in those offices shall be permitted to address the presiding officers thereof in English ; and

(*g*)‡ generally for carrying out the purposes of this Act,

* For rules under s. 155 (*1*) (*a*), see Notification No. 76, *Punjab Gazette*, Extraordinary, March 1, 1888 p. 53.

† For rules under s. 155 (*1*) (*d*), see Notification Nos. 74 and 79, *Punjab Gazette*, Extraordinary, March 1, 1888, pp, 3 and 86, respectively.

‡ For rules under s. 155 (*1*) (*f*) and (*g*), see Notification, No 76, *Punjab Gazette* Extraordinary, March 1, 1888, p. 53.

(2) Until rules are made under clauses (*a*) and (*b*) of sub-section (1), the sums therein referred to shall be payable by the instalments, at the times and places, and in the manner by, at, and in which, they are now payable.

(3) Rules made by the Financial Commissioner under this or any other section of this Act shall not take effect until they have been sanctioned by the Local Government.*

Rules to be made after previous publication.

156. The power to make any rules under this Act is subject† to the condition of the rules being made after previous publication,‡

Powers exercisable by the Financial Commissioner from time to time.

157. All powers conferred by this Act on the Financial Commissioner may be exercised from time to time as occasion requires.

Exclusion of Jurisdiction of Civil Courts.

Exclusion of jurisdicton of Civil Courts in matters within the jurisdiction or Revenue-officers.

158. Except as otherwise provided by this Act—

(1) a Civil Court shall not have jurisdiction in any matter which the Local Government or Revenue officer is empowered by this Act to dispose of, or take cognizance of the manner in which the Local Government or any Revenue-officer exercises any powers vested in it or him by or under this Act; and in particular—

(2) a Civil Court shall not exercise jurisdiction over any of the following manners namely :—

(i) any question as to the limits of any lands which has been defined by a Revenue officer as land to which this Act does or does not apply :

(ii) any claim to compel the performance of any duties imposed by this Act or any other enactment for the time being in force on any Revenue-officer, as such ;

(iii) any claim to the office of kanungo, zaildar, inamdar, or village-officer, or in respect of any injury caused by exclusion from such office, or to compel the performance of the duties or a division of the emoluments thereof ;

(iv) any notification directing the making or revision of a record-of rights ;

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* Certain words repealed by Act 38 of 1920 have been omitted.

† Certain words repealed by Act IV of 1914 have been omitted.

‡ For prooisions concerning the making of rules after "publication," see Act I. of 1887, s. 6.

(v) the framing of a record-of--rights or annual record, or tne preparation, singing, or attestation of any of the documents included in such a record ;

(vi) the correction of any entry in a record-of-rights, annual record, or register of mutations ;

(vii) any notification of the undertaking of the general re-assessment of a district or tahsil having been sanctioned by the Governor-General in Council ;

(viii) the claim of any person to be liable for an assessment of land revenue, or of any other revenue assessed under this Act,

(ix) the amount of land-revenue to be assessed on any estate, or to be paid in respect of any holding under this Act ;

(x) the amount of, or the liability of any person to pay, any other revenue to be assessed under this Act, or any cess, charge, or rate to be assessed on an estate or holding under this Act or any other enactment for the time being in force ;

(xi) any claim relating to the allowance to be reccived by a land-owner who has given notice of his refusal to be liable for an assessment, or any claim connected with, or arising out of, any proceedings taken in consequence of the refusal of any person to be liable for an assessment under this Act ;

(xii) the formation of an estate out of waste land;

(xiii) any claim to hold free of revenue any land, mills, fisheries, or natural products of land or water ;

(xiv) any claim connected with, or arising out of, the collection by the Government, or the enforcement by the Government of any process for the recovery, of land-revenue or any sum recoverable as an arrear of land-revenue ;

(xv) any claim to set aside, on any ground other than fraud, a sale for the recovery of an arrear of land-revenue or any sum recoverable as an arrear of land-revenue :

(xvi) the amonnt of, or the liability of any person to pay, any fees, fines, costs, or other charges imposed under this Act ;

(xvii) any claim for partition of an estate, holding, or tenancy, or any question connected with, or arising out of, proceedings for partition, not being a question as to title in any of the property of which partition is sought ;

(xviii) any question as to the allotment of land on the partition of an estate, holding, or tenancy, or as to the distribution of land subject, by established custom, to periodical re-distribution or as to the distribution of land-revenue on the partition of an estate or holding or on a periodical re-distribution of land, or as to the distribution of rent on the partition of a tenancy;

(xviii*a*) any question connected with, or arising out of, or relating to, any proceeding for the determination of boundaries of estates subject to river action under sections 101A, 101B, 101C, and 101D, respectively, of Chapter VIII.*

(xix) any claim to set aside or disturb a division or appraisement of produce confirmed or varied by a Revenue-officer under this Act;

(xx) any question relating to the preparation of a list of village-cesses or the imposition by the Local Government of conditions on the collection of such cesses;

(xxi) any proceeding under this Act for the commutation of the dues of a superior land-owner;

(xxii) any claim arising out of the enforcement of an agreement to render public service in lieu of paying land-revenue; or

(xxiii) any claim arising out of the liability of an assignee of land-revenue to pay a share of the cost of collecting or re-assigning such revenue, or arising out of the liability of an assignee to pay out of assigned land-revenue, or of a person who would be liable for land-revenue if it had not been released, compounded for, or redeemed, to pay, on the land-revenue for which he would, but for such release, composition, or redemption, be liable, such a percentage for the remuneration of a zaildar, inamdar, or village officer as may be prescribed by rules for the time being in force under this Act.

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* This new clause has been added by Punjab Act I. of 1899, s. 3.

THE SCHEDULE.

(*See section 2.*)

ENACTMENTS REPEALED.

Number and year.	Title or subject of enactment.	Extent of repeal.
1	2	3
Act XXI, of 1836 ...	Creation of new Zilas ...	So much as has not been repealed.
Act VI of 1867 ...	To enable the Lieutenant-Governor of the Punjab to alter the limits of existing districts in any part of the territories under his government.	The whole.
Act VII. of 1870 ...	The Court-fees Act ...	In section 20, clause (i) the words, "and revenue," and the whole of section 23.
Act XXXIII. of 1871	The Punjab Laod-revenue Act, 1871.	The whole.
Act IV. of 1872 ...	The Punjab Laws Act, 1872 ...	Section 21.
Act XVIII. of 1884	The Punjab Courts Act, 1884	Chapter VI.
Regulation I. of 1872	The Punjab Frontier Regulation 1872.	Rules 26 to 46 (both inclusive) comprising sections G, H, I, and K of the Hazara Settlement Rules.

ACT II. OF 1888.

The Petroleum (Customs-duty) Act, 1888.

RECEIVED THE G.-G-'S ASSENT ON THE 10TH FEBRUARY 1888.

An Act. to provide for the Levy of a Customs-duty on Petroleum

WHEREAS it is expedient to provide for the levy of a customs-duty on petroleum ; It is hereby enacted as follows :—

1. [*Repealed by Act VIII. of 1894, s. and sch.*]

Commencement of effect of the addition to the schedule.

2. The rate of duty applicable to petroleum of which the bill-of-entry is delivered, within the meaning of section 37 of the Sea Customs Act, 1878, to the Customs-collector under section 86 of that Act after the passing of this Act, shall be the rate of duty specified in the second schedule to the Indian Tariff Act, 1882,* as amended by this Act.

ACT III. OF 1888.

The Police Act. 1888.

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

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

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

Title, extent, and commencement.

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

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

(3) It shall come into force at once.

Constitution of Police-force for special purposes.

2. (1) Notwithstanding anything in Act XXIV. of 1859 (*an Act for the better regulation of the police within the territories subject to the presidency of Fort St. George*), Act V. of 1861 (*an act for the regulation of police*), "or the corresponding law for

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* See now Act VIII, of 1894 which repeals the Indian Tariff Act 1882.

† Certain words repealed by Act 10 of 1914 has been omitted.

the time being in force in the territory administered by the Governor of Bombay in Council,"* or any Act relating to the police in any presidency-town, the Govenor General in Council may by notification in the *Gazette of India*, create a general police-district embracing parts of two or more presidencies, provinces, or places, and direct the enrolment under Act V. of 1861 of a police-force for service therein.

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

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

(4) Any member of such a force whom the authority ordinarily discharging with respect thereto the functions of the Local Government under sub-section (2) has generally or specially empowered to act under this sub section may, subject to any orders which the Governor-General in Council may make in this behalf, exercise in any part of the Local area in which he has the powers of a police-officer under sub-section (3) any of the powers which an officer in charge of a police-station has in that part, and, when so exercising any such power, shall, subject as aforesaid, be deemed to be an officer in charge of a police-station of such an officer within the limits of his station.

(5) Subject to any orders which the Governor-General in Council may make in this behalf, a part of a presidency, province or place included in a general police district under sub-section (1),

* In s. 2. sub-s. (1), the words quoted have been substituted for the words, "the Bombay District Police Act, 1867," by Act XII. of 1891, Sch. I.

shall not, by reason of being included therein, cease for the purposes of any enactment relating to police to be part of the presidency, province, or place, of whlch it forms part.

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

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

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

ACT IV. OF 1888.*

The Indian Reserve Forces Act, 1888.

RECEIVED THE G.- G.'S ASSENT ON THE 2ND MARCH 1888.

An Act to regulate Her Majesty's Indian Reserve Forees.

WHEREAS it is expedient to provide for the Government, discipline, and regulation of Her Majesty's Indian Reserve forces; It is hereby enacted as follows :—

Title and Commencement.

1. (1) this Act may be called the Indian Reserve Forces Act, 1888 ; and

(2) It shall come into force on such day as the Governor-general in Council may, by notification in the *Gazette of India*, appoint in this behalf.

Division of Reserve Forees into Active and Garrison Reserves.

2. The Indian Reserve Forces shall consist of the Active Reserve and the Garrison Reserve.

Locality of service of Reserves.

3. (1) A person belonging to the Active Reserve shall be liable to serve beyond the limits of British India as well as within those limits.

(2) A person belonging to the Garrison Reserve shall not be liable without his consent, to serve beyond the limits of British India.

Power to make rules for regulation of Reserve Forces.

4. The Governor-General in Council may make rules and order for the government, discipline, and regulation of the Indian Reserve Forces.

Liability of reserve Forces to military law.

5. Subject to the provision of section 3 with respect to persons belonging to the Garrison Reserve, and to such rules and orders as may be made under section 4, a person belonging to the Indian Reserve Forces shall, as an officer or soldier, as the case may be, be subject to military law in the same manner and to the same extent as a person belonging to Her Majesty's Indian Forces.

Punishment of certain offences by person belonging to Reserve Forces.

6. (1) If a person belonging to the Indian Reserve Forces—

(*a*) when required by, or in pursuance of, any rule or order under this Act to attend at any place, fails, without reasonable excuse, to attend in accordance with such requirement, or.

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* Act IV. of 1888 came into force on May 26, 1888.—See *Gazette of India* of same date, Pt, I., p. 239.

(*b*) fails without reasonable excuse to comply with any such rule or order, or

(*c*) fraudulently obtains any pay or other sum contrary to any such rule or order,

he shall be liable—

(i) on conviction by a Court-martial, to such punishment other than death, transportation, or imprisonment for a term exceeding one year as such Court is by the Indian Articles of War empowered to award, or

(ii) on conviction by a Magistrate of the first class, to imprisonment for a term which may extend, in the case of a first offence under this section, to six months, and, in the case of any subsequent offence thereunder, to one year.

(2) Where a person belonging to the Indian Reserve Forces is required by, or in pursuance of, any rule or order under this Act to attend at any place, a certificate purporting to be signed by an officer appointed by such a rule or order in this behalf, and stating that the person so required to attend failed to do so in accordance with such requirement, shall, without proof of the signature or appointment of such officer, be evidence of the matters stated therein.

(3) Any person charged with an offence under this section may be taken into and kept in either military or civil custody, or partly into and in one description of custody, and partly into and in the other, or be transferred from one description of custody to the other.

Effect of Act on persons already in the Reserves.

7. Nothing in this Act or in any rule or order thereunder shall make any person transferred to the Indian Reserve Forces before the commencement of this Act subject, without his consent, to any of the provisions of this Act.

ACT VIII OF 1888*

The Indian Tolls Act, 1888.

RECEIVED THE G.-G.'S ASSENT ON THE 5TH SEPTEMBER 1888.

An Act to remove doubts as to the legality of the levy of certain Tolls.

WHEREAS doubts have been raised as to the operation of the Acts of the Governor-General in Council, No. VIII. of 1851 (*an Act for enabling Government to levy Tolls on Public Roads and Bridges*) and No. XV. of 1864 (*an Act to amend Act VIII. of 1851*); It is hereby enacted as follows:—

Enforcement of Acts VIII. of 1851 and XV. of 1864 in the Punjab.

1. Acts VIII. of 1851 and XV. of 1864 shall be deemed to be in force throughout the territories now administered by the Lieutenant-Governor of the Punjab, and from the twenty-first day of August 1857, and the twenty-fourth day of March 1864, respectively, to have been in force in the territories for the time being administered as part of the Punjab.

Operation of the Act in the Punjab and certain other parts of British India.

2. (1) In any part of British India beyond the limits of the territories administered by the Governor of Fort St. George in Council, and the Lieutenant-Governors of Bengal and the North-Western Provinces, to or in which Acts VIII. of 1851 and XV. of 1864 may be or have been extended, or may be or have been declared to be in force, under the latter of those Acts, or by this Act, or by or under any other enactment, the Local Government shall be deemed to have and, where the Acts have been in force before the passing of this Act to have had the same authority as if it had been included among the Local Governments specified in section 2 of Act VIII of 1851.

(2) "Presidency," where that word occurs in section 8 of Act VIII of 1851, shall be deemed to mean, and to have meant, the territories under the administration of a Local Government.

Validation of past levy of tolls.

3. All tolls levied, or purporting to have been levied, under Acts VIII. of 1851 and XV. of 1864, or either of those Acts before the passing of this Act, shall be deemed to have been lawfully levied.

Saving.

4. Nothing in the foregoing sections shall affect any proceedings commenced in any Civil Court before the first day of July 1888.

* The Act has been declared in force in Upper Burma (except the Shan States) by Act XIII, of 1898, s. 4.

5. In section 2 of Act VIII. of 1851*, the word "and" shall be inserted between the words, "the Lieutenant-Governor of the North-Western Provinces of Bengal" and the words, "the Governor of the Presidency of Fort St. George in Council."

Amendment of section 2, Act VIII., 1851.

ACT XI OF 1888.

The Indian Telegraph (Presidency-Towns) Act, 1888.

RECEIVED THE G.-G.'S ASSENT ON THE 5TH OCTOBER 1888.

An Act to make an addition to the Indian Telegraph Act, 1885.

Whereas it is expedient to make an addition to the Indian Telegraph Act, 1885; It is hereby enacted as follows :—

1. The following section shall be added to that Act, namely :—

Addition to section to Act XIII. of 1885.

" 34. [*Printed supra, p. 102.*]

ACT XII OF 1888.

RECEIVED THE G.-G.'S ASSENT ON THE 12TH OCTOBER 1888.

*An Act to supplement certain provisions of the City of Bombay Municipal Act, 1888.****

Whereas it is expedient to supplement, by legislation in the Council of the Governor-General for making Laws and Regulations, certain provisions of the City of Bombay Municipal Act, 1888; * * * It is hereby enacted as follows :—

Confirmation of the City of Bombay Municipal Act, 1888,*** so far as regards Benches, Magistrates, and Courts of Small Causes.

1. The City of Bombay Municipal Act, 1888,*** shall, so far as regards—

(*a*) the jurisdiction thereby conferred upon Appellate Benches of Municipal Authorities and upon Presidency and other Magistrates and Courts of Small Causes or any Judge of such a Court, and

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* In s. 5 certain words repealed by Act XII. of 1891, Sch I., have here been omitted.

* * * Here certain words relating to the Calcutta Municipal Consolidation Act (II. of 1888), have been omitted as being repealed by Act III. B. C. of 1899, s. 2.

(*b*) the decisions, orders, and other proceedings of those Benches, Magistrates, and Courts, or of any such Judge,

be as valid as if they had been passed by the Governor-General of India in Council at a meeting for the purpose of making Laws and Regulations.

Reference of questions by the Chief Judge of the Bombay Small Cause Court to the Bombay Hlgh Court.

2. (*1*) If, before or on the hearing of an appeal under section 217 of the City of Bombay Municipal Act, 1888, any question of law or usage having the force of law, or the construction of a document, which construction may affect the merits, arises, on which the Chief Judge of the Court of Small Causes of Bombay entertains reasonable doubt, the Chief Judge may, either of his own motion, or on the application of either or any of the parties, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer the statement, with his own opinion on the point, for the decision of the High Court of Judicature at Bombay.

(2) When a reference is made to the High Court under sub-section (1), the provisions of sections 618 to 621, both inclusive, of the Code of Civil Procedure, shall, so far as they can be made applicable, apply to the Chief Judge of the Court of Small Causes and to the High Court, respectively.

Appeal to the Bombay High Court from certain orders of the Chief Judge of the Bombay Small Cause Court.

3. (1) An appeal shall lie to the High Court of Judicature at Bombay from a decision passed by the Chief Judge of the Court of Small Causes of Bombay under section 503 or section 504 of the City of Bombay Municipal Act, 1888, when the amount of the claim in respect of which the decision is passed exceeds two thousand rnpees.

(2) The provisions of the Code of Civil Procedure with respect to appeals from original decrees shall, so far as they can be made applicable, apply to appeals under sub-section (1), and orders passed therein by the High Court may, on application to the Chief Judge of the Court of Small Causes, be executed by him as if they were decrees made by himself.

(3) A decision passed by the Chief Judge of the Court of Small Causes of Bombay under section 503 or section 504 of the City of Bombay Municipal Act, 1888, shall, if an appeal does not lie therefrom under sub-section (1), be final.

Appeal to the Bombay Hlgh Court from orders of Presidency Magistrates in Bombay.

4. (1) An appeal shall lie to the High Court of Judicature at Bombay from an ordertpassed by a Presidency Magistrate under section 515 of the City of Bombay Municipal Act, 1888.

(2) The High Court may from time to time make rules for regulating the admission of appeals under sub-section (1) and the procedure to be followed in the adjudication thereof.

(3) When an appeal has been preferred to the High Court under this section, the Municipal Commissioner for the City of Bombay shall defer action upon the order of the Presidency Magistrate until the appeal has been disposed of:

(4) But, when the appeal has been disposed of, he shall forthwith give effect to the order passed therein by the High Court, or, if the order of the Presidency Magistrate has not been disturbed by the High Court, then to his order.

(5) When disposing of an appeal under this section the High Court may direct by whom the costs of the appeal are to be paid, and whether in whole or in what part or proportion.

(6) Costs so directed to be paid may, on application to a Presidency Magistrate, be recovered by him, in accordance with the direction of the High Court, as if they were a fine imposed by himself

Period of limitation for appeals to the Bombay High Court under the two last foregoing sections.

5. An appeal to the High Court of Judicature at Bombay under either of the two last foregoing sections shall, for the purposes of No. 156 of the second schedule of the Indian Limitation Act, 1877, be deemed to be an appeal under the Code of Civil Procedure in a case not provided for by No. 151 and No. 153 of that schedule.

ACT XVII. OF 1888.

The Indian Marine Act (1887) Amendment Act, 1888.

RECEIVED THE G.-G.'S ASSENT ON THE 26TH OCTOBER 1888.

An Act to amend the Indian Marine Act, 1887.

Whereas it is expedient to amend the Indian Marine Act, 1887; It is hereby enacted as follows:—

Amendment of section 2. Act XIV. of 1887.

1. For sub-section (2) of section 2 of the Indian Marine Act, 1887, the following shall be substituted, namely:—

[*Printed supra, p.* 370.]

ACT XVIII OF 1888.*

The Burma Financial Commissioner's Act, 1888.

RECEIVED THE G.-G.'S ASSENT ON THE 21ST DECEMBER 1888.

An Act to provide for the appointment of a Financial Commissioner for Burma and for the definition of his functions.

Whereas it is expedient that there should be a Financial Commissioner for Burma ; it is hereby enacted as follows:—

Extent and commencement.

1. (1) This Act shall extend to the whole of Burma ;† and

(2) It shall come into force at once.

Appointment of Financial Commissioner.

2. (1) There shall be a Financial Commissioner for Burma, and he shall be appointed, and may be removed, by the Local Government.‡

(2) Any person appointed by the Local Government or by the Governor-General in Council to the office of Financial Commissioner since the first day of Aprll 1888, shall be deemed to have been appointed under sub-section (1).

Subordination of Financial Commissioner to Local Government.

3. The Financial Commissioner shall be subject to the control of the Local Government, and shall, subject to the provisions of this Act and of any other enactment for the time being in force, discharge such functions as that Government may assign to him.

Financial Commissioner to be Chief Revenue-authority.

4. In any enactment for the time being in force in which the expression "Chief Revenue-authority" or "Chief Controling Revenue-authority" is used, the expression shall, subject to the provisions of any enactment passed after the commencement of this Act, and to any conditions and restrictions which the Local Government,‡ may prescribe, be construed as referring to the Financial Commissioner.

Delegation of powers to Financial Commissioner by Local Government.

5. The Local Government,‡ may by notification in the official Gazette, delegate to the Financial Commissioner, subject to such conditions and restrictions, if any, as that Government § may prescribe, all or any of the functions assigned to that Government by any enactment for the time being in force.

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* The Act has been declared in force in Upper Burma (except the Shan States) by Act XIII. of 1898, s. 4.

† In s. 1, sub-s. (*1*) certain words repealed by Act XIII. of 1898, Sch. V, have here been omitted.

‡ Certain words after this repealed by Act 4 of 1914 have been omitted,

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

Validation of past proceedings of Financial Commissioner.

6. All acts and proceedings done and taken after the first day of April 1888, and before the commencement of this Act, by any person acting under the authority of a person so appointed, shall be as valid and operative as they would have been if they had been done and taken in exercise of powers conferred by or conferrable under this Act.

Modification of certain enactments.

7. The enactments specified in the schedule shall be modified to the extent and in the manner mentioned in the third column thereof.

THE SCHEDULE.*

ENACTMENTS MODIFIED.

Number and year.	Title.	Modifications.
III. of 1879 ...	Destruction of Records Act, 1879.	In section 7 insert the words "and Burma" after the word "Punjab."
XX. of 1886 ...	Upper Burma Laws Act, 1886.	In the second schedule, first part, for "(sections 2, 4, and 8)," against Act III. of 1879, substitute ("sections 2, 4, 5, 7, and 8),"

* So much of the Schedule regarding the Stamp Act (I. of 1879) has been repealed by Act II. of 1899; and the portion regarding the Excise Act (XXII. of 1881) has been repealed by Act XII. of 1896.

ACT I. OF 1889.

Metal Tokens Act.

RECEIVED THE G.-G.'S ASSENT ON THE IST FEBRUARY 1889.

An Act for the Protection of Coinage and other Purposes.

WHEREAS it is expedient to prohibit the making, or the possession for issue, or the issue, by private persons, of pieces of metal for use as money ;

And whereas it is also expedient to amend section 28 the Indian Penal Code ;

It is hereby enacted as follows :—

Title, extent, and commencement.

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

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

(3) It shall come into force at once.

Definition.

2. In this Act "issue" means to put a piece of metal into circulation for the first time for use as money in British India, such piece having been made in contravention of this Act, or brought into British India by sea or by land in contravention of any notification for the time being in force under section 13 of the Sea Customs Act, 1878.

Prohibition of making by private persons of pices of metal to be used as money.

3. No piece of copper or bronze, or of any other metal or mixed metal, which, whether stamped or unstamped, is intended to be used as money, shall be made except by the authority of the Governor-General in Council.

Penalty for unlawful making, issue, or possession of such pieces,

4. (1) In either of the following cases, namely :—

(*a*) if any person makes, in contravention of the last foregoing section, or issues, or attempts to issue, any such piece as is mentioned in that section,

(*b*) if, after the expiration of three months from the commencement of this Act, any person has in his possession, custody, or control, any such piece as is mentioned in the last foregoing-section, with intent to issue the piece,

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* The Act has been declared in force in Upper Burma (except the Shan States) by Act XIII. of 1898, s, 4.

† Certain word after this repealed by Act 10 of 1914 has been omitted,

the person shall be punished,—

(*i*) if he has not been previously convicted under this section, with imprisonment which may extend to one year, or with fine, or with both : or,

(*ii*) if he has been previously convicted under this section, with imprisonment which may extend to three years, or with fine, or with both.

(2) If any person is convicted of an offence under sub-section (1), he shall, in addition to any other punishment to which he may be sentenced, forfeit all such pieces as aforesaid, and all instruments and materials for the making of such pieces, which may have been found in his possession, custody, or control.

(3) If in the trial of any such offence the question arises whether any piece of metal or mixed metal was intended to be used or to be issued for use as money, the burden of proving that the piece was not intended to be so issued shall lie on the accused person.

Cognizance of offence under the last foregoing section.

5. (1) The offence of making, in contravention of section 3, any such piece as is mentioned in that section, shall be a cognizable offence.

(2) Notwithstanding anything in the Code of Criminal Procedure, 1882, no other offence punishable under section 4 shall be a cognizable offence or, beyond the limits of a presidency-town, be taken cognizance of by any Magistrate, except a District Magistrate or Subdivisional Magistrate, without the previous sanction of the District Magistrate or Sub divisional Magistrate.

Application of certain of the foregoing provisions of this Act to importation of pieces of metal for use as money.

6. If at any time the Governor-General in Council sees fit, by notification under section 19 of the Sea Customs Act, 1878, to prohibit or restrict the bringing by sea or by land into British India of any such pieces of metal as are mentioned in section 3, he may, by the notification, direct that any person contravening the prohibition or restriction shall be liable to the punishment to which he would be liable if he were convicted under this Act of making such pieces in British India, instead of to the penalty mentioned in section 167 of the Sea Customs Act, 1878, and that the provisions of sub-section (3) of section 4, and sub-section (1) of section 5, or of either sub section, in relation to the offence of making such pieces, shall, notwithstanding anything in the Sea Customs Act, 1878, apply, so far as they can be made applicable, to the offence of contravening the prohibition or restriction noticed under section 19 of that Act.

7. [*Repealed by Act V of 1898.*]

Prohibition of receipt by local authorities and railways as money of metal which is not coin.

8. (1) No piece of metal which is not coin as defined in the Indian Penal Code shall be received as money by or on behalf of any railway-administration or local authority.

(2) If any person, on behalf of a railway-administration, or on behalf of a local authority, or on behalf of the lessee of the collection of any toll or other impost leviable by a railway administration or local authority, receives as money any piece of metal which is not such coin as aforesaid, he shall be punished, with fine which may extend to ten rupees,

Amendment of section 28 of the Indian Penal Code.

9. For the *Explanation* to section 28 of the Indian Penal Code the following shall be substituted, namely,

[*Printed in Vol. I., p.* 375.]

ACT II. OF 1889.*

Measures of Length Act.

RECEIVED THE G.-G'S ASSENT ON THE 15TH FEBRUARY 1889.

An Act to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India.

WHEREAS it is expedient to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India ; It is hereby enacted as follows :—

Title, extent, and Commencement.

1. (1) This Act may be called the Measures of Length Act, 1889.

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

(3) It shall come into force on such day as the Governor-General in Council may appoint in this behalf.

Standard yard.

2. The imperial standard yard for the United Kingdom shall be the legal standard measure of length in British India, and be called the standard yard.

Measure for determining length of standard yard.

3. A copy, approved by the Governor-General in Council, of the imperial standard for determining the length of the imperial standard yard for the United Kingdom, shall be kept in such place

* The Act has been declared in force in Upper Burma (except the Shan States) by Act XIII. of 1898, s. 4.

within the limits of the town of Calcutta as the Governor-General in Council may prescribe, and shall be the standard for determining the length of the standard yard.

Standard foot and inch.

4. One third part of the standard yard shall be called a standard foot, and one-thirty-sixth part of such a yard shall be called a standard inch.

Persumption in vavour of accuracy of certified measures.

5. Any measure having stamped thereon or affixed thereto a certificate purporting to be made under the authority of the Governor-General in Council, or of a Local Government, and stating that the measure is of the length of the standard yard, or that a measure marked thereon as a foot or inch is of the length of the standard foot or standard inch, as the case may be, shall, when produced before any Court by any public servant having charge of the measure in pursuance of any direction published in an official Gazette by order of the Governor-General in Council or the Local Government, or by any person acting under the general or special authority of such a public servant, be deemed to be correct until its inaccuracy is proved.

Inspection of certified measures by the public.

6. A public servant having, in pursuance of such a direction, charge of such a measure as is mentioned in the last foregoing section, shall allow any person to inspect it free of charge at all reasonable times, and to compare therewith or with any measure marked thereon any measure which such person may have in his possession.

Certified measure to be kept by authorities required by existing enactments to keep measures of length.

7. There shall be kept by the Commissioner of Police in the Town of Calcutta under section 55 of the Calcutta Police Act, 1866, by the Commissioners in Calcutta under section 370 of the Calcutta Municipal Consolidation Act, 1889, by the Commissioner of Police in the City of Madras under section 32 of the Madras City Police Act, 1888, by the Municipal Commissioner in the city of Bombay under section 418 of the City of Bombay Municipal Act, 1888, and by the District Magistrate under section 20 of Regulation XII. of 1827 of the Bombay Code, such certified measures of the standard yard, standard foot, and standard inch as are mentioned in section 5.

ACT IV. OF 1889.*

Indian Merchandise Marks Act.

RECEIVED THE G.-G.'S ASSENT ON THE IST MARCH 1889.

An Act to amend the Law relating to Fraudulent Marks on Merchandise.

WHEREAS it is expedient to amend the law relating to fraudulent marks on merchandise; It is hereby enacted as follows:—

Title, extent, and commencement.

1. (1) This Act may be called "The Indian Merchandise Marks Act, 1889."

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

(3) It shall come into force on the first day of April 1889.

Definitions.

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

(1) "trade-mark" has the meaning assigned to that expression in section 478 of the Indian Penal Code as amended by this Act:

(2) "trade-description" means any description, statement, or other indication, direct or indirect,—

(*a*) as to the number, quantity, measure, gauge, or weight of any goods, or

(*b*) as to the place or country in which, or the time at which, any goods were made or produced, or

(*c*) as to the mode of manufacturing or producing any goods, or

(*d*) as to the material of which any goods are composed, or

(*e*) as to any goods being the subject of an existing patent, privilege, or copyright;

and the use of any numeral, word, or mark which, according to the custom of the trade, is commonly taken to be an indication of any of the above matters, shall be deemed to be a trade description within the meaning of this Act.

(3) "false trade-description" means a trade-description which is untrue in a material respect as regards the goods to which it is applied, and includes every alteration of a trade description, whether

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* The Act has been declared in force in Upper Burma (except the Shan States) by Act XIII. of 1898, s. 4.

† In s. 1, certain words, which were repealed by Act IX. of 1891 have here been omitted.

by way of addition, effacement or otherwise, where that alteration makes the description untrue in a material respect, and the fact that a trade-description is a trade mark or part of a trademark shall not prevent such trade-description being a false trade description within the meaning of this Act:

(4) "goods" means anything which is the subject of trade or manufacture: and

(5) "name" includes any abbreviation of a name.

Amendment of the Indian Penal Code.

Substitution of new sections for sections 478 to 489 of the Indian Penal Code.

3. For that part of Chapter XVIII of the Indian Penal Code which relates to Trade and Property Marks, the following shall be substituted, namely:—

"*Of Trade, Property, and Other Marks.*

"478—489. [*Printed in Vol. I., p.* 576.]

Trade-description.

Provisions supplemental to the definition of false trade-description.

4. (1) The provisions of this Act respecting the application of a false trade-description to goods, or respecting goods, to which a false trade description, is applied, shall extend to the application to goods of any such numerals, words, or marks, or arrangement or combination thereof, whether including a trade mark or not, as are or is reasonably calculated to lead persons to believe that the goods are the manufacture or merchandise of some person other than the person whose manufacture or merchandise they really are, and to goods having such numerals, words, or marks, or arrangement or combination, applied thereto.

(2) The provisions of this Act respecting the application of a false trade-description to goods, or respecting goods to which false trade-description is applied, shall extend to the application to goods of any false name or initials of a person, and to goods with the false name or initials of a person applied, in like manner as if such name or initials were a trade description, and for the purpose of this enactment the expression "false name or initial" means, as applied to any goods, any name or initials—

(*a*) not being a trade-mark, or part of a trade-mark, and

(*b*) being identical with, or a colourable imitation of, the name or initials of a person carrying on business in connection with goods of the same description, and not having authorized the use of such name or initials.

(3) A trade-description which denotes or implies that there are contained in any goods to which it is applied more yards, feet, or inches than there are contained therein, standard yards, standard feet, or standard inches, is a false trade-description.

Application of trade-descriptions.

5. (1) A person shall be deemed to apply a trade-descption to goods who—

(*a*) applies it to the goods themselves, or

(*b*) applies it to any covering, label, reel, or other thing in or with which the goods are sold or are exposed or had in possession for sale or any purpose of trade or manufacture, or

(*c*) places, encloses, or annexes any goods which are sold, or are exposed or had in possession for sale or any purpose of trade or manufacture, in, with, or to any covering, label, reel, or other thing to which a trade-description has been applied, or

(*d*) uses a trade-description in any manner reasonably calculated to lead to the belief that the goods in connection with which it is used are designated or described by that trade-description.

(2) A trade-description shall be deemed to be applied whether it is woven, impressed, or otherwise worked into or annexed or affixed to the goods or any covering, label, reel, or other thing.

(3) The expression "covering" includes any stopper, cask, bottle, vessel, box, cover, capsule, case, frame, or wrapper, and the expression "label" includes any band or ticket.

Penalty for applying a false trade-description.

6. If a person applies a false trade-description to goods, he shall, subject to the provisions of this Act and unless he proves that he acted without intent to defraud, be punished with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, and, in the case of a second or subsequent conviction with, imprisonment which may extend to one year, or with fine, or with both.

Penalty for selling goods to which a false trade-description is applied.

7. If a person sells, or exposes, or has in possession for sale or any purpose of trade or manufacture, any goods or things to which a false trade-description is applied, he shall, unless he proves—

(*a*) that, having taken all reasonable precautions against committing an offience against this section, he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the trade-description, and

(*b*) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or

(*c*) that otherwise he had acted innocently,

be punished with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, and in case of a second or subsequent conviction, with imprisonment which may extend to one year, or with fine, or with both.

Unintentional Contravention of the law relating to Marks and Descriptions

Unintentional contravention of the law relating to marks and descriptions.

8. Where a person is accused under section 482 of the Indian Penal Code of using a false trade-mark or property-mark by reason of his having applied a mark to any goods, property, or receptacle in the manner mentioned in section 480 or section 481 of that Code, as the case may be, or under section 6 of this Act, of applying to goods any false trade-description, or under section 485 of the Indian Penal Code of making any die, plate, or other instrument for the purpose of counterfeiting a trade-mark or property-mark, and proves—

(*a*) that in the ordinary course of his business he is employed, on behalf of other persons, to apply trade-marks or property-marks, or trade descriptions, or, as the case may be, to make dies, plates, or other instruments for making, or being used in making, trade-marks or property-marks, and that, in the case which is the subject of the charge, he was so employed and was not interested in the goods or other thing by way of profit or commission dependent on the sale thereof, and

(*b*) that he took reasonable precautions against committing the offence charged, and

(*c*) that he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the mark or description ,and

(*d*) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons on whose behalf the mark or description was applied,

he shall be acquitted.

Forfeiture of Goods.

Forfeiture of goods.

9. (1) When a person is convicted under section 482 of the Indian Penal Code of using a false trade-mark, or under section 486 of that Code of selling, or exposing, or having in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade-mark applied thereto, or under section 487 or section 488 of that Code of making use of, a false mark, or under section 6 or section 7 of this Act of applying a false trade-description to goods, or of selling, or exposing, or having in possession for sale or any purpose of trade or manufacture, any goods or things to which a false trade description is applied,or is acquitted on proof of the matter or matters specified in section 486 of the Indian Penal Code or section 7 or section 8 of this Act, the Court convicting or acquitting him may direct the forfeiture to Her Majesty of all goods and things by means of or in relation to, which the offence has been committed or, but for such proof as aforesaid, would have been committed.

(2) When a forfeiture is directed on a conviction, and an appeal lies against the conviction, an appeal shall lie against the forfeiture also.

(3) When a forfeiture is directed on an acquittal, and the goods or things to which the direction relates are of value exceeding fifty rupees, an appeal against the forfeiture may be preferred, within thirty days from the date of the direction, to the Court to which in appealable cases appeals lie from sentences of the Court which directed the forfeiture.

Amendment of the Sea Customs Act, 1878.

Amendment of section 18, Act VIII. of 1878.

10. (1) For clause (*d*) of section 18 of the Sea Customs Act, 1878, the following shall be substituted, namely :—

[*Printed in Vol. II., p.* 250]

(2) To section 18 of the Sea Customs Act, 1878, as amended by sub-section (1), the following shall be added, namely :—

" (*f*) [*Printed in Vol. II., p. 251.*]

Addition of a section after section 19, Act VIII. of 1878.

11. The following shall be added after section 19 of the Sea Customs Act, 1878, namely :—

" 19A. [*Printed in Vol. II., p.* 252.]

Stamping of length of Piece-goods manufactured in British India.

Stamping of length of piece-goods manufactured in British India.

12. (1) Piece-goods, such as are ordinarily sold by length or by the piece which have been manufactured in premises which are a factory as defined in the Indian Factories Act, 1881, shall not be removed from those premises without having conspicuously stamped in English numerals on each piece the length thereof in standard yards, or in standard yards and a fraction of such a yard, according to the real length of the piece.

(2) If any person removes or attempts to remove any such piece-goods from any such premises without the length of each piece being stamped in the manner mentioned in sub-section (1), every such piece, and everything used for the packing or removal thereof, shall be forfeited to Her Majesty, and such person shall be punished with fine which may extend to one thousand rupees.

Supplemental Provisions.

Evidence of origin of goods imported by sea.

13. In the case of goods brought into British India by sea, evidence of the port of shipment shall, in a prosecution for an offence against this Act or section 18 of the Sea Customs Act, 1878, as amended by this Act, be *prima-facie* evidence of the place or country in which the goods were made or produced.

Costs of defence or prosecution.

14. (1) On any such prosecution as is mentioned in the last foregoing section, or on any prosecution for an offence against any of the sections of the India Penal Code as amended by this Act, which relate to trade, property, and other marks, the Court may order costs to be paid to the defendant by the prosecutor, or to the prosecutor by the defendant, having regard to the information given by, and the conduct of the defendant and prosecutor respectively.

(2) Such costs shall, on application to the Court, be recoverable as if they were a fine.

Limitation of Prosecution

15. No such prosecution as is mentioned in the last foregoing section shall be commenced after the expiration of three years next after the commission of the offence, or one year after the first discovery thereof by the prosecutor, whichever expiration first happens.

Authority of the Governor-General in Council to issue instructions as to administration of this Act.

16. (1) The Governor-General in Council may, by notification in the *Gazette of India* and in local official Gazettes, issue instructions for observance by Criminal Courts in giving effect to any of the provisions of this Act,

(2) Instructions under sub section (1) may provide, among other matters, for the limits of variation, as regards number, quantity, measure, gauge, or weight, which are to be recognized by Criminal Courts as permissible in the case of any goods.

Implied warranty on sale of marked goods.

17. On the sale or in the contract for the sale of any goods to which a trade mark, or mark or trade-description has been applied, the seller shall be deemed to warrant that the mark is a genuine mark, and not counterfeit or falsely used, or that the trade-description is not a false trade description within the meaning of this Act, unless the contrary is expressed in some writing signed by or on behalf of the seller, and delivered at the time of the sale or contract to and accepted by the buyer.

Savings.

18. (1) Nothing in this Act shall exempt any person from any suit or other proceedings which might, but for anything in this Act, be brought against him.

(2) Nothing in this Act shall entitle any person to refuse to make a complete discovery or to answer any question or interrogatory in any suit or other proceeding, but such discovery or answer shall not be admissible in evidence against such person in any such prosecution as is mentioned in section 14.

(3) Nothing in this Act shall be construed so as to render liable to any prosecution or punishment any servant of a master resident in British India, who, in good faith, acts in obedience to the instructions of such master, and, on demand made by or on behalf of the prosecutor, has given full information as to his master, and as to instructions which he has received from his master.

Defination of piece-goods.

19.* For the purposes of section 12 of this Act, and clause (*f*) or section 18 of the Sea-Customs Act, 1878, as amended by this Act, the Governor-General in Council may, by notification in the *Gazette of India*, declare what classes of goods are included in the expression "piece-goods, such as are ordinarily sold by length or by the piece."

Determination of character of goods by sampling.

20.* (1) The Governor-General in Council may make rules for the purposes of this Act, to provide with respect to any goods which purport or are alleged to be of uniform number, quantity, measure, gauge, or weight, for the number of samples to be selected and tested, and for the selection of the samples.

(2) With respect to any goods for the selection and testing of samples of which provision is not made in any rules for the

* Ss. 19, 20, 21, and 22 have been added by Act IX. of 1891 ; and s. 19, as originally enacted has been omitted, having been repealed by Act IX. of 1891 —See ss. 2 and 4 of Act IX of 1891.

time being in force under sub section (1), the Court or officer of customs, as the case may be, having occasion to ascertain the number, quantity, measure, gauge, or weight, of the goods, shall by order in writing, determine the number of samples to be selected and tested, and the manner in which the samples are to be selected.

(3) The average of the results of the testing in pursuance of rules under sub-section (1), or of an order under sub-section (2), shall be *prima-facie* evidence of the number, quantity, measure, gauge, or weight, as the case may be, of the goods.

(4) If a person, having any claim to, or in relation to, any goods of which samples have been selected and tested in pursuance of rules under sub-section (1), or of an order under sub-section (2), desires that any further samples of the goods be selected and tested, they shall, on his written application, and on the payment in advance by him to the Court or officer of customs, as the case may be, of such sums for defraying the cost of the further selection and testing as the Court or officer may from time to time require, be selected and tested to such extent as may be permitted by rules to be made by the Governor-General in Council in this behalf, or as, in the case of goods with respect to which provision is not made in such rules, the Court or officer of customs may determine in the circumstances to be reasonable, the samples being selected in manner prescribed under sub-section (1), or in sub-section (2), as the case may be.

(5) The average of the results of the testing referred to in sub-section (3), and of the further testing under sub-section (4), shall be conclusive proof of the number, quantity, measure, guage, or weight, as the case may be, of the goods.

(6) Rules under this section shall be made after previous publication.

Information as to commission of officers.

21.* An officer of the Government whose duty it is to take part in the enforcement of this Act shall not be compelled in any Court to say whence he got any information as to the commission of any offence against this Act.

Punishment of abetment in India of acts done out of India.

22.* If any person, being within British India, abets the commission, without British India, of any act which, if committed in British India, would, under this Act, or under any section of that part of Chapter XVIII. of the Indian Penal Code which relates to trade, property, and other marks, be an offence, he may be tried for such abetment in any place in British India in which he may be found, and be punished therefor with the punishment to which he would be liable if he had himself committed in that place the act which he abetted.

* Footnote of the previous page.

ACT V. OF 1889.

Coroners (Madras) Act, 1889.

RECEIVED THE G.-G.'S ASSENT ON THE 1ST MARCH 1889.

An Act to abolish the Office of Coroner of Madras.

Whereas it is expedient to abolish the office of Coroner of Madras, and for this purpoee to amend the Coroners Act, 1871, the Coroners Act, 1881, and "the Code of Criminal Procedure, 1898";* It is hereby enacted as follows :—

Commencement.

1. This Act shall come into force on such day as the Governor of Fort St. George in Council may, by notification in the *Fort St. George Gazette*, appoint in this behalf.

Amendment of the Coroners Act, 1871.

2. For section 3 of the Coroners Act, 1871, the following shall be substituted, namely :—

"3. [*Printed in Vol. I., p, 998.*]

Amendment of the Coroners Act, 1881.

3. (1) For the preamble to the Coroners Act, 1881, the following shall be substituted, namely :—

[*Printed in Vol. II., p.* 528.]

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

Amendment of the Code of Criminal Procedure.

4. † (2) Sections 174, 175, and 176 of "the Code of Criminal Procedure, 1898,"‡ shall, in their application to the area comprised within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Madras, be read as follows, namely :—

Enquiry into violent or suspicious death to be ordinarily conducted by officer in charge of police station.

"174. (1) An officer in charge of a police-station, on receiving information that a person—

(*a*) has committed suicide, or

(*b*) has been killed by another, or by an animal, or by machinery, or by an accident, or

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* The reference to the Criminal Procedure Code of 1898, has been substituted by Act I. of 1903.

† Sub-s. (1) of s. 4, repealed by Act XII. of 1891, Sch. I., has been omitted.

‡ In sub-s. (2) of s. 4 the words quoted have been substituted for the words, "the Code of Criminal Procedure, 1882," by Act I. of 1903.

(*c*) has died under circumstances raising a reasonable suspicion that some other person has committed an offence,

shall immediately give intimation thereof to the Commissioner of Police, and, in the absence of any rule or order under the next following section to the contrary, proceed to the place where the body of such deceased person is, and there, in the presence of five or more respectable inhabitants of the neighbourhood, make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises, and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), such marks appear to have been inflicted.

"(2) The report shall be signed by such police-officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the office of the Commissioner of Police.

"(3) in any of the following cases, namely:—

(*a*) in any case in which the Local Government may by rule so require,

(*b*) in any case in which death appears to have been caused by violence, or there is any doubt regarding the cause of death,

(*c*) in any other case in which the police-officer considers it expedient so to do,

he shall cause the body to be examined by a medical officer appointed in this behalf by the Local Govenment.

"(4) The police-officer may, by order in writing, summon five or more persons as aforesaid for the purpose of the investigation under this section, and any other person who appears to be acquainted with the facts of the case. Every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

"(5) If the facts do not disclose a cognizable offence to which section 170 applies, such persons shall not be required by the police-officer to attend a Magistrate's Court.

Power to make rules and orders with respect to investigations by other authorities than officers in charge of police-stations.

"175. (1) The Local Government may make rules, and the Commissioner of Police may from time to time make general or special orders consistent with those rules, defining—

(*a*) the circumstances in which an officer in charge of a police-station, after giving intimation to the Commissioner of Police of any such event as is mentioned in clause (*a*), clause (*b*), or clause (*c*) of sub-section (1) of the last foregoing section, is not to proceed to discharge any of the further functions of such an officer under that section, and

(*b*) the circumstances in which, and in such circumstances the authority by whom, those further functions are to be discharged.

(2) The authority to whom the discharge of such further functions may be entrusted by rules or orders under sub-section (1) may be the Commissioner of Police, or any of his Deputies or Assistants, or any other police-officer of rank not below that of Inspector, and such authority, in discharge of those functions, may exercise any of the powers, and shall perform the duties, which, but for such rules or orders, might be exercised and should be performed by the officer in charge of the police-station.

Provisions with respect to inquiries by Presidency Magistrates and the disinterment of dead bodies.

" 176. (1) The Chief Presidency Magistrate, or such other Presidency Magistrate as the Chief Presidency Magistrate may depute in this behalf, shall, when any person dies while in the custody of the police or in prison, and may in any other case mentioned in section 174, sub-section (1), clause (*a*), clause (*b*), or clause (*c*), hold an inquiry into the cause of death, either instead of, or in addition to, the investigation under either of the two last foregoing sections ; and, where he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence, and shall record any evidence taken by him in the course of the inquiry as nearly as may be in the manner prescribed in section 362.

" (2) Whenever the Commissioner of Police or a Presidency Magistrate considers it expedient, for the discovery of the cause of the death of a deceased person whose body has been interred, that an examination should be made of the dead body, such Commissioner or Magistrate, as the case may be, may cause the body to be disinterred and examined."

ACT VI OF 1889.

Probate and Administration Act.

RECEIVED THE G.-G'S. ASSENT ON THE 8TH MARCH 1889.

An Act to amend the Indian Succession Act, 1865, *the Probate and Administration Act*, 1881, *the Court-fees Act*, 1870, *and the Indian Stamp Act*, 1879, *and to make provision with respect to certain other matters.*

Whereas it is expedient to amend the Indian Succession Act, 1865, the Probate and Administration Act, 1881, the Court-fees Act, 1870, and the Indian Stamp Act, 1879, and to make provision with respect to certain other matters; It is hereby enacted as follows :—

Title, extent, and commencement.

1. (1) This Act may be called the Probate and Administration Act, 1889.

(2) It applies to the whole of British India* and

(3) It shall come into force at once.

Indian Succession Act, 1865.

Amendment of section 234, Act X., 1865.

2. After the 4th clause of the *Explanation* to section 234 of the Indian Succession Act, 1865, the following shall be added, uamely :

"5th [*Printed in Vol I., p. 692.*]

Amendment of section 244, Act X., 1865.

3. In section 244, of the same Act, for the words, "and that petitioner is the executor therein named," the following shall be substituted, namely :—

" the amount of assets which are likely to come to the petitioner's hands, and

" that the petitioner is the executor named in the will ;".

Amendment of section 254, Act X., 1865.

4. For the last forty-two words of section 254 of the same Act the following shall be substituted, namely :—

[*Printed in Vol. I., p.* 701.]

Amendment of section 255 Act X, 1865.

5. For the last forty-five words of section 255 of the same Act the following shall be substituted, namely :—

[*Printed in Vol I., p.* 701.]

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* In s. 1, sub-s (2) certain words repaled by Act XIII. of 1898, Sch. V. have here been omitted.

Amendment of section 256, Act X., 1865.

6. In section 256 of the same Act, for the words, "Every person to whom any grant of administration shall be committed," the words, "Every person to whom any grant of letters of administration is committed," shall be substituted.

Substitution of new section for section 277, Act X., 1865.

7. For section 277 of the same Act the following shall be substituted, namely:—

"277. [*Printed in Vol. I., p. 707.*]

Amendment of section 277A, Act X., 1865.

8. In section 277A of the same Act, for the words, "it is sought to obtain a grant," the words, "a grant has been made," and for the words and figures, "the person applying for administration after the first day of April 1875," the word, "administration," shall be substituted.

Amendment of section 283, Act X., 1865

9. (1) In section 283 of the same Act, for the words, "the country in which he was domiciled," the words, "British India," shall be substituted.

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

Addition to Act X., 1865.

10. To the same Act the following shall be added, namely :—

"333. [*Printed in Vol I, p. 720.*]

Probate and Administration Act, 1881.

Amendment of section 50, Act V., 1881.

11. After the 4th clause of the *Explanation* to secton 50 of the Probate and Administration Act, 1881, the following shall be added, namely :—

" 5th. [*Printed in Vol. II., p. 490.*]

Amendment of section 76, Act V., 1881.

12. For the portion of section 76 of the same Act beginning with the words, " he having undertaken to administer the same," and ending with the words, " within one year from the same date," the following shall be substituted, namely :—

[*Printed in Vol. II., p. 501.*]

Amendment of section 77, Act V., 1881.

13. For the portion of section 77 of the same Act beginning with the words, " he having undertaken to administer the same," and ending with the words, " within one year from the same date," the following shall be substituted, namely :—

[*Printed in Vol. II., p. 502.*]

Substitution of new section for section 90. Act V, 1881.

14. For section 90 of the same Act the following shall be substituted, namely :—

"90. [*Printed in Vol. II., p. 507.*]

Substitution of new section for section 98, Act V., 1881.

15. For section 98 of the same Act the following shall be substituted, namely :—

"*98.* [*Printed in Vol. II., p.* 509.]

Amendment of ssction 99, Act V., 1881.

16. In section 99 of the same Act, for the words "it is sought to obtain a grant," the words, "a grant has been made," and for the words, "the person applying for administration," the word, "administrator" shall be substituted.

Addition to Act V., 1881

17. To the same Act the following shall be added, namely :—

"157. [*Printed in Vol. II., p. 523.*]

Court-fees Act, 1870, and Indian Stamp Act 1879

18.* (2) In article 6 of the second schedule to the Court-fees Act, 1870, for the words, "Bail-bond or other instrument of obligation not otherwise provided for by this Act, when given by the direction of any Court or executive authority," the following words shall be substituted, namely :—

Amendment of Act VII., 1870, and I. 1879.

[*Printed in Vol. I., p.* 362.]

(3) [*Repealed by Act II. of* 1899. *Sch. II.*]

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

Miscellaneous.

19. Notwithstanding anything in section 90 of the Probate and Administration Act, 1881, a disposal of property by an executor or administrator who was appointed before the commencement of this Act, and to whom the provisions of that section were applicable, shall not be void by reason only that the consent of the Court to the disposal of the property was not, obtained.

Amendment of Act. V. II. 1870, and Act I., 1879.

20. [*Repealed by Act XI. of* 1899, *s.* 4,]

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

* Sub-s. (1) of s. 18, repealed by Act XII. of 1891, Sch. I. has been omitted.

ACT VII OF 1889.

The Succession Certificate Act.

RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL ON THE 8TH MARCH, 1889.

An Act to facilitate the Collection of Debts on Successions and afford Protection to Parties paying Debts to the Representatives of Deceased Persons.

WHEREAS it is expedient to facilitate the collection of debts on succession and afford protection to parties paying debts to the representatives of deceased persons; It is hereby enacted as follows :—

Title commencement, extent and application.

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

(2) It shall come into force on the first day of May, 1889; and

(3) It extends to the whole of British India.*

(4) But a certificate shall not be granted thereunder with respect to any debt or security to which a right can be established by probate or letters of administation under the Indian Succession Act, 1865 or by probate of a will to which the Hindu Wills Act, 1870, applies, or by letters of administration with a copy of such a will annexed.

Repeal.

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

(2) But nothing in this Act shall affect any certificate granted before the commencement of this Act under Act XXVII. of 1860 or any enactment repealed by that Act.

(3) Any enactment except this Act and section 152 of the Probate and Administration Act 1881, or any document referring to any enactment repealed by this Act shall, so far as may, be construed to refer to this Act or to the corresponding portion thereof,

Definitions.

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

(1) 'District Court," subject to the other provisions of proviso (*b*) to section 23 of the Punjab Courts Act, 1884, and of any other like enactment for the time being in force, means a Court presided over by a District Judge; and

* Certain words after this have been repealed by Act 13 of 1898.

(2) "Security" means—

(*a*) any promissory note, debenture stock or other security of the Government of India ;

(*b*) any bond, debenture or annuity charged by the Imperial Parliament on the revenues of India ;

(*c*) any stock or debenture of, or share in a company or other incorporated institution ;

(*d*) any debenture or other security for money issued by, or on behalf of a local authority ;

(*e*) any other security which the Governor-General in Council may, by notification in the *Gazette of India*, declare to be a security for the purposes of this Act,

Proof of representative title a condition precedent to recovery through the Courts of debts from debtors of deceased persons.

4. (1) No Court shall—

(*a*) pass a decree against a debtor of a deceased person for payment of his debt to a person claiming to be entitled to the effects of the deceased person or to any part thereof, or

(*b*) proceed, upon an application of a person claiming to be so entitled, to execute against such a debtor a decree or order for the payment of his debt,

except on the production, by the person so claiming, of—

(i) a probate or letters of administration evidencing the grant to him of administration to the estate of the deceased, or

(ii) a certificate granted under section 36 or section 37 of the Administrator-General's Act, 1874,* and having the debt mentioned therein, or

(iii) a certificate granted under this Act and having the debt specified therein, or

(iv) a certificate granted under Act XXVII. of 1860,† or an enactment repealed by that Act, or

(v) a certificate granted under the Regulation of the Bombay Code No. VIII. of 1827, and, if granted after the commencement of this Act, having the debt specified therein.

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* Act II. of 1874. But now see Act 3 of 1913 by which this Act has been repealed.

† Repealed by this Act.

(2) The word "debt" in sub-section (1) includes any debt except rent, revenue or profits payable in respect of land used for agricultural purposes.

Court having jurisdiction to grant certificate.

5. The District Court within the jurisdiction of which the deceased ordinarily resided at the time of his death, or if at that time he had no fixed place of residence then within the jurisdiction of which any part of the property of the deceased may be found, may grant a certificate under this Act.

Application for certificate.

6. (1) Application for such a certificate must be made to the District Court by a petition signed and verified by or on behalf of the applicant in the manner prescribed by the Code of Civil procedure for the signing and verification of a plaint by or on behalf of a plaintiff and setting forth the following particulars, namely:—

(*a*) the time of the death of the deceased ;

(*b*) the ordinary residence of the deceased at the time of his death and, if such residence was not within the local limits of the jurisdiction of the Court to which the application is made, then the property of the deceased within those limits ;

(*c*) the family or other near relatives of the deceased and their respective residences ;

(*d*) the right in which the petitioner claims ;

(*e*) the absence of any impediment under section 1, sub-section (4), or under any other provision of this Act or any other enactment, to the grant of the certificate or to the validity thereof if it were granted ; and ;

(*f*) the debts and securities in respect of which the certificate is applied for.

(2) If the petition contains any averment which the person verifying it knows or believes to be false, or does not believe to be true, that person shall be subject to punishment according to the provisions of the law for the time being in force for the punishment of giving or fabricating false evidence.

Procedure on application.

7. (1) If the District Court is satisfied that there is ground for entertaining the application, it shall fix a day for the hearing thereof, and cause notice of the application and of the day fixed for the hearing—

(*a*) to be served on any person to whom, in the opinion of the Court, special notice of the application should be given, and

(*b*) to be posted on some conspicuous part of the Court-house, and published in such other manner, if any, as the Court, subject to any rules made by the High Court in this behalf, thinks fit.

and upon the day fixed, or as soon thereafter as may be practicable, shall proceed to decide in a summary manner the right to the certificate.

(2) When the Court decides the right thereto to belong to the applicant it shall make an order for the grant of the certificate to him.

(3) If the Court cannot decide the right to the certificate without determining questions of law or fact, which seem to be too intricate and difficult for determination in a summary proceeding, it may nevertheless grant a certificate to the applicant if he appears to be the person having *Prima facie* the best title thereto.

(4) When there are more applicants than one for a certificate and it appears to the court that more than one of such applicants are interested in the estate of the deceased, the Court may, in deciding to whom the certificate is to be granted, have regard to the extent of interest and the fitness in other respects, of the applicants.

Contents of certificate.

8. When the District Court grants a certificate it shall therein specify the debts and securities set forth in the application for the certificate and may thereby empower the persons to whom the certificate is granted :—

(*a*) to receive interests or dividends on, or

(*b*) to negotiate or transfer, or

(*c*) both to receive interests or dividends on, and to negotiate or transfer, the securities or any of them.

Requisition of security from grantee of certificate.

9. (1) The District Court shall in any case in which it proposes to proceed under section 7, sub-section (3) or sub-section (4), and, may, in any other case, require, as a condition precedent to the granting of a certificate, that the person to whom it proposes to make the grant shall give to the Judge of the Court, to ensure for the benefit of the Judge for the time being, a bond with one or more surety or sureties, or other sufficient security, for rendering an account of debts and securities received by him and for indemnity of persons who may be entitled to the whole or any part of those debts and securities.

(2) The Court may, on application made by petition and on cause shown to its satisfaction, and upon such terms as to security

or providing that the money received be paid into Court or otherwise as the Court thinks fit, assign the bond or other security to some proper person, and that person shall thereupon be entitled to sue thereon in his own name as if if it had been originally given to him instead of to the Judge of the Court, and to recover, as trustee for all persons interested, such amount as may be recoverable thereunder.

Extension of certificate.

10. (1) A Ditsrict Court may from time to time, on the application of the holder of a certificate under this Act, extend the certificate to any debt or security not originally specified therein ; and every such extension shall have the same effect as if the debt or security to which the certificate is extended had been originaily specified therein.

(2) Upon the extension of a certificate, powers with respect to the receiving of interest or dividends on, or the negotiation or transfer of, any security to which the certificate has been extended may be conferred, and a bond or further bond or other security for the purposes mentioned in the last foregoing section may be required, in the same manner as upon the original grant of a certificate.

Froms of certificate and extended certificate.

11. Certificates shall be granted and extentions of certificates shall be made, as nearly as circumstances, admit, in the forms set forth in the second schedule.

Amendment of certificate in respect of powers as to securities.

12. Where a District Court has not conferred on the holder of a certificate any power with respect to a security specified in the certificate, or has only empowered him to receive interest or dividends on, or to negotiate or transfer the security, the Court may, on application made by petition and on cause shown to its satisfaction, amend the certificate by conferring any of the powers mentioned in section 8, or by substituting any one for any other of those powers.

Amendment of Act VII. 1870.

13. (1) For articles 11 and 12 of the first schedule to the Court Fees Act, 1870,* the following shall be substituted, namely—

* Act VII of 1870.

NUMBER		PROPER FEE
11. Probate of a will or letters of administration with or without will annexed.	If the amount or value of the property in respect of which the grant of probate or letters is made exceeds one thousand rupees.	Two per centum on such amount or value ; provided that when after the grant of a certificate under the Succession Certificate Act, 1889, or any enactment repealed by that Act, or under the Regulation of the Bombay Code No. VIII. of 1827, in respect of any property included in an estate, a grant of probate or letters of administration is made in respect of the same estate the fee payable in respect of the latter grant shall be reduced by the amount of fee paid in respect of the former grant.
12. Certificate under the Succession Certificate Act. 1889.	In any case.	Two per centum on the amount or value of any debt or security specified in the certificate under section 8 of the Act, and three per centum on the amount or value of any debt or securiy to which the certificate is extended under section 10 of the Act. *Note*—(1) The amount of a debt is its amount including interest on the day on which the inclusion of the debt in the certificate is applied for, so far as such amount can be ascertained. (2) Whether or not any power with respect to a security specified in certificate has been conferred under the Act, and, when such a power has been so conferred, whether the power is for the receiving of interest

NUMBER.		PORPER FEE
12. A. Certificate under the Regulation of the Bombay Code No. VII. of 1827.		or dividends on, or for the negotiation or transfers of the security, or for both purposes, the value of the security is its market value on the day on which the inclusion of the security in the certificate is applied for, so far as such value can be ascertained. (1) As regards debts and securities, the same fee as would be payable in respect of a certificate under the Succession Certificate Act, 1889, or in respect of an extension of such a certificate, as the case may be, and (2) as regards other property In respect of which the certificate is granted, two per centum on so much of the amount or value of such property as exceeds one thousand rupees."

(2) In the Court Fees Act, 1870, section 19, clause viii, for the words and figures, "and certificate mentioned in the first schedule to this Act annexed, No. 12" the words and figures "and, save as regards debts snd securities, a certificate under Bombay Regulation VIII. of 1827." shall be substituted.

AMENDMENT.

By Section 2 of Act VII. of 1910, the entries in second and third columns, of articles 11 and 12 A of schedule I of the Court Fees Act the following have been substituted, namely :—

Number.		Proper fee.
11. Probate of a will or lettters of Administra t i o n with or wit h o u t will annexed.	When the amount or value of the property in respect of which the grant of probate or letters is	Two per centum on such amount or value.

Number.		Proper Fee.
	made exceeds one thousand rupees, but does not exceed ten thousand rupees.	
	When such amount or value exceeds ten thousand rupees but does not exceed fifty thousand rupees.	Two and one half per centum on such amount or value.
	When such amount or value exceeds fifty thousand rupees.	Three per centum on such amount or value.
	Provided that when, after the grant of a certificate under the Succession Certificate Act, 1889, or under the Regulation of the Bombay Code, No. VIII. of 1827, in respect of any property included in an estate; a grant of probate, or letters of administration is made in respect of the same estate, the fee payable in respect of the latter grant shall be reduced by the amount of the fee paid in respect of the former grant.	
12A. Certificate under Regulation of the Bombay Code, No. VIII. of 1827.	(1) As regards debts and securities.	The same fee as would be payable in respect of a certificate under the Succession Certificate Act, 1889, or in respect of an extension of such a certificate, as the case may be.
	(2) As regards other property in respect	Two per centum on such amount or value.

Number.		Proper Fee.
	of which the certificate is granted—when the amonnt or value of such property exceeds one thousand rupees, but does not exceed ten thousand rupees;	
	When such amount or value exceeds ten thousand rupees, but does not exceed fifty thousand rupees.	Two and a half per centum on such amount or value.
	When such amount or value exceeds fifty thousand rupees.	Three per centum on such amount or value.

Mode of collecting court-fees on certificates.

14. (1) Every application for a certificate or for the extension of a certificate must be accompanied by a deposit of a sum equal to the fee payable under the first schedule to the Court-fees Act, 1870,* in respect of the certificate or extention applied for.

(2) If the application is allowed, the sum deposited by the applicant shall be expended, under the direction of the Court, in the purchase of the stamp to be used for denoting the fee payable as aforesaid.

(3) Any sum received under sub-section (1) and not expended under sub-section (2) shall be refunded to the person who deposited it.

Local extent of certificate.

15. A certificate under this Act shall have effect throughout the whole of British India.

Effect of certificate.

16. Subject to the provisions of this Act, the certificate of the District Court shall, with respect to the debts and securities specified therein, be conclusive as against the persons owing such debts or liable on such securities and shall, notwithstanding any contravention of section 1, sub-section (4) or other defect, afford full indemnity to all such persons as regards all payments made, or dealings had in good faith in respect of such debts or securities to or with the person to whom the certificate was granted.

* Act VII. 1870.

Effect of certificate granted or extended by British representative in Foreign State

17. Where a certificate in the form, as nearly as circumstances admit, of the second schedule has been granted to a resident within a Foreign State by the British representative accredited to the State, or where a certificate so granted has been extended in such form by such representative, the certificate shall, when stamped in accordance with the provisions of the Court Fees Act, 1870, with respect to certificates under this Act, have the same effect in British India as certificate granted or extended under this Act.

Revocation of certificate.

18. A certificate granted under this Act may be revoked for any of the following causes, namely:—

(*a*) that the proceedings to obtain the certificate were defective in substance;

(*b*) that the certificate was obtained fraudulently by the making of a false suggestion, or by the concealment from the Court of something material to the case;

(*c*) that the certificate was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant thereof, though such allegation was made in ignorance or inadvertently;

(*d*) that the certificate has become useless and inoperative through circumstances,

(*e*) that a decree or order made by a competent Court in a suit or other proceedings with respect to effects comprising debts or securities specified in the certificate renders it proper that the certificate should be revoked.

Appeal.

19. (1) Subject to the other provisions of this Act, an appeal shall lie to the High Court from an order of a District Court granting, refusing or revoking a certificate under this Act, and the High Court may, if it thinks fit, by its order on the appeal, declare the person to whom the certificate should be granted, and direct the District Court, on application being made therefor, to grant it accordingly, in supersession of the certificate if any, already granted.

(2) An appeal under sub-section (1) must be preferred within the time allowed for an appeal under the Code of Civil Procedure.

(3) Subject to the provisions of sub-section (1) and of Chapters XLVI. and XLVII. of the Code of Civil Procedure as applied by section 647 of that Code, an order of a District Court under this Act shall be final.

Effect on certificate of previous certificate, probate or letters of administration.

20. Save as provided by this Act, a certificate granted thereunder in respect of any of the effects of a deceased person shall be invalid if there has been a previous grant of such a certificate or of probate or letters of administration in respect of the estate of the deceased person and if such previous grant is in force.

Effect on certificate of subsequent probate or letters of administration.

21. (1) A grant of probate or letters of administration under the Probate and Administration Act, 1881, in respect of an estate, shall be deemed to supersede any certificate previously granted under this Act in respect of any debts or securities included in the estate.

(2) When, at the time of the grant of the probate or letters any suit or other proceeding instituted by the holder of the certificate regarding any such debt or security is pending, the person to whom the grant is made shall, on applying to the Court in which the suit or proceeding is pending, be entitled to take the place of the holder of the certificate in the suit or proceedings.

Validation of certain payments made in good faith to holder of invalid certificate.

22. Where a certificate under this Act has been superseded or is invalid by reason of the certificate having been revoked under section 18, or by reason of the grant of a certificate to a person named in an appellate order under section 19, or by reason of a certificate having been previously granted, or by reason of a grant of probate or letters of administration, or for any other cause, all payments made or dealings had, as regards debts and securities specified in the superseded or invalid certificate to or with the holder of that certificate in ignorance of its supersession or invalidity, shall be held good against claims under any other certificate or under the probate or letters of administration.

Prohibition of exercise of certain powers by curators.

23. (1) Where a certificate has been granted under this Act or Act XXVII. of 1860,* or a grant of probate or letters of administration has been made, a curator appointed under Act XIX. of 1841† shall not exercise any authority lawfully belonging to the holder of the certificate, or to the executor or administrator:

(2) But persons who have paid debts or rents to a curator authorized by a Court to receive them shall be indemnified, and the curator shall be responsible for the payment thereof to the person who has obtained the certificate, probate or letters of administration, as the case may be.

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* Repealed by the Act VII of 1889.

† The Succession (Property Protection) Act 1841.

Effect of certain probates and letters.

24. Any probate or letters of administration granted before the first day of April, 1881, by any Supreme or High Court of Judicature, or by the Court of a Recorder in Burma, in any case in which the deceased person was not a British subject within the meaning of that expression as used in the charters of the Supreme Courts of Judicature, and in which any assets belonging to him were at the time of his death within the local limits of the jurisdiction of the Court shall, for the purpose of the recovery of debts, the protection of persons paying debts, and the negotiation or transfer of securities included in the estate of the deceased, be deemed to have and to have had the effect which a grant of probate or letters of administration has under of Indian Succession Act, 1865 :

Provided that nothing in this section shall be construed to validate any disposal of property by an executor or administrator which has before the commencement of this Act been declared by any competent Court to be invalid.

Effect of decisions under this Act, and liability of holder of certificate thereunder.

25. No decision under this Act upon any question of right between any parties shall be held to bar the trial of the same question in any suit or in any other proceeding between the same parties, and nothing in this Act shall be construed to affect the liability of any person who may receive the whole or any part of any debt or security, or any interest or dividend on any security, to account therefor to the person lawfully entitled thereto.

Investiture of inferior Courts with jurisdiction of District Court for purposes of this Act.

26. (1) The Local Government may, by notification in the official Gazette, invest any Court inferior in grade to a District Court with the functions of a District Court under this Act, and may cancel or vary any such notification.*

(2) Any inferior Court so invested shall, within the local limits of its jurisdiction, have concurrent jurisdiction with the District Court in the exercise of all the powers conferred by this Act upon the District Court, and the provisions of this Act relating to the Distict Court shall apply to such an inferior Court as if it were a District Court :

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* For notifications issued under this sub-section for—

(1) Assam, *see* Assam Manual of Local Rules and Orders, Ed 1893, p. 268 ;

(2) Bombay, *see* Bombay List of Local Rules and Orders, Vol I., Ed. 1896, pp. 495-497 ;

(3) Madrds, *see* Madras List of Local Rules and Orders, Vol. I., Ed. 1898, pp. 227 and 228 ;

(4) North-Western Provinces and Oudh, *see* North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1894, p. 126.

Provided that an appeal from any such order of an inferior Court as is mentioned in sub-section (1) of section 19 shall lie to the District Court, and not to the High Court ; and that the District Court may, if it thinks fit, by its order on the appeal, make any such declaration and direction as that sub-section authorizes the High Court to make by its order or an appeal from an order of a District Court.

(3) An order of a District Court on an appeal from an order of an inferior Court under the last foregoing sub-section shall, subject to the provisions of Chapters XLVI. and XLVII. of the Code of Civil Procedure† as applied by section 647 of that Code, be final.

(4) The District Court may withdraw any proceedings under this Act from an inferior Court and may either itself dispose of them or transfer them to another such Court established within the local limits of the jurisdiction of the District Court and having authority to dispose of the proceedings.

(5) A notification under seb-section (1) may specify any inferior Court specially or any class of such Courts in any local area.

(6) Any Civil Court which for any of the purposes of any enactment is subordinate to, or subject to the control of, a District Court shall for the purposes of this section be deemed to be a Court inferior in grade to a Distict Court.

Surrender of superseded and invalid certificate.

27. (1) When a certificate under this Act has been superseded or is invalid from any of the causes mentioned in section 22, the holder thereof shall, on the requisition of the Court which granted it, deliver it up to that Court.

(2) If he wilfully, and without reasonable cause, omits so to deliver it up, he shall be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to three months, or with both.

Provisions with respect to certificates under Bombay Regulation VIII. of 1827.

28. Notwithstanding anything in the Regulation of the Bombay Code No. VIII. of 1827, the provisions of section 3, section 6, sub-section (1), clause (*f*) and sections 8, 9, 10, 11, 12, 14, 16, 18, 19, 25, 26, and 27 of this Act with respect to certificates under this Act and application therefor, and of section 98 of the Probate and Administration Act, 1881,* with respect to the exhibition of inventories and accounts by executors and administrators, shall, so far as they can be made applicable, apply, respectively, to certificates granted under that Regulation, and applications made for certificates thereunder after the commencement of this Act, and to the exhibition of inventories and accounts by the holders of such certificates so granted.

† Act XIV. of 1882 See now Act V of 1908.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED
(*See Section 2.*)

Number and year.	Subject or title.	Extent of repeal.
Acts of the Governor-General in Council.		
XXVII. of 1860	Collection of debts on successions.	So much as has not been repealed.
XIV. of 1869	Bombay Civil Courts Act, 1869.	In section 16, from and inclusive of the words and figures, "Bombay Regulation VIII. of 1827," down to and inclusive of the words, "representatives of deceased persons and."
XV. of 1874	Laws Local Extent Act, 1874	So much as relates to Act XXVII. of 1860.
XIII. of 1879	Oudh Civil Courts Act, 1879.	Section 25, clause (3), relating to applications for certificates under Act XXVII. of 1860.
V. of 1881	Probate and Administration Act, 1881	Section 151 and 153.
XVIII. of 1884	Punjab Courts Act, 1884 ...	Section 29, sub-section (1), clause (*a*).
XII. of 1887	Bengal, North-Western Provinces and Assam Civil Courts Act, 1887.	Section 23, Sub-section (2), clause (*c*).
Act of the Lieutenant-Governor of Bengal in Council.		
VII. of 1880*	Public Demands Recovery Act, 1880.	In section 7, Clause (3), the words, "and the note to paragraph 12 of schedule I,"

* Since entirely repealed by the Public demands Recovery Act (Ben. Act I. of 1895.)

THE SECOND SCHEDULE.

FORMS OF CERTIFICATE AND EXTENDED CERTIFICATE.

(*See section 11.*)

In the Court of

To *A. B.*

Whereas you applied on the day of for a certificate under the Succession Certificate Act, 1889, in respect of the following debts and securities, namely :—

Debts.

Serial number.	Name of debtor.	Amount of debt including interest, on date of application for certificate.	Description and date of instrument, if any, by which the debt is secured.

Securities.

Serial number.	DESCRIPTION.			Market-value of security on date of application for certificate.
	Distinguishing number or letter of security.	Name, title or class of security.	Amount or par value of security.	

This certificate is accordingly granted to you, and empowers you to collect those debts [*and*] [*to receive*] [*interest*] [*dividends*] [*on*] [*to negotiate*] [*to transfer*] [*those securities.*]

Dated this day of *District Judge.*

In the Court of

On the application of *A. B.*, made to me on the day of , I hereby extend this certificate to the following debts and securities, namely:—

Debts.

Serial number.	Name of debtor.	Amount of debt, including interest, on date of application for extension.	Description and date of instrument, if any, by which the debt is secured.

Securities.

Serial number.	Description.			Market-value of security on date of application for extension.
	Distinguishing number or letter of security.	Name, title or class of security.	Amount or par value of security.	

This extension empowers *A. B.* to collect those debts [*and*] [*to receive*] [*interest*] [*dividends*] [*on*] [*to negotiate*] [*to transfer*] [*those securities*].

Dated this day of *District Judge.*

ACT VIII. OF 1889.

RECEIVED THE G.-G.'S ASSENT ON THE 22ND MARCH 1889.

An Act to amend the Sea Customs Act, 1878, and the Indian Tariff Act, 1889.

WHEREAS it is expedient to amend the Sea Customs Act, 1878, and the Indian Tariff Act, 1882 ; It is hereby enacted as follows:—

Sea Customs Act, 1878.

Amendment of section 37, Act VIII., 1878.

1. For the provisos to section 37 of the Sea Customs Act, 1878, the following proviso shall be substituted, namely :—

[*Printed in Vol. II., p.* 284.]

Amendment of section 115, Act VIII., 1878.

2. In section 115 of the same Act, for the words and figures, "the second proviso to section 37," the words, "such alteration," shall be substituted.

Indian Tariff Act, 1882.

3, 4, 5. [*Repealed by Act VIII. of* 1894.]

ACT XVI. OF 1889.

Central Provinces Land-Revenue Act.

RECEIVED THE G,-G.'S ASSENT ON THE 29TH OCTOBER 1889.

An Act to amend the Central Provinces Land-revenue Act 1881, *and the Central Provinces Local Self-government Act,* 1883.

Whereas it is expedient to amend the Central Provinces Land-revenue Act, 1881 ; It is hereby enacted as follows :—

Title and commencement.

1. (1) This Act may be called the Central Provinces Land-revenue Act, 1889; and

(2) It shall come into force at once.

Definition.

2. In this Act, unless there is something repugnant in the subject or context, the word "section" means a section of the Central Provinces Land-revenue Act, 1881.

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

Amendment of section 4, clause (3).

4. In section 4, clause (3), after the words, "proprietors as such of the village," the words, "or to their transferees or assignees as such or to the patel," shall be inserted.

5. [*Repealed by Act XII. of* 1898, *s.* 13.]

New clause inserted after section 4, clause (6).

6. After section 4, clause (6), the following shall be inserted, namely :—

"(6*a*) [*Printed in Vol. II., p.* 543.]

Amendment of section 4, clause (7).

7. To section 4, clause (7), the words, "but does not include a survey-number, shall be added.

New clause inserted after section 4, clause (8).

8. After section 4, clause (8), the following shall be inserted, namely :—

"(8*a*) [*Printed in Vol. II. p.* 543.]

New clause substituted for section 4, clause (10).

9. For section 4, clause (10), the following shall be substituted, namely :—

"(10) [*Printed in Vol. II., p.*, 544.]

New clauses inserted after section 4, clause (13).

10. After section 4, clause (13), the following shall be inserted, namely :—

"(13*a*), (13*b*) [*Printed in Vol. II., p.* 544.]

Amendment of section 4, clause (14.)

11. For the *Explanation* to section 4, clause (14), the following shall be substituted, namely :—

"*Explanations I.—III.* [*Printed in Vol. II. p.* 544.]

New section substituted for section 6.

12. For section 6 the following shall be substituted, namely :—

"6. [*Printed in Vol. II., p.* 547.]

New section inserted after section 18.

13. After section 18 the following shall be inserted, namely :—

"18A. [*Printed in Vol. II., p.* 550.]

Amendment of section 45.

14. In section 45, after the words, "comprised in such area," the words, "or who are in possession of the whole or any part of the land as gaontias or as thekadars of Government land, or as raiyats who have accepted the assessment of a survey-number," shall be inserted.

Amendment of section 46.

15. To section 46 the following shall be added, namely :—

[*Printed in Vol. II., p.* 558.]

New section inserted after section 56.

16. After section 56 the following shall be inserted, namely:—

" 56A. [*Printed in Vol. II., p.* 561.]

17. [*Repealed by Act XII. of* 1898.]

New sections inserted after section 67.

18. After section 67 the following shall be inserted, namely :—

" 67A-67I. [*Printed in Vol. II., pp.* 566—568.]

19. [*Repealed by Act XII. of* 1898.]

20. [*Repealed by Act XII. of* 1898.]

New clause inserted after section 94, clause (*g*).

21. After clause (*g*) of section 94 the following shall be inserted, namely :—

" (*h*) [*Printed in Vol II., p.* 576.]

Insertion of new section after section 124.

22. After section 124 the following shall be inserted, namely :—

" 124A [*Printed in Vol. II., p.* 584.]

Amendment of section 125, clause (*a*).

23. In section 125, clause (*a*), for the words, " subsequently to the preparation of the record-of-rights," the words " from time to time," shall be substituted.

24. [*Repealed by Act XII. of* 1898.]

Amendment of section 135.

25. In section 135, after the words, " mortgagees or farmers," the words, " or, in the case of regularly settled raiyatwari villages, of the raiyats," shall be inserted.

Repeal of section 136 and substitution therefor of new provisions respecting partition.

26.* After section 135 the following shall be inserted, namely :—

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* In s. 26, the words, "section 136 is hereby repealed, and," have been omitted, as they have been repealed by Act XII. of 1891, Sch I. S. 26, so far as it relates to s. 136 W., has been repealed by the same Act and schedule.

"CHAPTER X-A.

[*Printed in Vol. II., p.* 588.]

Amendment of section 137.

27. (1) In the first paragraph of section 137, for the words, "and mukaddams," the words, "mukaddams and patels," shall be substituted.

(2) For the last paragraph of the same section the following shall be substituted, namely:—

[*Printed in Vol. II., p.* 593.]

New section inserted after section 143.

28. After section 143 the following shall be inserted, namely:—

"143A. [*Printed in Vol. II., p.* 597.]

Amendment of section 144.

29. (1) In section 144, after the words, "may make rules," the following shall be inserted, namely:—

"(*a*) [*Printed in Vol. II., p.* 597.]

(2) In the same section, clauses (*a*), (*b*), and (*c*), shall be read as clauses (*b*), (*c*), and (*d*), respectively.*

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

New section inserted after section 146.

32. After section 146 the following shall be inserted, namely:—

"146A. [*Printed in Vol. II., p.* 598.]

New section inserted after section 147.

33. After section 147 the following shall be inserted, namely:—

"147A. [*Printed in Vol. II., p.* 598.]

Amendment of section 148.

34. In section 148, for the words, "and patwaris," the words, "patwaris and village-watchmen," shall be substituted.

Amendment of section 149.

35. In section 149, for the words, "and patwaris," the words, "and village-watchmen," shall be substituted.

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

Amendment of section 152, clause (*13*).

37. For clause (13) of section 152 the following clauses shall be substituted, namely:—

"(13) (13*a*) [*Printed in Vol. II., p.* 601.]

* In s. 29, sub-s. (2), certain words, repealed by Act XII. of 1891, Sch. I, have been omitted.

Amendment of section 152, clause (*14*).

38. In clause (14) of section 152, for the words, "or mukaddam," the words, "mukaddam, patel, or village-watchman," shall be substituted.

New sections inserted after section 161.

39. After section 161 the following shall be inserted, namely :—

"161A, 161B. [*Printed in Vol. II., p.* 603.]

Power to assign titles to officers appointed to make settlements.

40. Notwithstanding anything contained in section 29, the Chief Commissioner shall be deemed to have and to have had, authority to assign to the Settlement-officer the title, "Assistant Settlement-officer," and to the Chief Settlement-officer the title, "Settlement-officer."

And whereas it is also expedient to amend the Central Provinces Local Self-Government Act, 1883; It is hereby further enacted as follows :—

Amendment of section 41, Act I., 1883.

41. In section 41, sub-section (1), of the said Act, for the words, "has been made in any settlement-record previous to the passing of this Act," the words, "is made in any settlement record," shall be substituted.

ACT I. OF 1890.

The Revenue-Recovery Act, 1890.

RECEIVED THE G.-G.'S ASSENT OF THE 14TH FEBRUARY.

An Act to make Better Provision for recovering certain Public Demands.

WHEREAS it is expedient to make better provision for recovering certain public demands ; It is hereby enacted as follows :—

Title, extent, and commencement.

1. (1) This Act may be called the Revenue-Recovery Act, 1890.

(2) It extends to the whole of British India, inclusive of *British Beluchistan ;†

(3) It shall come into force at once.

Definitions.

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

(1)"district" includes a presidency-town :

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* In s. 1 sub-s. (2), the words "*Upper Burma and*" have been omitted here as being repealed by Act XIII. of 1898.

† Certain word after this repealed by Act 10 of 1914 has been omitted

(2)"Collector" means the chief officer in charge of the land-revenue administration of a district : and

(3) "defaulter" means a person from whom an arrear of land-revenue, or a sum recoverable as an arrear of land-revenue, is due, and includes a person who is responsible as surety for the payment of any such arrear or sum.

Recovery of public demands by enforcement of process in other districts than those in which they become payable.

3. (1) Where an arrear of land-revenue, or a sum recoverable as an arrear of land-revenue, is payable to a Collector by a defaulter being, or having property, in a district other than that in which the arrear accrued, or the sum is payable, the Collector may send to the Collector of that other district a certificate in the form, as nearly as may be, of the schedule, stating—

(*a*) the name of the defaulter and such other particulars as may be necessary for his identification, and

(*b*) the amount payable by him and the account on which it is due.

(2) The certificate shall be signed by the Collector making it, "or by any officer to whom such Collector, by order in writing delegates his duty"* and save as otherwise provided by this Act, shall be conclusive proof of the matters therein stated.

(3) The Collector of the other district shall, on receiving the certificate, proceed to recover the amount stated therein as if it were an arrear of land-revenue which had accrued in his own district.

Remedy available to person denying liabilty to pay amount recovered under last foregoing section.

4. (1) When proceedings are taken against a person under the last fore-going section for the recovery of an amount stated in a certificate, that person may, if he denies his liability to pay the amount or any part thereof, and pays the same under protest made in writing at the time of payment, and signed by him or his agent, institute a suit for the re-payment of the same amount or the part thereof so paid.

(2) A suit under sub-section (1) must be instituted in a Civil Court having jurisdiction in the local area in which the office of the Collector who made the certificate is situate, and the suit shall be determined in accordance with the law in force at the place where the arrear accrued, or the liability for the payment of the sum arose.

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

(3) In the suit the plaintiff may, notwithstanding anything in the last foregoing section, but subject to the law in force at the place aforesaid, give evidence with respect to any matter stated in the certificate.

Recovery by Collector of sums recoverable as arrears of revenue by other public officers or by local authorities.

5. Where any sum is recoverable as an arrear of land-revenue by any public officer other than a Collector, or by any local authority, the Collector of the district in which the office of that officer or authority is situate shall, on the request of the officer or authority, proceed to recover the sum as if it were an arrear of land-revenue which had accrued in his own district, and may send a certificate of the amount to be recovered to the Collector of another district under the foregoing provisions of this Act as if the sum were payable to himself.

Property liable to sale under this Act.

6. (1) When the Collector of a district receives a certificate under this Act, he may issue a proclamation prohibiting the transfer or charging of any immoveable property belonging to the defaulter in the district.

(2) The Collector may at any time, by order in writing, withdraw the proclamation, and it shall be deemed, to be withdrawn when either the amount stated in the certificate has been recovered, or the property has been sold for the recovery of that amount.

(3) Any private alienation of the property, or of any interest of the defaulter therein, whether by sale, gift, mortgage, or otherwise, made after the issue of the proclamation, and before the withdrawal thereof, shall be void as against the Government and any person who may purchase the property at a sale held for the recovery of the amount stated in the certificate.

(4) Subject to the foregoing provisions of this section, when proceedings are taken against any immoveable property under this Act for the recovery of an amount stated in a certificate, the interest of the defaulter alone therein shall be so proceeded against, and no incumbrances created, grants made, or contracts entered into, by him in good faith shall be rendered invalid by reason only of proceedings being taken against those interests.

(5) A proclamation under this section, shall be made by beat of drum or other customary method, and by the posting of a copy thereof on a conspicuous place in or near the property to which it relates.

Saving of local laws relating to revenue.

7. Nothing in the following section shall be construed—

(*a*) to impair any security provided by, or affect the provisions of, any other enactment for the time being in force for the recovery of land-revenue or of sums recoverable as arrears of land-revenue, or

(*b*) to authorize the arrest of any person for the recovery of any tax payable to the corporation, commissioner, committee, board, council, or person having authority over a municipality under any enactment for the time being in force.

Recovery in British India of certain public demands arising beyond British India.

8. When this Act has been applied to any local area which is under the administration of the Governor-General in Council, but which is not part of British India, an arrear of land-revenue accruing in that local area, or a sum recoverable as an arrear of land-revenue, and payable to a Collector or other public officer, or to a local authority in that local area, may be recovered under this Act in British India.

THE SCHEDULE.

CERTIFICATE.

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

From The Collector of

To The Collector of

Dated the of 18

The sum of Rs. is payable on account of by , son of , resident of , who is believed (to be at) to have property consisting of at) in your district.

Subject to the provisions of the Revenue-Recovery Act, 1890, the said sum is recoverable by you as if it were an arrear of land-revenue which had accrued in your own district, and you are hereby desired so to recover it, and to remit it to my office at

A. B.,
Collector of

ACT II. OF 1890.

The Probate and Administration Act 1890.

RECEIVED THE G.-G.'S ASSENT ON THE 14TH FEBRUARY 1890.

An Act to amend Acts X. of* 1865,* *and V. of* 1881.

WHEREAS it is expedient to amend* the Indian Succession Act, 1865, and the Probate and Administration Act, 1881; It is hereby enacted as follows :—

[*Ss. 1—8 Repealed by Act II. of* 1913.]

The Indian Succession Act, 1865.

Addition of new section after section 326, Act X., 1865.

9. After section 326 of the Indian Succession Act, 1865, the following shall be inserted, namely :—

"326A. [*Printed in Vol. I., p.* 718.]

The Administrator-General's Act, 1874.

[*Ss. 1—15 Repealed by Act* 3 *of* 1913.]

The Probate and Administration Act, 1881.

Addition of new section after section 145, Act V., 1881.

16. After section 145 of the Probate and Administration Act, 1881, the following shall be inserted, namely :—

145A. [*Printed in Vol. II., p.* 520.]

ACT V. OF 1890.

The Forest Act, 1890.

RECEIVED THE G.-G.'S ASSENT ON THE 28TH FEBRUARY 1890.

An Act to amend the Indian Forest Act, 1878, *and the Burma Forest Act,* 1881.

Whereas it is expedient to amend the Indian Forest Act, 1878† It is hereby enacted as follows :—

Title and commencement.

1. (1) This Act may be called the Forest Act, 1890;†

(2) It shall come into force at once.

Indian Forest Act, 1878.

2. (1) For the definition of "Tree" in section 2 of the Indian Forest Act, 1878, the following shall be substituted, namely :—

Amendment of section 2. Act VII., 1878.

[*Printed in Vol. II., p.* 211.]

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* Certain words repealed by Acts II and III of 1913 have been omitted.

† Certain words after this repealed by Act 10 of 1914 have been omitted.

(2) For the definition of " Timber " in the same section the following shall be substituted, namely :—

[*Printed in Vol. II., p.* 211.]

(3) For the definition of " Forest-produce " in the same section the following shall be substituted, namely :—

[*Printed in Vol. II., p.* 211.]

Amendment of section 4, Act VII., 1878.

3. For clause (*b*) of section 4 of the said Act, the following shall be substituted, namely :—

" (*b*) [*Printed in Vol. II., p.* 212.]

Addition to section 5, Act VII., 1878.

4. To section 5 of the said Act, the words, " except in accordance with rules prescribed by the Local Government," shall be added.

Amendment of section 6, Act VII., 1878.

5 For clause (*a*) of section 6 of the said Act the following shall be substituted, namely :—

" (*a*) [*Printed in Vol. II., p.* 213.]

Addition of new section after section 9 Act VII., 1878.

6. After section 9 of the said Act the following shall be inserted, namely :—

" 9A. [*Printed in Vol. II., p.* 214.]

Amendment of section 25, Act VII., 1878.

7 For clause (*b*) of section 25 of the said Act the following shall be substituted, namely :—

(*b*) [*Printed in Vol. II., p.* 219.]

Amendment of Chapters VII. and VIII., Act VII., 1878.

8. (1) In the heading of Chapter VII. of the said Act, for the words, " of the duty on Timber," the words, " of the duty on Timber, and other forest-produce," shall be substituted.

(2) In section 39 of the said Act, after the word " timber," in both places where the word occurs, the words, " or other forest-produce," shall be inserted.

(3) In clause (*a*) of section 41 of the said Act, for the words, " and other," the words, " or other," shall be substituted.

Addition to section 41, Act VII. 1878.

(4) To section 41 of the said Act the following shall be added, namely :—

[*Printed in Vol, II., p.* 229.]

Amendment of section 47, Act VII., 1878.

9. In section 47 of the said Act the words, "within three months," shall be substituted for the words, "within two months."

Addition to section 48, Act VII., 1878.

10. To section 48 of the said Act, after the word "encumbrances," the words, "not created by him," shall be added.

Amendment of section 56, Act VII., 1878.

11. In section 56 of the said Act, for the words, "whom he deems to be entitled to the same," the words, "whom the Magistrate deems to be entitled to the same," shall be substituted.

Amendment of section 63, Act VII, 1878.

12. In section 63 of the said Act, after the words, "before the Magistrate having jurisdiction in the case," the words, "or to the officer in charge of the nearest police-station," shall be added,

Amendment of section 67, Act VII., 1878.

13. (1) For section 67 of the said Act the following shall be substituted, namely :—

"67. [*Printed in Vol. II., p.* 237]

Addition of new section after section 82, Act VII, 1878.

14. After section 83 of the said Act the following shall be added namely :—

"84. [*Printed in Vol II., p.* 242]

Burma Forest Act, 1881.

15 to **22.** [*Repealed by Burma Act IV, of* 1902.]

ACT VI. OF 1890.

The Charitable Endowments Act, 1890.

RECEIVED THE G.-G.'S ASSENT ON THE 7TH MARCH 1890.

An Act to provide for the Vesting and Administration of property held in trust for Charitable Purposes.

WHEREAS it is expedient to provide for the vesting and administration of property held in trust for charitable purposes ; It is hereby enacted as follows :—

Title, extent, and commencement.

1. (1) This Act may be called the Charitabte Endowments Act, 1890.

(2) It extends to the whole of British India, inclusive of* British Beluchistan ;

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* In s. 1, Sub-s. (2), the words "*Upper Burma and*," repealed by Act XIII. of 1898, have been omitted here.

(3) It shall come into force on the first day of October 1890.

Definition.

2. In this Act "charitable purpose" includes relief of the poor, education, medical relief, and the advancement of any other object of general public utility, but does not include a purpose which relates exclusively to religious teaching or worship.

Appointment and incorporation of Treasure or Charitable Endowments.

3. (1) The "Local Government"* may appoint an officer of the Government by the name of his office to be Treasurer of Charitable Endowments for the territories subject to "such Local Government."*

(2) Such Treasurer shall, for the purpose of taking, holding, and transferring moveable or immoveable property under the authority of this Act, be a corporation sole by the name of the Treasurer of Charitable Endowments for the territories subject to the Local Government. and, as such Treasurer, shall have perpetual succession and a corporate name.

Orders vesting property in Treasurer.

4. (1) Where any property is held or is to be applied in trust for a charitable purpose, the Local Government, if it thinks fit, may, on application made as hereinafter mentioned, and subject to the other provisions of this section, order by notification in the official Gazette, that the property be vested in the Treasurer of Charitable Endowments on such terms as to the application of rhe property of the income thereof as may be agreed on between the Local Government aud the person or persons making the application, and the property shall thereupon so vest accordingly.

(2) When any property has vested under this section in a Treasurer of Charitable Endowments, he is entitled to all documents of title relating thereto

(3) A Local Government shall not make an order under sub-section (1) for the vesting in a Treasurer of Charitable Endowments of any securities for money, except the following, namely :—

(*a*) promissory notes, debentures, stock, and other securities of the Government of India, or of the United Kingdom of great Britain and Ireland ;

(*b*) bonds, debentures, and h annuities charged by the Imperial Parliament on t e revenues of India ;

(*c*) stock or debentures of, or shares in, Railway or other Companies, the interest whereon has been guaranteed by the Secretary of State for India in Council. ;

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

(*d*) debentures or other securities for money issued by or on behalf of any local authority in exercise of powers conferred by an Act of a Legislature established in British India ;

(*e*) a security expressly authorized by any order which the "Local Government"* may make in this behalf ;

(4) An order under this section vesting property in a Treasurer of Charitable Endowments shall not require, or be deemed to require, him to administer the property, or impose, or to be deemed to impose, upon him the duty of a trustee with respect to the administration thereof

Schemes for administration of property vested in the Treasure.

5. (1) On application made as hereinafter mentioned, and with the concurrence of the person or persons making the application, the Local Government, if it thinks fit , may settle a scheme for the administration of any property which has been or is to be vested in the Treasurer of Charitable Endowments, and may in such scheme appoint, by name or office, a person or persons not being or including such Treasurer, to administer the property.

(2) On application made as hereinafter mentioned, and with the concurrence of the person or persons making the application, the Local Government may, if it thinks fit, modify any scheme settled under this section, or substitute another scheme in its stead.

(3) A scheme settled, modified, or substituted under this section, shall, subject to the other provisions of this section, come into operation on a day to be appointed by the Local Government in this behalf, and shall remain in force so long as the property to which it relates continues to be vested in the Treasurer of Charitable Endowments, or until it has been modified, or another such scheme has been substituted in its stead.

(4) Such a scheme, when it comes into operation, shall supersede any decree or direction relating to the subject-matter thereof, in so far as such decree or direction is in any way repugnant thereto, and its validity shall not be questioned in any Court, nor shall any Court give, in contravention of the provisions of the scheme, or in any way contrary or in addition thereto, a decree or direction regarding the administration of the property to which the scheme relates.

(5) In the settlement of such a scheme effect shall be given to the wishes of the author of the trust, so far as they can be ascertained, and, in the opinion of the Local Government, effect can reasonably be given to them.

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

(6) Where a scheme has been settled under this section for the administration of property not already vested in the Treasurer of Charitable Endowments, it shall not come into operation until the property has become so vested.

Mode of applying for vesting orders and schemes.

6. (1) The application referred to in the two last foregoing sections must be made,—

(*a*) if the property is already held in trust for a charitable purpose, then by the person acting in the administration of the trust, or, where there are more persons than one so acting, then by those persons or a majority of them, and

(*b*) if the property is to be applied in trust for such a purpose, then by the person or persons proposing so to apply it.

(2) For the purposes of this section the executor or administrator of a deceased trustee of property held in trust for a charitable purpose shall be deemed to be a person acting in the administration of the trust.

Exercise by Governor-General in Council of powers of Local Government.

7. (1) The Governor General in Council may exercise all or any of the powers conferred on the Local Government by sections 4 and 5.

(2) When the Governor-General in Council has signified to the Local Government his intention of exercising any of those powers with respect to any property, that Government shall not, without his previous sanction, exercise them with respect thereto.

Bare trusteeship of Treasurer.

8. (1) Subject to the provisions of this Act, a Treasurer of Charitable Endowments shall not, as such Treasurer, act in the administration of any trust whereof any of the property is for the time being vested in him under this Act.

(2) Such Treasurer shall keep a separate account of each property for the time being so vested, in so far as the property consists of securities for money, and shall apply the property or the income thereof in accordance with the provision made in that behalf in the vesting order under section 4, or in the scheme, if any, under section 5, or in both those documents.

(3) In the case of any property so vested other than securities for money, such Treasurer shall, subject to any special order which he may receive from the authority by whose order the property became vested in him, permit the persons acting in the administration of the trust to have the possession, management, and

control of the property, and the application of the income thereof, as if the property had been vested in them.

Annual publication of list of properties vested in Treasurer.

9. A Treasurer of Charitable Endowments shall cause to be published annually in the local official Gazette, at such time as the Local Government may direct, a list of all properties for the time being vested in him under this Act, and an abstract of all accounts kept by him under sub-section (2) of the last foregoing section.

Limitation of functions and powers of Treasurer.

10. (1) A Treasurer of Charitable Endowments shall always be a sole trustee, and shall not, as such Treasurer, take or hold any property otherwise than under the provisions of this Act, or, subject to those provisions, transfer any property vested in him, except in obedience to a decree divesting him of the property, or in compliance with a direction in that behalf issuing from the authority by whose order the property became vested in him.

(2) Such a direction may require the Treasurer to sell or otherwise dispose of any property vested in him, and, with the sanction of the authority issuing the direction, to invest the proceeds of the sale or other disposal of the property in any such security for money as is mentioned in section 4 sub-section (3), clause (*a*), (*b*), (*c*), (*d*), or (*e*), or in the purchase of immoveable property.

(3) When a Treasurer of Charitable Endowments is divested, by a direction of the Local Government or the Governor-General in Council under this section, of any property, it shall vest in the person or persons acting in the administration thereof, and be held by him or them on the same trusts as those on which it was held by such Treasurer.

Provision for continuance of office of Treasurer in certain contingencies.

11. If the office held by an officer of the Government who has been appointed to be a Treasurer of Charitable Endowments is abolished, or its name is changed, the "Local Government"* may appoint the same or another officer of the Government, by the name of his office, to be such Treasurer, and thereupon the holder of the latter office shall be deemed, for the purposes of this Act, to be the successor in office of the holder of the former office.

Transfer of property from one Treasurer to another.

12. If, by reason of an alteration of the limits of the territories subject to a Local Government, or for any other reason, it appears to the Governor-General in Council that any property vested in a Treasurer of Charitable Endowments should be vested in

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

another such Treasurer, he may direct that the property shall be so vested, and thereupon it shall vest in that other Treasurer and his successors as fully and effectually for the purposes of this Act as if it had been originally vested in him under this Act.

Power to frame forms and make rules.

13* (1) The Governor-General in Council may prescribe forms for any proceedings under this Act and may make rules consistent with this Act for prescribing the local Government which is to exercise the powers conferred by this Act in the case of property which or is situated, in territories subject to two or more local Governments.

(2) The local Government may make rules consistent with this Act for—

(*a*) prescribing the fees to be paid to the Government in respect of any property vested under this Act in a Treasurer of Charitable Endowments ;

(*b*) regulatiug the cases and the mode in which schemes or and modification thereof are to be published before they are settled or made under section 5 ;

(*c*) prescribing the forms in which accounts are to be kept by Treasurers of Charitable Endowments and the mode in which such accounts are to be audited, and

(*d*) generally carrying into eflect the purposes of this Act.

Indemnity to Government and Treasurer.

14. No suit shall be instituted against the Government in respect of anything done or purporting to be done under this Act, or in respect of any alleged neglect or ommission to perform any duty devolving on the Government under this Act, or in respect of the exercise of, or the failure to exercise, any power conferred by this Act on the Government, nor shall any suit be instituted against a Treasurer of Charitable Endowments except for divesting him of property on the ground of its not being subject to a trust for a charitable purpose, or for making him chargeable with, or accountable for, the loss or misapplication of any property vested in him, or the income thereof, where the loss or misapplication has been occasioned by or through his wilful neglect or default.

Saving with respect to Advocate-General and Official Trustee.

15. Nothing in this Act shall be construed to impair the operation of section 111 of the Statute 53 George III., chapter 155, or of any other enactment for the time being in force, respecting the authority of an Advocate-General at a Presidency to

* The new section 13 has been substituted for the old one by Act 38 of 1920.

act with respect to any charity, or of sections 8, 9, 10, and 11 of Act No. XVII. of 1864 (*an Act to constitute an Office of Official Trustee*) respecting the vesting of property in trust for a charitable purpose in an Official Trustee.

16. *General controlling authority of Governor-General in Council.* [*Repealed by Act 38 of 1920.*]

ACT VII. OF 1890.

Comptoir National D'escompte De Paris Act.

RECEIVED THE G.-G.'S ASSENT ON THE 14TH MARCH 1890.

An Act to enable the Comptoir National D' Escompte de Paris to sue and be sued in the name of the Chief Manager for the time being of the Indian Agencies of the said Comptoir.

Whereas certain persons have formed themselves into a Company at Paris for transaction of banking business under the name of the Comptoir National D'Escompte de Paris :

And whereas the said Company was constituted and established under and by virtue of certain resolutions passed on the 3rd and 11th June 1889 by General Meetings of Shareholders ;

And whereas, by the Articles of Association of the said Company, it is provided (among other things) that the said Company may continue to exist and carry on business for a term of fifty years from the first day of May 1889; that the shareholders of the Company shall be responsible only to the amount of their shares respectively ; that the rights and liabilities attached to each share shall follow its transmission into whatever hands it may pass ; and that the Company may establish Agencies or Branches as well in France as in the French Colonies and abroad, such Agencies to be organized and conducted in the same manner as the Comptoir National D'Escompte itself ;

And whereas Agencies of the said Company have been recently established in Calcutta and in Bombay ;

And whereas, on the thirtieth day of April 1862, a Convention was concluded and signed at Paris between Her Majesty the Queen of Great Britain and Ireland and His Majesty the Emperor of the French, comprising the following Articles, that is to say: "*First*—The High Contracting Parties declare that they mutually

grant to all Companies and other Associations, commercial, industrial, or financial, constituted and authorized in conformity with the laws in force in either of the two countries, the power of exercising all their rights, and of appearing before the tribunals, whether for the purpose of bringing an action, or for defending the same, throughout the dominions and possessions of the other Power, subject, to the sole condition of conforming to the laws of such dominions and possessions. *Second*—It is agreed that the stipulations of the preceding article shall apply as well to Companies and Associations constituted and authorized previously to the signature of the present Convensjon as to those which may subsequently be so constituted and authorized. *Third*—The present Convention is concluded without limit as to duration. Either of the High Powers shall, however, be at liberty to terminate it by giving to the other a year's previous notice. The two High Powers, moreover, reserve to themselves the power to introduce into the Convention, by common consent, any modifications which experience may show to be desirable ;"

And whereas it is desirable that effect should be given to the Convention, so far as the Comptoir National D'Escompte de Paris and its Agencies now or hereafter established in British India are concerned ;

It is hereby enacted as follows :—

Title, extent, and commencement.

1. (1) This Act may be called the Comptoir National D'Escompte de Paris Act, 1890;

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

(3) It shall come into force at once.

Definition.

2. In this Act, unless there is something repugnant in the subject or context, the expressions, "Chief Manager of the Agencies in British India of the said Comptoir" and "Chief Manager," include any person for the time being acting as Chief Manager of the said Agencies in British India of the Comptoir National D'Escompte de Paris, or being or acting as Manager of such one of the same Agencies as may be situate within the jurisdiction of the Court in which the suit or proceeding mentioned in any of the sections of this Act may be instituted or carried on.

Suits by or against Comptoir to be instituted in name of Chief Manager, and not abate on his death or removal.

3. On and from the commencement of this Act, all suits and other proceedings whatever, for any injury or wrong done to any moveable property of the said Comptoir, in whomsoever the same may for the time being be vested, whether in the said Comptoir or in some person or persons in trust for the said Comtoir, or upon

or in respect of any present liability to the said Comptoir, or upon any bonds, covenants, contracts, or agreements which already have been or hereinafter shall be given to or entered into with the said Comptoir, or to or with any person whomsoever in trust for the said Comptoir, or wherein the said Comptoir, is or shall be interested, and also all iustruments and petitions to found any adjudication of insolvency in any Court against any person indebted to the said Comptoir, and liable to have been made insolvent by the laws now or at any time hereinafter in force relating to insolvents in British India, and generally all other proceedings whatsoever to be commenced or carried on by or on behalf of the said Comptoir, or wherein the said Comptoir is or shall be interested against any persen, whether such person is or shall then be a shareholder or partner of or in the said Comptoir, or not, shall and lawfully may be commenced and prosecuted in the name of the person, who shall be the Chief Manager of the Agencies in British India of the said Comptoir at the time such suit or proceeding shall be commenced, as the nominal plaintiff or petitioner for or on behalf of the said Comptoir, and all suits and proceedings, as well for the subsisting as future accruing claims, debts, or demands to be commenced against the said Comptoir, by any person, whether such person is or shall then be a shareholder or partner of or in the said Comptoir or not, shall be commenced and prosecuted against the Chief Manager as the nominal defendant or respondant for and on behalf of the said Comptoir, and the death, removal, resignation, or any other act of such Chief Manager, or his bankruptcy or insolvency, shall not abate or prejudice any suit or other proceeding commenced under this Act, but the same may be continued, prosecuted, and carried on or defended in the name of any other the Chief Manager.

In criminal proceedings, property of Comptoir to be describable as property of Comptoir or Chief Manager.

4. On and from the commencement of this Act, in all criminal proceedings instituted or carried on by or on behalf of the said Comptoir, for fraud or injury upon or against the said Comptoir, or for any offence whatever relating to any money, notes, bills, effects, securities, or any moveable or immoveable property of the said Comptoir, or for any other offence against the Comptoir, it shall be lawful to state such money, notes, bills, effects, and securities, and other moveable and immoveable property, in whomsoever the same may be vested, whether in the said Comptoir, or in some person or persons in trust for the said Comptoir, to be the money notes, bills, effects, and securities or property of the Chief Manager of the Agencies in British India of the said Comptoir and any offence, committed, with intent to injure or defraud the said Comptoir shall and lawfully may, in such proceedings, be said to have been committed with intent to injure or defraud the

said Comptoir or such Chief Manager, and any offender may thereupon be lawfully convicted of any offence, and in all other proceedings, in which, before the commencement of this Act, it would have been necessary to state the name of the persons composing the said Comptoir, it shall be lawful and sufficient to state the name of such Chief Manager; and the death, resignation, or removal of such Chief Manager shall not abate or render defective, or in anywise affect or prejudice, such criminal proceedings.

Suit against the Comptoir on contract not to be defeated, because plaintiff is a partner.

5. No suit which may be commenced in any Court in British India against the Comptoir or the Chief Manager of the Agencies in British India of the said Comptoir, upon or arising out of any contract entered into by or on behalf of the said Comptoir, shall be in anywise affected or defeated by reason of the plaintiff therein, or of any other person who may be in anywise interested in such suit, being a shareholder or partner of or in the said Comptoir; but any shareholder or partner of or in the said Comptoir shall have the same right of suit and remedy to be proceeded in and enforced in the same manner against the said Comptoir or such Chief Manager upon any contract, and upon and for any debt, damage, or demand whatsoever, which he might have had if he had been a stranger, and not a shareholder or partner of in the said Comptoir.

Suit by Comptoir on contract not to be defeated, because defendant is a partner.

6. No suit commenced by virtue of this Act by or on behalf of the said Comptoir in the name of the Chief Manager, upon or arising out of any contract whatsoever, entered into by or on behalf of the said Comptoir, or for the recovery of any debt, damage, or demand whatseoever due or owing to the said Comptoir, or for any other cause or any other account, shall be in anywise affected or defeated by or by reason of the defendant therein, or any person or persons who may be in anywise interested in such suit, being a shareholder or partner of or in the said Comptoir, but the said Comptoir shall and may have the same right of suit and remedy to be proceeded in, and enforced in the same manner against any shareholder or partner of or in the said Comptoir, either alone or jointly with any other person, upon any contract, and upon and for any debt, damage, or demand whatsoever, which the said Comptoir might have had if such cause of suit had arisen with a stranger, and not with a shareholder or partner of or in the said Comptoir.

Chief Manager to cause a memorial to be enrolled containing certain particular.

7. The Chief Manager of the Agencies in British India of the said Comptoir shall have an office for the transaction of the business of the Comptoir. He shall cause a memorial, in the form and to the effect set forth in Schedule

A, or as near thereto as the circumstances of the case will admit of, verified by a declaration in writing made by him before a judge of the High Court of Judicature within the jurisdiction of which his office is situated to be enrolled, amongst the records of the said Hight Court. Such memorial shall, prior to being enrolled, be signed by the Chief Manager, and shall be accompanied by or have annexed thereto, or endorsed thereon, copies of the resolutions, notarial acts, articles, and other instruments under which the said Comptoir is established, and copies of the various rules under which the business of the said Comptoir is conducted. The memorial shall set forth the situation of the office of the Chief Manager, and of every other office and place in British India, in or at which the business of the said Comptoir is carried on ; and it shall contain a statement of the amount, both of the nominal and of the paid-up capital, the number of share, into which the capital is divided, the amount of each share and the amount of capital (if any) which the said Comptoir shall have set aside for its working capital in British India, and if the last mentioned capital is other than money, then a statement of how it stands invested, and in whose name.

Authority of Chief Manager to be authenticated.

8. No memorial shall be enrolled unless the authority of the Chief Manager by whom it is signed, and the copies of the resolutions, notarial acts, articles, and other instruments accompanying the memorial, shall be authenticated by the signature and seal of a notary public in France, and countersigned by Her Britannic Majesty's Consul-General in Paris for the time being.

Memorial of change in Chief Manager or in facts set forth in former memorial to be enrolled,

9. Whenever any new Chief Manager of the Agencies in British India of the said Comptoir shall be appointed, or any change in, or addition to, any of the facts stated in any memorial which may have been enrolled shall take place, a like memorial in the form and to the effect set forth in Schedule B, verified as aforesaid, shall, within twelve months after such appointment, change, or addition shall have been made, be enrolled as aforesaid, specifying the name and description of such new Chief Manager, and containing a statement of the change or addition which may have taken place in the facts aforesaid,

False declaration an offence under the Penal Code.

10. If any declaration made for the purpose of verifying a memorial under this Act shall be false or untrue in any material particular, the person wilfully making such declaration shall be guilty of an offence within the meaning of section 199 of the Indian Penal Code.

11. Until such memorial as first hereinbefore mentioned shall have been duly verified and enrolled, no suit shall be brought by the said Comptoir under the authority of this Act, and until the memorial by this Act required to be verified and enrolled in the event of the appointment of a new Chief Manager of the Agencies in British India of the said Comptoir shall have been duly verified and enrolled, the person whose name shall appear in the last memorial which shall have been duly verified and enrolled shall be liable to all such suits and executions upon judgment or decree and other proceedings under this Act, and in the same manner as if he had not ceased to be such Chief Manager, and as if no new Chief Manager had been appointed.

Comptoir not to sue till enrolment of memorial, and person named in last memorial to remain liable till enrolment of fresh memorial.

12. An examined copy of every memorial enrolled pursuant to this Act, certified to be a true copy by and under the hand and signature of a Registrar for the time being of the High Court of Judicature in which the same shall have been enrolled, shall be received in evidence as proof of the contents of such memorial; and proof shall not be required that the person by whom the memorial purports to be verified was the Chief Manager at the time of such verification.

Examined copy to be a proof of contents of memorial.

13. Execution on every judgment, decree, and order made or pronounced in any suit or proceeding in any Court in British India against the Chief Manager shall and may be issued and enforced against any property in British India belonging to the said Comptoir. All the provisions of the Code of Civil Procedure as to the attachment of property before judgment and after judgment shall, in all suits against the Chief Manager, have full force and effect as regards property in British India belonging to the said Comptoir. So long as the full amount recoverable by any person under any judgment, decree, or order shall not have been recovered, no execution issued from any Court in British India, nor anything in this Act, shall in any way prejudice or injure the right of such person to proceed in France, under the privileges and powers reserved to British subjects by and under the said Convention of the thirtieth day of April 1862, for the recovery of the amount unrecovered.

Judgment or order against Chief Manager how to be executed.

14. No person having or claiming to have any demand upon or against the said Comptoir shall, when the same has been so determined as to have been pleadable in bar against such person, bring more than one suit in respect of such demand; and the proceedings in any suit which may have been brought against the Chief Manager under

No person to bring more than one suit for the same demand against any Chief Manager, nor the Comptoir against any other person.

the authority of this Act, if so determined, may be pleaded in bar of any suit in any Court in British India, for the same cause against the same or any other Chief Manager; and in case of any demand which the said Comptoir now has or hereafter may have upon or against any person, whether a shareholder of the said Comptoir or not, and which shall have been determined in any suit commenced or prosecuted by the Chief Manager, the proceedings in such suit may be pleaded in bar of any other suit, in any such Court as aforesaid, for the same demand, which may be commenced or prosecuted by the same or any other Chief Manager.

SCHFDULE A.

(*See Section 7.*)

Memorial made the day of by the Chief Manager of the Agencies in British India of the Comptoir National D'Escompte de Paris, pursuant to the Comptoir National D'Escompte de Paris Act, 1890, setting forth the particulars prescribed by section 7 of the said Act.

Situation of office of Chief Manager . . . . . .
Situation of other offices and places in British India . . . .
Entire nominal capital of the Comptoir . . . . . .
Paid-up capital . . . . . .
Number of shares . . . . . .
Amount of each share . . . . . .
Amount of capital set aside for operations in British India . .
Mode in which the same is invested . . . . . .
Name in which the same is invested . . . . . .

I, *A B.*, Chief Manager of the Agencies in British India of the Comptoir National D'Escompte de Paris, do solemnly and sincerely declare, to the best of my knowledge and belief, that the abovewritten memorial is true in all respects.

(Sd) *A. B.*

Declared before me, a Judge of the High Court of Judicature at

SCHEDULE B.

(*See Section 9.*)

Memorial made the day of by the Chief manager of the Agencies in British India of the Comptoir National D' Escompte de Paris, pursuant to the Comptoir National D' Escompte de Paris Act, 1820, setting forth particulars of change or changes as prescribed by section 9 of the said Act.

Name and description of new Chief Manager,
or
New situation of office of Chief Manager,
or
Other change or changes.

I, *C. D.*, Chief Manager of the Agencies in British India of the Comptoir National D'Escompte de Paris, do solemnly and sincerely declare, to the best of my knowledge and belief, that the above-written memorial is true in all respects.

(Sd.) *C. D.*

Declared before me, a Judge of the High Court of Judicature at

ACT VIII. OF 1890.

The Guardians and wards Act, 1890.

RECEIVED THE G.-G.'S ASSENT ON THE 21ST MARCH 1890.

An Act to consolidate and amend the Law relating to Guardian and ward.

WHEREAS it is expedient to consolidate and amend the law relating to guardian and ward ; It is hereby enacted as follows :—

CHAPTER I

PRELIMINARY.

Title, extent, and Commencement.

1. (1) This Act may be called the Guardians and Wards Act, 1890.

(2) It extends to the whole of British India, inclusive of* British Baluchistan ; and

(3) It shall come into force on the first day of July 1890.

Repeal.

2. (1) On and from that day the enactments mentioned in the schedule shall be repealed to the extent specified in the third column thereof.

(2) But all proceedings had, certificates granted, allowances, assigned, obligations imposed, and applications, appointments, orders, and rules made under any of those enactments, shall, so far as may be, deemed to have been respectively had, granted, assigned, imposed, and made under this Act ; and

Any enactment or document referring to any of those enactments shall, so far as may be, be construed to refer to this Act, or to the corresponding portion thereof.

Saving of jurisdiction of Courts of Words and Chatered High Courts.

3. This Act shall be read subject to every enactment heretofore or hereafter passed relating to any Court of Wards by the Governor-General in Council ; or by a Governor or Lieutenant Governor in Council ; and nothing in this Act shall be construed to affect, or in any way derogate from, the jurisdiction or authority of any Court of Wards, or to take away any power possessed by any High Court established under the Statute 24 and 25 Victoria, chapter 104 (*An Act for establishing High Courts of Judicature in India*).

* Here the words, "*Upper Burma and*," have been omitted, as being repealed by Act XIII. of 1898.

Definitions.

4. In this Act, unless there is something repugnant in the subject or context,—

(1) "minor" means a person who, under the provisions of the Indian Majority Act, 1875, is to be deemed not to have attained his majority:

(2) "guardian" means a person having the care of a minor or of his property, or of both his person and property :

(3) "ward" means a minor for whose person or property, or both, there is a guardian :

(4) "District Court" has the meaning assigned to that expression in the Code of Civil Procedure, and includes a High Court in the exercise of its ordinary original civil jurisdiction :

(5) "the Court" means the District Court having jurisdiction to entertain an application under this Act for an order appointing or declaring a person to be a guardian ; and where a guardian has been appointed or declared in pursuance of any such application, it means the Court which appointed or declared the guardian, or, in any matter relating to the person of the ward, the District Court having jurisdiction in the place where the ward for the time being ordinarily resides :

(6) "Collector" means the chief officer in charge of the revenue administration of a district, and includes any officer whom the Local Government, by notification in the official Gazette, may, by name, or in virtue of his office, appoint to be a Collector in any local area, or, with respect to any class of persons, for all or any of the purposes of this Act :

(7) "European British subject" means an European British subject as defined in the Code of Criminal Procedure, 1882, and includes any Christian of European descent : and

(8) "prescribed" means prescribed by rules made by the High Court under this Act.

CHAPTER II.

APPOINTMENT AND DECLARATION OF GUARDIANS.

Power of parents to appoint in case of European British subjects.

5. (1) Where a Minor is an European British subject, a guardian or guardians of his person or property, or both, may be appointed, by will or other instrument to take effect on the death of the person appointing—

(*a*) by the father of the minor, or,

(*b*) if the father is dead or incapable of acting, by the mother.

(2) Where guardians have been appointed under sub-section (1) by both parents, they shall act jointly.

Saving of power to appoint in other cases.

6. In the case of a minor who is not an European British subject, nothing in this Act shall be construed to take away, or derogate from, any power to appoint a guardian of his person or property, or both, which is valid by the law to which the minor is subject.

Power of the Court to make order as to guardianship.

7. (1) Where the Court is satisfied that it is for the welfare of a minor that an order should be made—

(*a*) appointing a guardian of his person or property, or both, or

(*b*) declaring a person to be such a guardian,

the Court may make an order accordingly.

(2) An order under this section shall imply the removal of any guardian who has not been appointed by will or other instrument, or appointed or declared by the Court.

(3) Where a guardian has been appointed by will or other instrument, or appointed or declared by the Court, an order under this section appointing or declaring another person to be guardian in his stead shall not be made until the powers of the guardian appointed or declared as aforesaid have ceased under the provisions of this Act.

Persons entitled to apply for order.

8. An order shall not be made under the last-foregoing section except on the application of—

(*a*) the person desirous of being, or claiming to be, the guardian of the minor, or

(*b*) any relative or friend of the minor, or

(*c*) the Collector of the district or other local area within which the minor ordinarily resides, or in which he has property, or

(*d*) the Collector having authority with respect to the class to which the minor belongs.

Court having jurisdiction to entertain application.

9. (1) If the application is with respect to the guardianship of the person of the minor, it shall be made to the District Court having jurisdiction in the place where the minor ordinarily resides.

(2) If the application is with respect to the guardianship of the property of the minor, it may be made either to the District Court having jurisdiction in the place where the minor ordinarily resides, or to a District Court having jurisdiction in a place where he has property.

(3) If an application with respect to the guardianship of the property of a minor is made to a District Court other than that having jurisdiction in the place where the minor ordinarily resides, the Court may return the application if, in its opinion, the application would be disposed of more justly or conveniently by any other District Court having jurisdiction.

Form of application.

10. (1) If the application is not made by the Collector, it shall be by petition signed and verified in manner prescribed by the Code of Civil Procedure for the signing and verification of a plaint, and stating, so far as can be ascertained,—

(*a*) the name, sex, religion, date of birth, and ordinary residence of the minor ;

(*b*) where the minor is a female, whether she is married, and, if so, the name and age of her husband ;

(*c*) the nature, situation, and approximate value of the property, if any, of the minor ;

(*d*) the name and residence of the person having the custody or possession of the person or property of the minor;

(*e*) what near relations the minor has, and where they reside ;

(*f*) whether a guardian of the person or property, or both, of the minor has been appointed by any person entitled, by the law to which the minor is subject, to make such an appointment ;

(*g*) whether an application has at any time been made to the Court, or to any other Court with respect to the guardianship of the person or property, or both, of the minor ; and, if so, when, to what Court, and with what result ;

(*h*) whether the application is for the appointment or declaration of a guardian of the person of the minor, or of his property, or of both ;

(*i*) where the application is to appoint a guardian, the qualifications of the proposed guardian ;

(*j*) where the application is to declare a person to be a guardian, the grounds on which that person claims;

(*k*) the causes which have led to the making of the application ; and

(*l*) such other particulars, if any, as may be prescribed, or as the nature of the application renders it necessary to state.

(2) If the application is made by the Collector, it shall be by letter addressed to the Court, and forwarded by post, or in such other manner as may be found convenient, and shall state, as far as possible, the particulars mentioned in sub-section (1).

(3) The application must be accompanied by a declaration of the willingness of the proposed guardian to act, and the declaration must be signed by him, and attested by at least two witnesses.

Procedure on admission of application.

11. (1) If the Court is satisfied that there is gound for proceeding on the application, it shall fix a day for the hearing thereof, and cause notice of the application, and of the date fixed for the hearing,—

(*a*) to be served in the manner directed in the Code of Civil Procedure on—

(i) the parents of the minor if they are residing in British India,

(ii) the person, if any, named in the petition or letter as having the custody or possession of the person or property of the minor,

(iii) the person proposed in the application or letter to be appointed or declared guardian, unless that person is himself the applicant,, and

(iv) any other person to whom, in the opinion of the Court, special notice of the application should be given; and

(*b*) to be posted on some conspicuous part of the Court-house, and of the residence of the minor, and otherwise published in such manner as the Court, subject to any rules made by the High Court under this Act, thinks fit.

(2) The Local Government may, by general or special order, require that, when any part of the property described in a petition under section 10, sub-section (1), is land of which a Court of Wards could assume the superintendence, the Court shall also cause a notice as aforesaid to be served on the Collector in whose district the minor ordinarily resides, and on every Collector in whose district any portion of the land is situate, and the Collector may cause the notice to be published in any manner he deems fit.

(3) No charge shall be made by the Court or the Collector for the service or publication of any notice served or published under sub-section (2).

Power to make interlocutory order for production of minor and interim protection of person and property.

12. (1) The Court may direct that the person, if any, having the custody of the minor, shall produce him, or cause him to be produced, at such place and time, and before such person as it appoints, and may make such order for the temporary custody and protection of the person or property of the minor as it thinks proper.

(2) If the minor is a female who ought not to be compelled to appear in public, the direction under sub-section (1) for the production shall require her to be produced in accordance with the customs and manners of the country.

(3) Nothing in this section shall authorize.—

(*a*) the Court to place a female minor in the temporary custody of a person claiming to be her guardian on the ground of his being her husband, unless she is already in his custody with the consent of her parents, if any, or.

(*b*) any person to whom the temporary custody and protection of the property of a minor is entrusted, to dispossess, otherwise than by due course of law, any person in possession of any of the property.

Hearing of evidence before making of order.

13. On the day fixed for the hearing of the application, or as soon afterwards as may be, the Court shall hear such evidence as may be adduced in support of, or in opposition to, the application.

Simultaneous proceedings in different Courts.

14. (1) If proceedings for the appointment or declaration of a guardian of a minor are taken in more Courts than one, each of those Courts shall, on being apprised of the proceedings in the other Court or Courts, stay the proceedings before itself.

(2) If the Courts are both or all subordinate to the same High Court, they shall report the case to the High Court, and the High Court shall determine in which of the Courts the proceedings with respect to the appointment or declaration of a guardian of the minor shall be had,

(3) In any other case in which proceedings are stayed under sub-section (1), the Courts shall report the case through the Local Government to the Governor-General in Council, and the Governor-General in Council shall determine in which of the Courts the proceedings with respect to the appointment or declaration of a guardian of the minor shall be had.

Appointment or declaration of several guardians.

15. (1) If the law to which the minor is subject admits of his having two or more joint guardians of his person or property, or both, the Court may, if it thinks fit, appoint or declare them.

(2) On the death of a father being an European British subject, who has, by will or other instrument to take effect on his death, appointed a guardian of his minor child, the Court may appoint the mother to be guardian of the child jointly with the guardian appointed by the father.

(3) On the death of a mother being an European British subject, who, during the incapacity of the father of her minor child, has, by will or other instrument to take effect on her death, appointed a guardian of the child, the Court may, if the father becomes capable of acting, appoint him to be sole guardian of the child, or guardian of the child jointly with the guardian appointed by the mother, as it thinks fit.

(4) Separate guardians may be appointed or declared of the person and of the property of a minor.

(5) If a minor has several properties, the Court may, if it thinks fit, appoint or declare a separate guardian for any one or more of the properties.

Appointment or declaration of guardian for property beyond jurisdiction of the Court.

16. If the Court appoints or declares a guardian for any property situate beyond the local limits of its jurisdiction, the Court having jurisdiction in the place where the property is situate shall, on production of a certified copy of the order appointing or declaring the guardian, accept him as duly appointed or declared and give effect to the order.

Matters to be considered by the Court in appointing guardian.

17. (1) In appointing or declaring the guardian of a minor, the Court shall, subject to the provisions of this section, be guided by what, consistently with the law to which the minor is subject, appears, in the circumstances, to be for the welfare of the minor.

(2) In considering what will be for the welfare of the minor, the Court shall have regard to the age, sex, and religion of the minor, the character and capacity of the proposed guardian, and his nearness of kin to the minor, the wishes, if any, of a deceased parent, and any existing or previous relations of the proposed guardian with the minor or his property.

(3) If the minor is old enough to form an intelligent preference, the Court may consider that preference.

(4) As between parents who are European British subjects adversely claiming the guardianship of the person, neither parent is entitled to it as of right, but, other things being equal, if the minor is a male of tender years or a female, the minor should be given to the mother, and if the minor is a male of an age to require education and preparation for labour and business, then to the father.

(5) The Court shall not appoint or declare any person to be a guardian against his will.

Appointment or declaration of Collector in virtue of office.

18. Where a Collector is appointed or declared by the Court in virtue of his office to be guardian of the person or property, or both, of a minor, the order appointing or declaring him shall be deemed to authorize and require the person for the time being holding the office to act as guardian of the minor with respect to his person or property, or both, as the case may be.

Guardian not to be appointed by the Court in certain cases.

19. Nothing in this chapter shall authorize the Court to appoint or declare a guardian of the property of a minor whose property is under the superintendence of a Court of Wards, or to appoint or declare a guardian of the person—

(*a*) of a minor who is a married female, and whose husband is not, in the opinion of the Court, unfit to be guardian of her person, or,

(*b*) subject to the provisions of this Act with respect to European British subjects, of a minor whose father is living, and is not, in the opinion of the Court, unfit to be guardian of the person of the minor, or

(*c*) of a minor whose property is under the superintendence of a Court of Wards competent to appoint a guardian of the person of the minor.

CHAPTER III.

DUTIES, RIGHTS, AND LIABILITIES OF GUARDIANS.

General.

Fiduciary relation of guardian to ward.

20. (1) A guardian stands in a fiduciary relation to his ward, and, save as provided by the will or other instrument, if any, by which he was appointed, or by this Act, he must not make any profit out of his office.

(2) The fiduciary relation of a guardian to his ward extends to and affects purchases by the guardian of the property of the ward,

and by the ward of the property of the guardian, immediately or soon after the ward has ceased to be a minor, and generally all transactions between them while the influence of the guardian still lasts or is recent.

Capacity of minors to act as guardians.

21. A minor is incompetent to act as guardian of any minor except his own wife or child, or, where he is the managing member of an undivided Hindu family, the wife or child of another minor member of that family.

Remuneration of guardian.

22. (1) A guardian appointed or declared by the Court shall be entitled to such allowance, if any, as the Court thinks fit, for his care and pains in the execution of his duties.

(2) When an officer of the Government, as such officer, is so appointed or declared to be guardian, such fees shall be paid to the Government out of the property of the ward as the Local Government, by general or special order, directs.

Control of Collector as guardian.

23. A Collector appointed or declared by the Court to be guardian of the person or property, or both, of a minor, shall, in all matters connected with the guardianship of his ward, be subject to the control of the Local Government, or of such authority as that Government, by notification in the official Gazette, appoints in this behalf.

Guardian of the Person.

Duties of guardian of the person.

24. A guardian of the person of a ward is charged with the custody of the ward, and must look to his support, health, and education, and such other matters as the law to which the ward is subject requires.

Title of guardian to custody of ward.

25. (1) If a ward leaves or is removed from the custody of a guardian of his person, the Court, if it is of opinion that it will be for the welfare of the ward to return to the custody of his guardian, may make an order for his return, and, for the purpose of enforcing the order, may cause the ward to be arrested and to be delivered into the custody of the guardian.

(2) For the purpose of arresting the ward, the Court may exercise the power conferred on a Magistrate of the first class by section 100 of the Code of Criminal Procedure, 1882.

(3) The residence of a ward against the will of his guardian with a person who is not his guardian does not of itself terminate the guardianship.

Removal of ward from jurisdiction.

26. (1) A guardian of the person appointed or declared by the Court, unless he is the Collector or is a guardian appointed by will or other instrument, shall not, without the leave of the Court by which he was appointed or declared, remove the ward from the limits of its jurisdiction, except for such purposes as may be prescribed.

(2) The leave granted by the Court under sub-section (1) may be special or general, and may be defined by the order granting it.

Guardian of Property.

Duties of guardian of property.

27. A guardian of the property of a ward is bound to deal therewith as carefully as a man of ordinary prudence would deal with it if it were his own; and, subject to the provisions of this chapter, he may do all acts which are reasonable and proper for the realization, protection, or benefit of the property.

Powers of testamentary guardian.

28. Where a guardian has been appointed by will or other instrument, his power to mortgage or charge, or transfer by sale, gift, exchange, or otherwise, immoveable property belonging to his ward, is subject to any restriction which may be imposed by the instrument, unless he has, under this Act, been declared guardian, and the Court which made the declaration permits him, by an order in writing, notwithstanding the restriction, to dispose of any immoveable property specified in the order in a manner permitted by the order.

Limitation of powers of guardian of property appointed or declared by the Court.

29. Where a person other than a Collector, or than a guardian appointed by will or other instrument, has been appointed or declared by the Court to be guardian of the property of a ward, he shall not, without the previous permission of the Court,—

(*a*) mortgage or charge, or transfer by sale, gift, exchange, or otherwise, any part of the immoveable property of his ward, or

(*b*) lease any part of that property for a term exceeding five years, or for any term extending more than one year beyond the date on which the ward will cease to be a minor.

Voidability of transfers made in contravention of section 28 or section 29.

30. A disposal of immoveable property by a guradian in contravention of either of the two last foregoing sections is voidable at the instance of any other person affected thereby,

Practice with respect to permitting transfers under section 29.

31. (1) Permission to the guardian to do any of the acts mentioned in section 29 shall not be granted by the Court except in case of necessity or for an evident advantage to the ward.

(2) The order granting the permission shall recite the necessity or advantage, as the case may be, describe the property with respect to which the act permitted is to be done, and specify such conditions, if any, as the Court may see fit to attach to the permission ; and it shall be recorded, dated, and signed by the Judge of the Court with his own hand, or, when, from any cause, he is prevented from recording the order with his own hand, shall be taken down in writing from his dictation, and be dated and signed by him.

(3) The Court may, in its discretion, attach to the permission the following among other conditions namely :—

(*a*) that a sale shall not be completed without the sanction of the Court ;

(*b*) that a sale be made to the highest bidder by public auction before the Court, or some person specially appointed by the Court for that purpose, at a time and place to be specified by the Court, after such proclamation of the intended sale as the Court, subject to any rules made under this Act by the High Court, directs ;

(*c*) that a lease shall not be made in consideration of a premium, or shall be made for such term of years, and subject to such rents and covenants, as the Court directs ;

(*d*) that the whole or any part of the proceeds of the act permitted shall be paid into the Court by the guardian, to be disbursed therefrom, or to be invested by the Court on prescribed securities, or to be otherwise disposed of as the Court directs.

(4) Before granting permission to a guardian to do an act mentioned in section 29, the Court may cause notice of the application for the permission to be given to any relative or friend of the ward who should, in its opinion, receive notice thereof, and shall hear and record the statement of any person who appears in opposition to the application.

Variation of powers of guardian of property appointed or declared by the Court.

32. Where a guardian of the property of a ward has been appointed or declared by the Court, and such guardian is not the Collector, the Court may, from time to time, by order, define, restrict, or extend his powers with

respect to the property of the ward in such manner, and to such extent, as it may consider to be for the advantage of the ward and consistent with the law to which the ward is subject.

Right of guardian so appointed or declared to apply to the Court for opinion in management of property of ward.

33. (1) A guardian appointed or declared by the Court may apply by petition to the Court which appointed or declared him for its opinion, advice, or direction on any present question respecting the management or administration of the property of his ward.

(2) If the Court considers the question to be proper for summary disposal, it shall cause a copy of the petition to be served on, and the hearing thereof may be attended by, such of the persons interested in the application as the Court thinks fit.

(3) The guardian stating in good faith the facts in the petition, and acting upon the opinion, advice, or direction given by the Court, shall be deemed, so far as regards his own responsibility, to have performed his duty as guardian in the subject-matter of the application.

Obligations on guardian of property appointed or declared by the Court.

34. Where a guardian of the property of a ward has been appointed or declared by the Court, and such guardian is not the Collector, he shall,—

(*a*) if so required by the Court, give a bond, as nearly as may be, in the prescribed from, to the Judge of the Court to enure for the benefit of the Judge for the time being, with or without sureties, as may be prescribed, engaging duly to account for what he may receive in respect of the property of the ward ;

(*b*) if so required by the Court, deliver to the Court, within six months from the date of his appointment or declaration by the Court, or within such other time as the Court directs, a statement of the immoveable property belonging to the ward, of the money and other moveable property which he has received on behalf of the ward up to the date of delivering the statement, and of the debts due on that date to or from the ward ;

(*c*) if so required by the Court, exhibit his accounts in the Court at such times and in such from as the Court from time to time directs ;

(*d*) if so required by the Court, pay into the Court, at such time as the Court directs, the balance due from him on those accounts, or so much thereof as the Court directs ; and

(*e*) apply for the maintenance, education, and advancement of the ward, and of such persons as are dependent on him, and for the celebration of ceremonies to which the ward or any of those persons may be a party, such portion of the income of the property of the ward as the Court from time to time directs, and, if the Court so directs, the whole or any part of that property.

Suit against guardian where administration-bond was taken.

35. Where a guardian appointed or declared by the Court has given a bond duly to account for what he may receive in respect of the property of his ward, the Court may, on application made by petition, and on being satisfied that the engagement of the bond has not been kept, and upon such terms as to security, or providing that any money received be paid into Court, or otherwise as the Court thinks fit, assign the bond to some proper person who shall thereupon be entitled to sue on the bond in his own name as if the bond had been originally given to him instead of to the Judge of the Court, and shall be entitled to recover thereon, as trustee for the ward, in respect of any breach thereof.

Suit against guardian where administration-bond was not taken.

36. (1) Where a guardian appointed or declared by the Court has not given a bond as aforesaid, any person, with the leave of the Court, may, as next friend, at any time during the continuance of the minority of the ward, and upon such terms as aforesaid, institute a suit against the guardian, or, in case of his death, against his representative, for an account of what the guardian has received in respect of the property of the ward, and may recover in the suit, as trustee for the ward, such amount as may be found to be payable by the guardian or his representative, as the case may be.

(2) The provisions of sub-section (1) shall, so far as they relate to a suit against a guardian, be subject to the provisions of section 440 of the Code of Civil Procedure as amended by this Act.

General liability of guardian as trustee.

37. Nothing in either of the two last foregoing sections shall be construed to deprive a ward or his representative of any remedy against his guardain, which, not being expressly provided in either of those sections, any other beneficiary or his representative would have against his trustee or the representative of the trustee.

Termination of Guardianship.

Right of survivorship among joint guardians.

38. On the death of one of two or more joint guardians, the guardianship continues to the survivor or survivors until a further appointment is made by the Court.

Removal of guardian.

39. The Court may, on the application of any person interested, or of its own motion, remove a guardian appointed or declared by the Court or a guardian appointed by will or other instrument, for any of the following causes, namely :—

(*a*) for abuse of his trust ;

(*b*) for continued failure to perform the duties of his trust ;

(*c*) for incapacity to perform the duties of his trust ;

(*d*) for ill-treatment, or neglect to take proper care, of his ward ;

(*e*) for contumacious disregard of any provision of this Act, or of any order of the Court ;

(*f*) for conviction of an offence implying, in the opinion of the Court, a deffect of character which unfits him to be the guardian of his ward ;

(*g*) for having an interest adverse to the faithful performance of his duties ;

(*h*) for ceasing to reside within the local limits of the jurisdiction of the Court ;

(*i*) in the case of a guardian of the property, for bankruptcy or insolvency ;

(*j*) by reason of the guardianship of the guardian ceasing, or being liable to cease, under the law to which the minor is subject :

Provided that a guardian, appointed by will or other instrument, whether he has been declared under this Act or not, shall not be removed—

(*a*) for the cause mentioned in clause (*g*) unless the adverse interest accrued after the death of the person who appointed him, or it is shown that that person made and maintained the appointment in ignorance of the existence of the adverse interest, or

(*b*) for the cause mentioned in clause (*h*) unless such guardian has taken up such a residence as, in the opinion of the Court renders it impracticable for him to discharge the functions of guardian.

Discharge or guardian.

40. (1) If a guardian appointed or declared by the Court desires to resign his office, he may apply to the Court to be discharged.

(2) If the Court finds that there is sufficient reason for the application, it shall discharge him, and, if the guardian making the application is the Collector, and the Local Government

approves of his applying to be discharged, the Court shall in any case discharge him.

Cessation of authority of guardian.

41. (1) The powers of a guardian of the person cease—

(*a*) by his death, removal, or discharge;

(*b*) by the Court of Wards assuming superintendence of the person of the ward;

(*c*) by the ward ceasing to be a minor:

(*d*) in the case of a female ward, by the marriage to a husband who is not unfit to be guardian of her person, or, if the guardian was appointed or declared by the Court, by her marriage to a husband who is not, in the opinion of the Court, so unfit, or,

(*e*) in the case of a ward whose father was unfit to be guardian of the person of the ward, by the father ceasing to be so, or, if the father was deemed by the Court to be so unfit, by his ceasing to be so in the opinion of the Court.

(2) The powers of a guardian of the property cease—

(*a*) by his death, removal, or discharge;

(*b*) by the Court of Wards assuming superintendence of the property of the ward: or

(*c*) by the ward ceasing to be a minor.

(3) When for any cause the powers of a guardian cease, the Court may require him, or if he is dead, his representative, to deliver, as it directs, any property in his possession or control belonging to the ward, or any accounts in his possession or control relating to any past or present property of the ward.

(4) When he has delivered the property or accounts as required by the Court, the Court may declare him to be discharged from his liabilities save as regards any fraud which may subsequently be discovered.

Appointment of successor to guardian dead, discharged or removed.

42. When a guardian appointed or declared by the Court is discharged, or, under the law to which the ward is subject, ceases to be entitled to act, or when any such guardian or a guardian appointed by will or other instrument is removed or dies, the Court, of its own motion, or on application under Chapter II., may, if the ward is still a minor, appoint or declare another guardian of his person or property, or both, as the case may be.

CHAPTER IV.

SUPPLEMENTAL PROVISIONS.

Orders for regulating conduct or proceedings of guardians, and enforcement of those orders.

43. (1) The Court may on the application of any person interested, or of its own motion, make an order regulating the conduct or proceedings of any guardian appointed or declared by the Court.

(2) Where there are more guardians than one of a ward, and they are unable to agree upon a question affecting his welfare, any of them may apply to the Court for its direction, and the Court may make such order respecting the matter in difference as it thinks fit.

(3) Except where it appears that the object of making an order under sub-section (1) or sub-section (2) would be defeated by the delay, the Court shall, before making the order, direct notice of the application therefor, or of the intention of the Court to make it, as the case may be, to be given, in a case under sub-section (1), to the guardian, or, in a case under sub section (2), to the guardian who has not made the application.

(4) In case of disobedience to an order made under sub-section (1) or sub-section (2), the order may be enforced in the same manner as an injunction granted under section 492 or section 493 of the Code of Civil Procedure in a case under sub-section (1), as if the ward were the plaintiff, and the guardian were the defendant, or, in a case under sub-section (2), as if the guardian who made the application were the plaintiff, and the other guardian were the defendant.

(5) Except in a case under sub-section (2), nothing in this section shall apply to a Collector who is, as such, a guardian.

Penalty for removal of ward from jurisdiction.

44. If, for the purpose or with the effect of preventing the Court from exercising its authority with respect to a ward, a guardian appointed or declared by the Court removes the ward from the limits of the jurisdiction of the Court in contravention of the provisions of section 26, he shall be liable, by order of the Court, to fine not exceeding one thousand rupees, or to imprisonment in the civil jail for a term which may extend to six months.

Penalty for contumacy.

45. (1) In the following cases, namely :—

(*a*) if a person having the custody of a minor fails to produce him or cause him to be produced in compliance with a direction under section 12, sub-section (1), or to do his utmost to compel the minor to return to the custody of his guardian in obedience to an order under section 25, sub-section (1), or

(*b*) if a guardian appointed or declared by the Court fails to deliver to the Court, within the time allowed by or under clause (*b*) of section 34, a statement required under that clause, or to exhibit accounts in compliance with a requisition under clause (*c*) of that section, or to pay into the Court the balance due from him on those accounts in compliance with a requisition under clause (*d*) of that section, or

(*c*) if a person who has ceased to be a guardian, or the representative of such a person, fails to deliver any property or accounts in compliance with a requisition under section 41, sub-section (3),

the person, guardian, or representative, as the case may be, shall be liable, by order of the Court, to fine not exceeding one hundred rupees, and, in case of recusancy, to further fine not exceeding ten rupees for each day after the first during which the default continues, and not exceeding five hundred rupees in the aggregate, and to detention in the civil jail until he undertakes to produce the minor, or cause him to be produced, or to compel his return, or to deliver the statement, or to exhibit the accounts, or to pay the balance, or to deliver the property or accounts, as the case may be.

(2) If a person who has been released from detention on giving an undertaking under sub-section (1) fails to carry out the undertaking within the time allowed by the Court, the Court may cause him to be arrested and recommitted to the civil jail.

Reports by Collectors and subordinate Courts.

46. (1) The Court may call upon the Collector, or upon any Court subordinate to the Court, for a report on any matter arising in any proceeding under this Act, and treat the report as evidence.

(2) For the purpose of preparing the report, the Collector or the Judge of the subordinate Court, as the case may be, shall make such inquiry as he deems necessary, and may, for the purposes of the inquiry, exercise any power of compelling the attendance of a witness to give evidence, or produce a document, which is conferred on a Court by the Code of Civil Procedure.

Orders appealable.

47. An appeal shall lie to the High Court from an order made by a District Court,—

(*a*) under section 7, appointing or declaring, or refusing to appoint or declare, a guardian ; or,

(*b*) under section 9, sub-section (3), returning an application ; or,

(*c*) under section 25, making or refusing to make an order for the return of a ward to the custody of his guardian ; or,

(*d*) under section 26, refusing leave for the removal of a ward from the limits of the jurisdiction of the Court, or imposing conditions with respect thereto ; or,

(*e*) under section 28 or section 29, refusing permission to a guardian to do an act referred to in the section ; or,

(*f*) under section 32, defining, restricting, or extending the powers of a guardian ; or,

(*g*) under section 39, removing a guardian ; or,

(*h*) under section 40, refusing to discharge a guardian ; or,

(*i*) under section 43, regulating the conduct or proceedings of a guardian, or settling a matter in difference between joint guardians, or enforcing the order ; or,

(*j*) under section 44 or section 45, imposing a penalty.

Finality of other orders.

48. Save as provided by the last foregoing section, and by section 622 of the Code of Civil Procedure, an order made under this Act shall be final, and shall not be liable to be contested by suit or otherwise.

Costs.

49. The costs of any proceeding under this Act, including the costs of maintaining a guardian or other person in the civil jail, shall, subject to any rules made by the High Court under this Act, be in the discretion of the Court in which the proceeding is had,

Power of High Court to make rules.

50. (1) In addition to any other power to make rules conferred expressly or impliedly by this Act, the High Court may, from time to time, make rules consistent with this Act—

(*a*) as to the matters respecting which, and the time at which, reports should be called for from Collectors and subordinate Courts ;

(*b*) as to the allowances to be granted to, and the security to be required from, guardians, and the cases in which such allowances should be granted ;

(*c*) as to the procedure to be followed with respect to applications of guardians for permission to do acts referred to in sections 28 and 29 ;

(*d*) as to the circumstances in which such requisitions as are mentioned in clauses (*a*), (*b*), (*c*), and (*d*) of section 34 should be made ;

(*e*) as to the preservation of statements and accounts delivered and exhibited by guardians ;

(*f*) as to the inspection of those statements and accounts by persons interested;

(*g*) as to the custody of money, and securities for money, belonging to wards;

(*h*) as to the securities on which money belonging to wards may be invested;

(*i*) as to the education of wards for whom guardians, not being Collectors, have been appointed or declared by the Court; and,

(*j*) generally, for the guidance of the Courts in carrying out the purposes of this Act.

(2) Rules under clauses (*a*) and (*i*) of sub-section (1) shall not have effect until they have been approved by the Local Government nor shall any rule under this section have effect until it has been published in the official Gazette.

Applicability of Act to guardians already appointed by Court.

51. A guardian appointed by, or holding a certificate of administration from, a Civil Court, under any enactment repealed by this Act, shall, save as may be prescribed, be subject to the provisions of this Act, and of the rules made under it as if he had been appointed or declared by the Court under Chapter II.

Amendment of Indian Majority Act.

52. In section 3 of the Indian Majority Act, 1875, for the words, "every minor of whose person or property a guardian has been or shall be appointed by any Court of Justice, and every minor under the jurisdiction of any Court of Wards," the following shall be substituted, namely,—

"every minor of whose person or property, or both, a guardian, other than a guardian for a suit within the meaning of Chapter XXXI. of the Code of Civil Procedure, has been or shall be appointed or declared by any Court of Justice before the minor has attained the age of eighteen years, and every minor of whose property the superintendence has been or shall be assumed by any Court of Wards before the minor has attained that age."

53. [*Repealed by Act 5 of 1908.*]

THE SCHEDULE.*

ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Title or subject,	Extent of repeal
	Acts of the Governor-General in Council.	
XIV. of 1858 ...	Minors (Madras)	The whole.
XL. of 1858 ...	Minors (Bengal)	So much as has not been repealed.
IX. of 1861 ...	Minors	The whole.
XX. of 1864 ...	Minors (Bombay)	The whole.
XIV. of 1869 ...	Bombay Civil Courts Act. 1869.	So much of the last paragraph of section 16 as has not been repealed.
VII. of 1870 ...	Court-fees Act, 1870 ...	Section 19H and article 10 of Schedule I.
IV. of 1872 ...	Punjab Laws Act, 1872 ...	So far as it relates to Act XL. of 1858.
XIX. of 1873 ...	North-Western Provinces Land-revenue Act, 1873.	Section 258.
XIII. of 1874 ...	European British Minors Act, 1874.	The whole.
XV. of 1874 ...	Laws Local Extent Act, 1874.	So far as it relates to any enactment repealed by this Act.
XX. of 1875 ...	Central Provinces Laws Act, 1875.	So far as it relates to Act XL. of 1858.
XVIII. of 1876 ...	Oudh Laws Act, 1876 ...	So far as it relates to Act XL, of 1858.
XIII. of 1879 ...	Oudh Civil Courts Act, 1879.	Clause (1) of section 25 relating to proceedings under Acts XL. of 1858. and IX. of 1861.
XIV. of 1882 ...	Code of Civil Procedure ...	The second paragraph of section 443.
XVIII. of 1884 ...	Punjab Courts Act, 1884...	So much of section 29 as has not been repealed.
XII. of 1887 ...	Bengal, North-Western Provinces, and Assam Civil Courts Act, 1887.	Clause (b) of section 23, sub-section (2).
	Madras Regulations.	
V. of 1804 ...	Court of Wards	Section 20 and so much of sections 21 and 22 as relates to persons and property of minors not subject to the superintendence of the Court of Wards.
X. of 1831 ...	Minors' Estates	Section 3.
	Regulations under the Statute 33 Victoria, Chapter 3.	
IX. of 1874 ...	Arakan Hill District Laws	So far as it relates to Acts XL of 1858 and IX of 1861.

* So much of the Schedule as related to Act XI. of 1889 has been repealed by Act VI. of 1900, s. 48; and the portion relating to Act XVII. of 1885 has been repealed by Act XXIV. of 1899.

ACT IX. OF 1890.

The Indian Railways Act, 1890.

RECEIVED THE G.-G.'S ASSENT ON THE 21ST MARCH 1890.

An Act to consolidate, amend, and add to the Law relating to Railways in India.

WHEREAS it is expedient to consolidate, amend, and add to the law relating to railways in India; It is hereby enacted as follows—

CHAPTER I.

PRELIMINARY.

Title, extent, and commencement.

1 (1) This Act may be called the Indian Railways Act, 1890.

(2) It extends to the whole of British India, inclusive* (in so far as it has been or may be extended under the provisions of the Sindh-Pishin Railway Act, 1887) of British Beluchistan, and applies also to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty, and to all native subjects of Her Majesty without and beyond British India and those dominions; and

(3) It shall come into force on the first day of May 1890.

Repeal.

2. (1) On and from that day the enactments specified in the first schedule are repealed to the extent mentioned in the third column thereof.

(2) But all rules, declarations, and appointments made, sanctions and directions given, forms approved, powers conferred and notifications published under any of those enactments, or under any enactment repealed by any of them, shall, so far as they are consistent with this Act, be deemed to have been respectively made, given, approved, conferred and published under this Act,

(3) Any enactment or document referring to any of those enactments, or to any enactment repealed by any of them, shall, so far as may be, be construed to refer to this Act, or to the corresponding portion thereof.

Definitions.

3, In this Act, unless there is something repugnant in the subject or context,—

(1) "tramway" means a tramway constructed under the Indian Tramways Act, 1886, or any special Act relating to tramways:

* Here the words "*of Upper Burma and,*" repealed by Act XIII of 1898, have been omitted;

(2) "ferry" includes a bridge of boats, pontoons, or rafts, a swing-bridge, a flying bridge, and a temporary bridge, and the approaches to, and landing places of, a ferry :

(3) "inland water" means any canal, river, lake, or navigable-water in British India :

(4) "railway" means a railway, or any portion of a railway, for the public carriage of passengers, animals, or goods, and includes—

(*a*) all land within the fences or other boundary-marks indicating the limits of the land appurtenant to a railway ;

(*b*) all lines of rails, sidings, or branches worked over for the purposes of, or in connection with a railway :

(*c*) all stations, offices, warehouses, wharves, workshops, manufactories, fixed plant and machinery, and other works constructed for the purposes of, or in connection with a railway ; and

(*d*) all ferries, ships, boats, and rafts which are used on inland waters for the purposes of the traffic of a railway and belong to, or are hired or worked by, the authority administering the railway :

(5) "railway company" includes any persons, whether incorporated or not, who are owners or lessees of a railway, or parties to an agreement for working a railway :

(6) "railway administration" or "administration," in the case of a railway administered by the Government or a Native State, means the Manager of the railway, and includes the Government or the Native State. and, in the case of the railway administered by a railway company, means the railway company :

(7) "railway servant" means any person employed by a railway administration in connection with the service of a railway :

(8) "Inspector" means an Inspector of Railways appointed under this Act :

(9) "goods" includes inanimate things of every kind :

(10) "rolling-stock" includes locomotive engines, tenders, carriages, wagons, trucks, and trollies of all kinds :

(11) "traffic" includes rolling-stock of every description as well as passengers, animals and goods :

(12) "through traffic" means traffic which is carried over the railways of two or more railway administrations :

(13) "rate" includes any fare, charge, or other payment for the carriage of any passenger, animal or goods :

(14) "terminals" includes charges in respect of stations, sidings, wharves, depots, warehouses, cranes, and other similar matters, and of any services rendered thereat :

(15) "pass" means an authority given by a railway administration, or by an officer appointed by a railway administration, in this behalf, and authorizing the person to whom it is given to travel as a passenger on a railway gratuitously :

(16) "ticket" includes a single ticket, a return ticket, and a season ticket :

(17) "maund" means a weight of three thousand two hundred tolas, each tola being a weight of one hundred and eighty-grains Troy : and

(18) "Collector" means the chief officer in charge of the land-revenue administration of a district, and includes any officer specially appointed by the Local Government to discharge the functions of a Collector under this Act.

CHAPTER II.

INSPECTION OF RAILWAYS.

Appointment and duties of inspectors.

4. (1) The Governor-General in Council may appoint persons, by name or by virtue of their office, to be inspectors of Railways.

(2) The duties of an inspector of Railways shall be—

(*a*) to inspect railways with a view to determine whether they are fit to be opend for the public carriage of passengers, and to report thereon to the Governor-General in Council as required by this Act ;

(*b*) to make such periodical or other inspections of any railway or of rolling-stock used thereon as the Governor-General in Council may direct ;

(*c*) to make inquiry under this Act into the cause of any accident on a railway ;

(*d*) to perform such other duties as are imposed on him by this Act or any other enactment for the time being in force relating to railways.

Powers of inspectors.

5. An Inspector shall, for the purpose of any of the duties which he is required or authorized to perform under this Act, be deemed to be a public servant within the meaning of the Indian Penal Code, and, subject to the control of the Governor-General in Council, shall, for that purpose, have the following powers, namely :—

(*a*) to enter upon and inspect any railway or any rolling-stock used thereon ;

(*b*) by an order in writing under his hand addressed to the railway administration, to require the attendance before him of any railway servant, and to require answers or returns to such inquiries as he thinks fit to make from such railway servant or from the railway administration ;

(*c*) to require the production of any book or document belonging to, or in the possession or control of, any railway administration (except a communication between a railway company and its legal advisers) which it appears to him to be necessary to inspect.

Facilities to be afforded to inspectors.

6. A railway administration shall afford to the Inspector all reasonable facilities for performing the duties and exercising the powers imposed and conferred upon him by this Act,

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CHAPTER III.

CONSTRUCTION AND MAINTENANCE OF WORKS.

Authority of railway administrations to execute all necessary works.

7. (1) Subject to the provisions of this Act and, in the case of immoveable property not belonging to the railway administration, to the provisions of any enactment for the time being in force for the acquisition of land for public purposes and for companies, and subject also, in the case of a railway company, to the provisions of any contract between the company and the Government, a railway administration may, for the purpose of constructing a railway or the accommodation or other works connected therewith, and, notwithstanding anything in any other enactment for the time being in force,—

(*a*) make or construct in, upon, across, under, or over, any lands, or any streets, hills, valleys, roads, railways ; or tramways, or any rivers, canals, brooks, streams, or other waters, or any drains, water-pipes, gas-pipes, or telegraph lines, such temporary or permanent inclined planes, arches, tunnels, culverts, embankments, acqueducts, bridges, roads, "lines of railway,"* ways, passages, conduits, drains, piers, cuttings, and fences as the railway administration thinks proper ;

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* These words have been inserted by Act IX of 1896, s. 1.

(*b*) alter the course of any rivers, brooks, streams or watercourses for the purpose of constructing and maintaining tunnels, bridges, passages, or other works over or under them, and divert or alter, as well temporarily as permanently, the course of any rivers, brooks, streams, or watercourses, or any roads, streets, or ways, or raise or sink the level thereof, in order the more conveniently to carry them over or under, or by the side of, the railway as the railway administration thinks proper ;

(*c*) make drains or conduits into, through, or under any lands adjoining the railway for the purpose of conveying water from or to the railway ;

(*d*) erect and construct such houses, warehouses, offices, and other buildings, and such yards, stations, wharves, engines, machinery, apparatus, and other works and conveniences as the railway administration thinks proper ;

(*e*) alter, repair, or discontinue such buildings, works, and conveniences as aforesaid or any of them, and substitute others in their stead ; and

(*f*) do all other acts necessary for making, altering, or repairing, and using the railway.

(2) The exercise of the powers conferred on a railway administration by sub-section (1) shall be subject to the control of the Governor-General in Council.

Alteration of pipes wires and drains.

8. A Railway administration may for the purpose of exercising the powers conferred upon it by this Act, alter the position of any pipe for the supply of gas, water or compressed air, or the position of any electric wire, or of any drain not being a main drain :

Provided that—

(*a*) when the railway administration desires to alter the position of any such pipe, wire, or drain, it shall give reasonable notice of its intention to do so, and of the time at which it will begin to do so, to the local authority or company having control over the pipe, wire, or drain, or, when the pipe, wire or drain, is not under the control of a local authority or company, to the person under whose control the pipe, wire, or drain is ;

(*b*) a local authority, company, or person receiving notice under proviso (*a*) may send a person to superintend the work, and the railway administration shall execute

the work to the reasonable satisfaction of the person so sent, and shall make arrangements for continuing, during the execution of the work, the supply of gas, water, compressed air, or electricity, or the maintenance of the drainage, as the case may be.

Temporary entry upon and for repairing or preventing accident.

9. (1) The Governor-General in Council may authorize any railway administration, in case of any slip or other accident happening or being apprehended to any cutting, embankment, or other work under the control of the railway administration, to enter upon any lands adjoining its railway for the purpose of repairing or preventing the accident, and to do all such works, as may be necessary for the purpose.

(2) In case of necessity the railway administration may enter upon the lands, and do the works aforesaid, without having obtained the previous sanction of the Governor-General in Council, but in such a case shall, within seventy-two hours after such entry, make a report to the Governor-General in Council, specifying the nature of the accident or apprehended accident, and of the works necessary to be done, and the power conferred on the railway administration by this sub-section shall cease and determine, if the Governor-General in Council, after considering the report, considers that the exercise of the power is not necessary for the public safety.

Payment of compensation for damage caused by lawful exercise of powers under section 7, 8, or 9.

10. (1) A railway administration shall do as little damage as possible in the exercise of the powers conferred by any of the three last foregoing sections, and compensation shall be paid for any damage caused by the exercise thereof,

(2) A suit shall not lie to recover such compensation, but in case of dispute the amount thereof shall, on application to the Collector, be determined and paid in accordance so far as may be, "with the provisions of sections 11 to 15, both inclusive, sections 18 to 34, both inclusive, and sections 53 and 54 of the Land Acquisition Act, 1894, and the provisions of sections 51 and 52 of that Act, shall apply to the award of compensation."*

Accommodation works.

11. (1) A railway administration shall make and maintain the following works for the accommodation of the owners and occupiers of lands adjoining the railway, namely :—

(*a*) such and so many convenient crossings, bridges, arches, culverts, and passages over, under, or by the sides of, or leading to or from, the railway as may, in the opinion of the Governor-General in Council, be

* The portion quoted has been substituted by Act IX. of 1896, s. 2.

necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway is made, and

(*b*) all necessary arches, tunnels, culverts, drains, water courses, or other passages, over or under, or by the sides of, the railway, of such dimensions as will, in the opinion of the Governor-General in Council, be sufficient at all times to convey water as freely from or to the lands lying near or affected by the railway as before the making of the railway, or as nearly so as may be.

(2) Subject to the other provisions of this Act, the works specified in clauses (*a*) and (*b*) of sub-section (1) shall be made during or immediately after the laying out or formation of the railway over the lands traversed thereby, and in such manner as to cause as little damage or inconvenience as possible to persons interested in the lands or affected by the works.

(3) The foregoing provisions of this section are subject to the following provisos, namely:—

(*a*) a railway administration shall not be required to make any accommodation works in such a manner as would prevent or obstruct the working or using of the railway, or to make any accommodation works with respect to which the owners and occupiers of the lands have agreed to receive, and have been paid compensation in consideration of their not requiring the works to be made;

(*b*) save as hereinafter in this chapter provided, a railway administration shall not, except on the requisition of the Governor-General in Council, be compelled to defray the cost of executing any further or additional accommodation works for the use of the owners or occupiers of the lands after the expiration of ten years from the date on which the railway passing through the lands was first opened for public traffic;

(*c*) where a railway administration has provided suitable accommodation for the crossing of a road or stream, and the road or steam is afterwards diverted by the act or neglect of the person having the control thereof, the administration shall not be compelled to provide other accommodation for the crossing of the road or stream.

(4) The Governor-General in Council may appoint a time for the commencement of any work to be executed under sub-section (1), and if, for fourteen days next after that time, the railway

administration fails to commence the work, or, having commenced it, fails to proceed diligently to execute it in a sufficient manner, the Governor-General in Council may execute it, and recover from the railway administration the cost incurred by him in the execution thereof.

Power for owner, occupier, or local authority to cause additional accommodation works to be made.

12. If an owner or occupier of any land affected by a railway considers the works made under the last foregoing section to be insufficient for the commodious use of the land, or if the Local Government or a local authority desires to construct a public road or other work across, under, or over a railway, he or it, as the case may be, may at any time require the railway administration to make at his or its expense such further accommodation works as he or it thinks necessary, and are agreed to by the railway administration, or as, in case of difference of opinion, may be authorized by the Governor-General in Council.

Fences, screens, gates, and bars.

13. The Governor-General in Council may require that, within a time to be specified in the requisition, or within such further time as he may appoint in this behalf,—

(*a*) boundary-marks or fences be provided or renewed by a railway administration for a railway or any part thereof, and for roads constructed in connection therewith.

(*b*) any works in the nature of a screen near to, or adjoining the side of, any public road constructed before the making of a railway be provided or renewed by a railway administration for the purpose of preventing danger to passengers on the road by reason of horses or other animals being frightened by the sight or noise of the rolling-stock moving on the railway;

(*c*) suitable gates, chains, bars, stiles, or hand-rails be erected or renewed by a railway administration at places where a railway crosses a public road on the level;

(*d*) persons be employed by a railway administration to open and shut such gates, chains, or bars.

Over and under-bridges.

14. (1) Where a railway administration has constructed a railway across a public road on the level, the Governor-General in Council may at any time, if it appears to him necessary for the public safety, require the railway administration, within such time as he thinks fit, to carry the road either under or over the railway by means of a bridge or arch, with convenient ascents and descents, and other convenient approaches, instead of crossing the road on the level, or to execute such other works as, in the circumstances of the

case, may appear to the Governor-General in Council to be best adapted for removing or diminishing the danger arising from the level-crossing.

(2) The Governor-General in Council may require, as a condition of making a requisition under sub section (1), that the local authority, if any, which maintains the road, shall undertake to pay the whole of the cost to the railway administration of complying with the requisition, or such portion of the cost as the Governor-General in Council thinks just

Removal of trees dangerous to or obstructing the working of a railway.

15. (1) In either of the following cases, namely :—

(*a*) where there is danger that a tree standing near a railway may fall on the railway so as to obstruct traffic,

(*b*) when a tree obstructs the view of any fixed signal,

the railway administration may, with the permission of any Magistrate, fell the tree, or deal with it in such other manner as will, in the opinion of the railway administration, avert the danger or remove the obstruction, as the case may be.

(2) In case of emergency, the power mentioned in sub-section (1) may be exercised by a railway administration without the permission of a Magistrate.

(3) Where a tree felled or otherwise dealt with under sub-section (1) or sub-section (2) was in existence before the railway was constructed, or the signal was fixed, any Magistrate may, upon the application of the persons interested in the tree, award to those persons such compensation as he thinks reasonable.

(4) Such an award, subject, where made in a presidency-town by any Magistrate other than the Chief Presidency Magistrate, or where made elsewhere by any Magistrate other than the District Magistrate, to revision by the Chief Presidency Magistrate, or the District Magistrate, as the case may be, shall be final

(5) A Civil Court shall not entertain a suit to recover compensation for any tree felled or otherwise dealt with under this section.

CHAPTER IV.

OPENING OF RAILWAYS.

Right to use locomotives.

16. (1) A railway administration may, with the previous sanction of the Governor-General in Council, use upon a railway locomotive engines or other motive power, and rolling-stock to be drawn or propelled thereby :

(2) But rolling-stock shall not be moved upon a railway by steam or other motive power until such general rules for the railway as may be deemed to be necessary have been made, sanctioned, and published under this Act.

Notice of intended opening of a railway.

17. (1) Subject to the provisions of sub-section (2), a railway administration shall, one month at least before it intends, to open any railway for the public carriage of passengers, give to the Governor-General in Council, notice in writing of its intention.

(2) The Governor-General in Council may in any case, if he thinks fit, reduce the period of, or dispense with, the notice mentioned in sub-section (1).

Sanction of the Government a condition precedent to the opening of a railway.

18. A railway shall not be opened for the public carriage of passengers until the Governor-General in Council, or an Inspector empowered by the Governor General in Council, in this behalf, has by order sanctioned the opening thereof for that purpose.

Procedure in sanctioning the opening of a railway.

19. (1) The sanction of the Governor-General in Council under the last foregoing section shall not be given until an Inspector has, after inspection of the railway, reported in writing to the Governor-General in Council—

(*a*) that he has made a careful inspection of the railway and rolling-stock;

(*b*) that the moving and fixed dimensions prescribed by the Governor-General in Council have not been infringed;

(*c*) that the weight of rails, strength of bridges, general structural character of the works, and the size of, and maximum gross load upon, the axles of any rolling-stock are such as have been prescribed by the Governor-General in Council;

(*d*) that the railway is sufficiently supplied with rolling-stock;

(*e*) that general rules for the working of the railway, when opened for the public carriage of passengers, have been made, sanctioned, and published under this Act; and

(*f*) that, in his opinion, the railway can be opened for the public carriage of passengers without danger to the public using it.

(2) If, in the opinion of the Inspector, the railway cannot be so opened without danger to the public using it, he shall state

that opinion together with the grounds therefor to the Governor-General in Council, and the Governor-General in Council may thereupon order the railway administration to post-pone the opening of the railway.

(3) An order under the last foregoing sub-section must set forth the requirements to be complied with as a condition precedent to the opening of the railway being sanctioned, and shall direct the postponement of the opening of the railway until those requirements have been complied with, or the Governor-General in Council is otherwise satisfied that the railway can be opened without danger to the public using it.

(4) The sanction given under this section may be either absolute or subject to such conditions as the Governor-General in Counell thinks necessary for the safety of the pubiic.

(5) When sanction for the opening of a railway is given subject to conditions, and the railway administration fails to fulfil those conditions, the sanction shall be deemed to be void, and the railway shall not be worked or used until the conditions are fulfilled to the satisfaction of the Governor General in Council.

Applications of the provisions of the three last foregoing sections to material alterations of a railway.

20. (1) The provisions of sections 17, 18 and 19, with respect to the opening of a railway, shall extend to the opening of the works mentioned in sub-section (2) when those works form part of, or are directly connected with a railway used for the public carriage of passengers, and have been constructed after the inspection which preceded the first opening of the railway.

(2) The works referred to in sub section (1) are additional lines of railway, deviation lines, stations, junctions, and crossings on the level, and any alteration or re-construction materially affecting the structural character of any work to which the provisions of sections 17, 18, and 19 apply, or are extended by this section.

Exceptional provision.

21. When an accident has occurred resulting in a temporary suspension of traffic, and either the original line and works have been rapidly restored to their original standard, or a temporary diversion has been laid for the purpose of restoring communication, the original line and works so restored, or the temporary diversion, as the case may be, may, in the absence of the Inspector, be opened for the public carriage of passengers, subject to the following conditions, namely :—

(*a*) that the railway servant in charge of works undertaken by reason of the accident has certified in writing that the opening of the restored line and works, or of the

temporary diversion, will not, in his opinion, be attended with danger to the public using the line and works or the diversion ; and

(*b*) that notice by telegraph of the opening of the line and works or the diversion shall be sent, as soon as may be, to the Inspector appointed for the railway.

Power to make rules with respect to the opening of railways.

22. The Governor-General in Council may make rules defining the cases in which, and in those cases the extent to which, the procedure prescribed in sections 17 to 20(both inclusive) may be dispensed with.

Power to close an opened railway.

23. (1) When, after inspecting any open railway used for the public carriage of passengers, or any rolling-stock used thereon, an Inspector is of opinion that the use of the railway or of any specified rolling-stock will be attended with danger to the public using it, he shall state that opinion, together with the grounds therefor, to the Governor-General in Council ; and the Governor-General in Council may thereupon order that the railway be closed for the public carriage of passengers, or that the use of the rolling-stock so specified be discontinued, or that the railway or the rolling-stock so specified be used for the public carriage of passengers on such conditions only as the Governor-General in Council may consider necessary for the saftey of the public.

(2) An order under sub-section (1) must set forth the grounds on which it is founded.

Re-opening of a closed railway.

24. (1) When a railway has been closed under the last foregoing section, it shall not be re-opened for the public carriage of passengers until it has been inspected, and its re-opening sanctioned in accordance with the provisions of this Act.

(2) When the Governor-General in Council has ordered under the last foregoing section that the use of any specified rolling-stock be discontinued, that rolling-stock shall not be used until an Inspector has reported that it is fit for use, and the Governor-General in Council has sanctioned its use.

(3) When the Governor-General in Council has imposed under the last foregoing section any conditions with respect to the use of any railway or rolling-stock, those conditions shall be observed until they are withdrawn by the Governor-General in Council.

Delegations of powers under this chapter to Inspectors.

25. (1) The Governor-General in Council may, by general or special order, authorize the discharge of any of his functions under this chapter by an Inspector, and may cancel any

sanction or order given by an Inspector discharging any such function, or attach thereto any condition which the Governor-General in Council might have imposed if the sanction or order had been given by himself.

(2) A condition imposed under sub-section (1) shall, for all the purposes of this Act, have the same effect as if it were attached to a sanction or order given by the Governor-General in Council.

CHAPTER V.

RAILWAY COMMISSIONS AND TRAFFIC FACILITIES.

Railway Commissions.

Constitution of Railway Commission.

26. (1) For the purposes of this Chapter the Governor-General in Council shall, as occasion may in his opinion require, appoint a commission (in this Act referred to as the Commissioners), and consisting of one Law Commissioner and two Lay Commissioners.

(2) The Commissioners shall sit at such times and in such places as the Governor-General in Council appoints.

(3) The law Commissioner shall be such Judge of the High Court having jurisdiction in reference to European British subjects under the Code of Criminal Procedure, 1882, in the place where the Commissioners are to sit as, in the case of a High Court established under the Statute 24 and 25 Victoria, chapter 104, the Chief Justice, * may on the request of the Governor-General in Council, assign by writing under his hand.

(4) The Lay Commissioners shall be appointed by the Governor-General in Council, and one at least of them shall be of experience in railway business.

Restriction of jurisdiction of Railway Commission to cases specially referred.

27. The Commissioners shall take cognizance of such cases only as are referred to them by the Governor-General in Council.

Reference of cases to Rail-Way Commission.

28. In any of the following circumstances, namely :—

(*a*) where complaint is made to the Governor-General in Council of any-thing done or any omission made by a railway administration in violation or contravention of any provision of this chapter ;

* Certain words after this repealed by Acts 18 of 1919 and 11 of 1923 have been omitted.

(*b*) where any difference which is under the provisions of any agreement required or authorized to be referred to arbitration arises between railway administrations, and the railway administrations apply to the Governor General in Council to have it referred to the Commissioners;

(*c*) where any other difference, being a difference between railway administrations or one to which a railway administration is a party, arises, and the parties thereto apply to the Governor-General in Council to have it referred to the Commissioners;

the Governor-General in Council may, if he thinks fit, refer the case to the Commissioners for decision.

Constitution of Railway Commission in session.

29. The three Commissioners shall attend at the hearing of any case referred to them for decision under this chapter, and the Law Commissioner shall preside at the hearing.

Powers of Railway Commission.

30. (1) In hearing any such case the Commissioners shall have all the powers which may be exercised in the hearing of an original civil suit by a High Court.

(2) The decision shall, if the Commissioners differ in opinion, be in accordance with the opinion of the majority, and the final order in the case shall be by way of injunction, and not otherwise.

(3) At the hearing the Commissioners may permit any party to appear before them either by himself or by any legal practitioner entitled to practise in any High Court.

Appeals from orders of Railway Commission.

31. (1) An appeal shall not lie from any order of the Commissioners upon any question of fact on which two of the Commissioners are agreed.

"(2) Subject to the provisions of sub-section (1), an appeal shall lie from an order of the Commissioners to the High Court of which the Law Commissioner was a member."*

(3) Such an appeal must be presented within six months from the date of the order appealed from, and shall be heard by a bench of as many Judges, not being fewer than three, as the High Court may by rule prescribe.

(4) In the hearing of the appeal the High Court shall, subject to the other provisions of this chapter, have all the powers which it has as an Appellate Court under the Code of Civil Procedure, and may make any order which the Commissioners could have made.

* Sub-section (2) of section 31 has been substituted by Act 18 of 1919.

Operation of orders of Railway Commission.

32. Notwithstanding any appeal to the High Court from an order of the Commissioners, the order shall, unless the Commissioners or the majority of them see fit to suspend it, continue in operation until it is reversed or varied by that Court.

Assessors.

33. (1) The Commissioners, in the exercise of their jurisdiction under this chapter, may from time to time, with the general or special sanction of the Governor-General in Council, call in one or more persons of engineering or other technical knowledge to act as assessors.

(2) There shall be paid to such persons such remuneration as the Governor-General in Council upon the recommendation of the Commissioners may direct.

Power of the Governor-General in Council to make rules for the purposes of this chapter.

34. The Governor-General in Council may make rules regulating proceedings before the Commissioners, and enabling the Commissioners to carry into effect the provisions of this chapter, and prescribing fees to be taken in relation to proceedings before the Commissioners.

Costs of proceedings under this chapter.

35. The costs of and incidental to any proceedings before the Commissioners or the High Court under this chapter shall be in the discretion of the Commissioners or the High Court, as the case may be, and the payment of costs awarded by the Commissioners may be enforced by the Court, of which the Law Commissioner was a Judge, as if the payment had been ordered by a decree of a High Court.

Execution of order of Railway Commission and High Court.

36. (1) The Court of which the Law Commissioner was a Judge may, if it appears on the application of any person who was a party to the proceedings before the Commissioners, or on appeal before the High Court, or of the representative of any such person, that an injunction made under this chapter by the Commissioners or by a High Court has not been obeyed by the party enjoined, order such party to pay a sum not exceeding one thousand rupees for every day during which the injunction is disobeyed after the date of the order directing such payment.

(2) The payment of such sum may be enforced by the Court which made the order as if that Court had given a decree for the same, and the Court may direct that the whole or any part of the sum shall be paid to the person making the application under sub-section (1), or to the Government.

Evidence of documents.

37. A document purporting to be signed by the Commissioners, or any of them, shall be received in evidence without proof of the signature, and shall, until the contrary is proved, be deemed to have been so signed and to have been duly executed or issued by the Commissioners.

Submission to the Governor-General in Council of special reports by Railway Commission.

38. The Commissioners shall, as soon as may be, after the disposal of each case referred to them, submit to the Governor-General in Council a special report on the case, and the Governor General in Council shall cause the report to be published in such manner as he thinks fit for the information of persons interested in the subject-matter thereof.

Dissolution of Railway Commission.

39. Except for the purpose of the last foregoing section, a Railway Commission shall be deemed to be dissolved at the close of the last of the sittings of the Commissioners for the decision of the cases referred to them:

Provided that, on the application of any person who was a party to the proceedings before the Commissioners, or of the representative of any such person, the Governor-General in Council may, if he thinks fit, in any case in which the order passed by the Commissioners is not open to appeal, re-appoint the Commissioners for the purpose of hearing an application for a review of their decision, and of granting the same, and re-hearing the case if they think that the case should be re-heard.

Finality of orders of Railway Commission subject to the foregoing provisions of this chapter.

40. Subject the foregoing provisions of this chapter, and to any direction of Her Majesty in Council, an order of the Commissioners shall be final, and shall not be questioned in or restrained by any Court.

Bar of jurisdiction of ordinary Courts in certain matters cognizable by Railway Commission.

41. Except as provided in this Act, no suit shall be instituted or proceeding taken for anything done or any omission made by a railway administration in violation or contravention of any provision of this chapter, or of any order made thereunder by the Commissioners, or by a High Court.

Traffic Facilities.

Duty of railway administrations to arrange for receiving and forwarding traffic without unreasonable delay, and without partiality.

42. (1) Every railway administration shall, according to its powers, afford all reasonable facilities for the receiving, forwarding, and delivering of traffic upon and from the several railways belonging to or worked by it, and for the return of rolling-stock.

(2) A railway administration shall not make or give any undue or unreasonable preference or advantage to, or in favour of, any particular person or railway administration, or any particular description of traffic, in any respect whatsoever, or subject any particular person or railway administration, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

(3) A railway administration having or working railways which form part of a continuous line of railway communication, or having its terminus or station within one line of the terminus or station of another railway administration, shall afford all due and reasonable facilities for receiving and forwarding by one of such railways all the traffic arriving by the other at such terminus or station, without any unreasonable delay, and without any such preference or advantage, or prejudice or disadvantage as aforesaid, and so that no obstruction may be offered to the public desirous of using such railways as a continuous line of communication, and so that all reasonable accommodation may, by means of such railways, be at all times afforded to the public in that behalf.

(4) The facilities to be afforded under this section shall include the due and reasonable receiving, forwarding, and delivering by every railway administration, at the request of any other railway administration, of through traffic to and from the railway or any other railway administration at through rates :

Provided as follows :—

(*a*) the railway administration requiring the traffic to be forwarded shall give written notice of proposed through rate to each forwarding railway administration, stating both its amount and its apportionment, and the route by which the traffic is proposed to be forwarded. The proposed through rate for animals or goods may be per truck or per maund;

(*b*) each forwarding railway administration shall, within the prescribed period after the receipt of such notice, by written notice inform the railway administration requiring the traffic to be forwarded where it agrees to the rate, apportionment, and route, and, if it has any objection, what the grounds of the objection are;

(*c*) if, at the expiration of the prescribed period, no such objection has been sent by any forwarding railway administration, the rate shall come into operation at the expiration of that period;

(*d*) if an objection to the rate, apportionment, or route has been sent within the prescribed period, the Governor-General in Council may, if he thinks fit, on the request of any of the railway administrations, refer the case to the Commissioners for their decision;

(*e*) if the objection is to the granting of the rate of the route, the Commissioners shall consider whether the granting of the rate is a due and reasonable facility in the interest of the public, and whether, regard being had to the circumstances, the route proposed is a reasonable route,and shall allow or refuse the rate accordingly, or fix such other rate as may seem to the Commissioners to be just and reasonable ;

(*f*) if the objection is only to the apportionment of the rate, and the case has been referred to the Commissioners, the rate shall come into operation at the expiration of the prescribed period, but the decision of the Commissioners as to its apportionment shall be retrospective : in the case of any other objection, the operation of the rate shall be suspended until the Commissioners make their order in the case ;

(*g*) the Commissioners, in apportioning the through rate, shall take into consideration all the circumstances of the case, including any special expense incurred in respect of the construction, maintenance, or working of the route, or any part of the route, as well as any special charges which any railway administration is entitled to make in respect thereof ;

(*h*) the Commissioners shall not in any case compel any railway administration to accept lower mileage rates than the mileage rates which the administration may for the time being legally be charging for like traffic carried by a like mode of transit on any other line of communication between the same points, being the points of departure and arrival of the through route ;

(*i*) subject to the foregoing provisions of this sub-section, the Commissioners shall have full power to decide that any proposed through rate is due and reasonable, notwithstanding that a less amount may be allotted to any forwarding railway administration out of the through rate than the maximum rate which the railway administration is entitled to charge, and to allow and apportion the through rate accordingly ;

(*j*) the prescribed period mentioned in this sub-section shall be one month, or such longer period as the Governor-General in Council may, by general or special order, prescribe.

Undue preference in case of unequal rates for like traffic or services.

43. (1) Wherever it is shown that a railway administration charges one trader or class of traders, in any local area, lower rates for the same or similar animals or goods, or lower rates

for the same or similar services, than it charges to other traders, or classes of traders, or to the traders in another local area, the burden of proving that such lower charge does not amount to an undue preference shall lie on the railway administration.

(2) In deciding whether a lower charge does or does not amount to an undue preference, the Commissioners may, so far as they think reasonable, in addition to any other considerations affecting the case, take into consideration whether such lower charge is necessary for the purpose of securing, in the interests of the public, the traffic in respect of which it is made.

Provision for facilities and equal treatment where ships or boats are used which are not part of a railway

44. Where a railway administration is a party to an agreement for procuring the traffic of the railway to be carried on any inland water by any ferry, ship, boat, or raft which does not belong to, or is not hired or worked by, the railway administration the provisions of the two last foregoing sections applicable to a railway shall extend to the ferry, ship, boat, or raft, in so far as it is used for the purposes of the traffic of the railway.

Terminals.

45. A railway administration may charge reasonable terminals.

Power of Railway Commission to fix terminals.

46. (1) The Governor-General in Council may, if he thinks fit, refer to the Commissioners for decision any question or dispute which may arise with respect to the terminals charged by a railway administration, and the Commissioners may thereupon decide what is a reasonable sum to be paid to the railway administration in respect of terminals.

(2) In deciding the question or dispute, the Commissioners shall have regard only to the expenditure reasonably necessary to provide the accommodation in respect of which the terminals are charged, irrespective of the outlay which may have been actually incurred by the railway administration in providing that accommodation.

CHAPTER VI.

WORKING OF RAILWAYS.

General.

General rules.

47. (1) Every railway company, and, in the case of a railway administered by the Government, an officer to be appointed by the Governor-General in Council in this behalf, shall make general rules consistent with this Act for the following purposes, namely :—

(*a*) for regulating the mode in which, and the speed at which, rolling-stock used on the railway is to be moved or propelled;

(*b*) for providing for the accommodation and convenience of passengers, and regulating the carriage of their luggage;

(*c*) for declaring what shall be deemed to be, for the purposes of this Act, dangerous or offensive goods, and for regulating the carriage of such goods;

(*d*) for ragulating the conditions on which the railway administration will carry passengers suffering from infectious or contagious disorders, and providing for the disinfection of carriages which have been used by such passengers;

(*e*) for regulating the conduct of the railway servants;

(*f*) for regulating the terms and conditions on which the railway administration will warehouse or retain goods at any station on behalf of the consignee or owner; and,

(*g*) generally, for regulating the travelling upon, and the use, working, and management of, the railway.

(2) The rules may provide that any person committing a breach of any of them shall be punished with fine which may extend to any sum not exceeding fifty rupees, and that, in the case of a rule made under clause (*e*) of sub-section (1), the railway servant shall forfeit a sum not exceeding one month's pay, which sum may be deducted by the railway administration from his pay.

(3) A rule made nnder this section shall not take effect until it has received the sanction of the Governor-General in Council, and been published in the *Gazette of India* :

Provided that, where the rule is in the terms of a rule which has already been published at length in the *Gazette of India*, a notification in that Gazette referring to the rule already published, and announcing the adoption thereof, shall be deemed a publication of a rule in the *Gazette of India* within the meaning of this sub-section.

(4) The Governor-General in Council may cancel any rule made under this section, and the authority required by sub-section (1) to make rules thereunder may at any time, with the previous santion of the Governor-General in Council, rescind or vary any such rule.

(5) Every rule purporting to have been made for any railway under section 8 of the Indian Railway Act, 1879, and appearing from the *Gazette of India* to be intended to apply to the railway at the commencement of this Act, shall, notwithstanding any

irregularity in the making or publication of the rule, be deemed to have been made and to have taken effect under this section.

(6) Every railway administration shall keep at each station on its railway a copy of the general rules for the time being in force under this section on the railway, and shall allow any person to inspect it free of charge at all reasonable times.

Disposal of differences between railways regarding conduct of joint traffic.

48. Where two or more railway administrations, whose railways have a common terminus or a portion of the same line of rails in common, or form separate portions of one continued line of railway communication, are not able to agree upon arrangements for conducting at such common terminus, or at the point of junction between them, their joint traffic with safety to the public, the Governor-General in Council, upon the application of either or any of the administrations, may decide the matters in dispute between them, so far as those matters relate to the safety of the public, and may determine whether the whole or what proportion of the expenses attending on such arrangements shall be borne by either or any of the administrations respectively.

Agreements with the Governor-General in Council for construction or lease of rolling-stock.

49. Any railway company, not being a company for which the Statute 42 and 43 Victoria, chapter 41, provides, may, from time to time, make and carry into effect agreements with the Governor-General in Council for the construction of rolling-stock, plant, or machinery used on, or in connection with, railways, or for leasing or taking on lease any rolling-stock, plant, machinery, or equipments required for use on a railway, or for the maintenance of rolling-stock.

Powers of railway companies to enter into working agreements.

50. Any railway company, not being a company for which the Statute 42 and 43 Victoria, chapter 41, provides may, from time to time, make with the Governor-General in Council, and carry into effect, or, with the sanction of the Governor-General in Council, make with any other railway administration, and carry into effect, any agreement with respect to any of the following purposes, namely :—

(*a*) the working, use, management, and maintenance of any railway;

(*b*) the supply of rolling-stock and machinery necessary for any of the purposes mentioned in clause (*a*), and of officers and servants for the conduct of the traffic of the railway;

(*c*) the payment to be made and the conditions to be performed with respect to such working, use, management, and maintenance;

(*d*) the interchange-accommodation, and conveyance of traffic being on, coming from, or intended for, the respective railways of the contracting parties, and the fixing, collecting, apportionment, and appropriation of the revenues arising from that traffic ;

(*e*) generally, the giving effect to any such provisions or stipulations with respect to any of the purposes hereinbefore in this section mentioned as the contracting parties may think fit and mutually agree on :

Provided that the agreement shall not affect any of the rates which the railway administrations, parties thereto, are from time to time respectively authorized to demand and receive from any person ; and that every person shall, notwithstanding the agreement, be entitled to the use and benefit of the railways of any railway administrations, parties to the agreement, on the same terms and conditions, and on payment of the same rates, as he would be if the agreement had not been entered into.

Establishment of ferries and roadways for accommodation of traffic.

51. Any railway company, not being a company for which the Statute 42 and 43 Victoria, chapter 41, provides, may, from time to time, exercise, with the sanction of the Governor General in Council, all or any of the following powers, namely :—

(*a*) it may establish, for the accommodation of the traffic of its railway, any ferry equipped with machinery and plant of good quality and adequate in quantity to work the ferry ;

(*b*) it may work, for purposes other than the accommodation of the traffic of the railway, any ferry established by it under this section ;

(*c*) it may provide and maintain on any of its bridges roadways for foot passengers, cattle, carriages, carts, or other traffic ;

(*d*) it may construct and maintain roads for the accommodation of traffic passing to or from its railway ;

(*e*) it may provide and maintain any means of transport which may be required for the reasonable convenience of passengers, animals, or goods carried or to be carried on its railway ;

(*f*) it may charge tolls on the traffic using such ferries, roadways, roads, or means of transport as it may provide under this section, according to tariffs to be arranged from time to time with the sanction of the Governor-General in Council.

Returns.

52. Every railway administration shall, in forms to be prescribed by the Governor-General in Council, prepare, half-yearly or at such intervals as the Governor-General in Council may prescribe, such returns of its capital and revenue transactions, and of its traffic, as the Governor-General in Council may require, and shall forward a copy of such returns to the Governor-General in Council at such times as he may direct.

Carriage of Property.

Maximum load for wagons.

53. (1) Every railway administration shall determine the maximum load for every wagon or truck in its possession, and shall exhibit the words or figures representing the load so determined in a conspicuous manner on the outside of every such wagon or truck.

(2) Every person owning a wagon or truck which passes over a railway shall similarly determine and exhibit the maximum load for the wagon or truck.

(3) The gross weight of any such wagon or truck bearing on the axles when the wagon or truck is loaded to such maximum load shall not exceed such limit as may be fixed by the Governor-General in Council for the class of axle under the wagon or truck.

Power for railway administrations to impose conditions for working traffic.

54. (1) Subject to the control of the Governor-General in Council, a railway administration may impose conditions, not inconsistent with this Act, or with any general rule thereunder, with respect to the receiving, forwarding, or delivering of any animals or goods.

(2) The railway administration shall keep at each station on its railway a copy of the conditions for the time being in force under sub-section (1) at the station, and shall allow any person to inspect it free of charge at all reasonable times.

(3) A railway administration shall not be bound to carry any animals suffering from any infectious or contagious disorder.

Lien for rates, terminals, and other charges.

55. (1) If a person fails to pay, on demand made by or on behalf of a railway administration, any rate, terminal, or other charge due from him in respect of any animals or goods, the railway administration may detain the whole or any of the animals or goods, or, if they have been removed from the railway, any other animals or goods of such person then being in, thereafter coming into, its possession.

(2) When any animals or goods have been detained under sub-section (1), the railway administration may sell by public auction, in the case of perishable goods, at once, and, in the case of other

goods or of animals, on the expiration of at least fifteen days' notice of the intended auction published in one or more of the local newspapers, or, where there are no such newspapers, in such manner as the Governor-General in Council may prescribe, sufficient of such animals or goods to produce a sum equal to the charge ; and all expenses of such detention, notice, and sale, including, in the case of animals, the expenses of the feeding, watering, and tending thereof.

(3) Out of the proceeds of the sale the railway administration may retain a sum equal to the charge and the expenses aforesaid, rendering the surplus, if any, of the proceeds, and such of the animals or goods (if any) as remain unsold, to the person entitled thereto.

(4) If a person, on whom a demand for any rate, terminal, or other charge due from him has been made, fails to remove from the railway, within a reasonable time, any animals or goods which have been detained under sub-section (1), or any animals or goods which have remained unsold after a sale under sub-section (2), the railway administration may sell the whole of them, and dispose of the proceeds of the sale, as nearly as may be, under the provisions of sub-section (3).

(5) Notwithstanding anything in the foregoing sub-sections, the railway administration may recover by suit any such rate, terminal, or other charge as aforesaid or balance thereof.

Disposal of unclaimed things on a railway.

56. (1) When any animals or goods have come into the possession of a railway administration for carriage or otherwise, and are not claimed by the owner or other person appearing to the railway administration to be entitled thereto, the railway administration shall, if such owner or person is known, cause a notice to be served upon him requiring him to remove the animals or goods.

(2) If such owner or person is not known, or the notice cannot be served upon him, or he does not comply with the requisition in the notice, the railway administration may, within a reasonable time, subject to the provisions of any other enactment for the time being in force, sell the animals or goods, as nearly as may be, under the provisions of the last foregoing section, rendering the surplus, if any, of the proceeds of the sale to any person entitled thereto.

Power for railway administrations to require indemnity on delivery of goods in certain cases.

57. Where any animals, goods, or sale proceeds in the possession of a railway administration are claimed by two or more persons, or the ticket or receipt given for the animals or goods is not forthcoming, the railway administration may withhold delivery of the animals, goods, or sale-proceeds until the

person entitled in its opinion to receive them has given an indemnity, to the satisfaction of the railway administration, against the claims of any other person with respect to the animals, goods, or sale-proceeds.

Requisitions for written accounts of description of goods.

58. (1) The owner or person having charge of any goods which are brought upon a railway for the purpose of being carried thereon, and the consignee of any goods which have been carried on a railway, shall, on the request of any railway servant appointed in this behalf by the railway administration, deliver to such servant an account in writing signed by such owner or person, or by such consignee, as the case may be, and containing such a description of the goods as may be sufficient to determine the rate which the railway administration is entitled to charge in respect thereof.

(2) If such owner, person, or consignee refuses or neglects to give such an account, and refuses to open the parcel or package containing the goods, in order that their description may be ascertained, the railway administration may (*a*) in respect of goods which have been brought for the purpose of being carried on the railway, refuse to carry the goods, unless in respect thereof a rate is paid not exceeding the highest rate which may be in force at the time on the railway for any class of goods, or (*b*), in respect of goods which have been carried on the railway, charge a rate not exceeding such highest rate.

(3) If an account delivered under sub-section (1) is materially false with respect to the description of any goods to which it purports to relate, and which have been carried on the railway, the railway administration may charge, in respect of the carriage of the goods, a rate not exceeding double the highest rate which may be in force at the time on the railway for any class of goods.

(4) If any difference arises between a railway servant and the owner or person having charge, or the consignee, of any goods which have been brought to be carried, or have been carried, on a railway, respecting the description of goods of which an account has been delivered under this section, the railway servant may detain and examine the goods.

(5) If it appears from the examination that the description of the goods is different from that stated in an account delivered under sub-section (1), the person who delivered the account, or, if that person is not the owner of the goods, then that person and the owner, jointly and severally, shall be liable to pay to the railway administration the cost of the detention and examination of the goods, and the railway administration shall be exonerated from all responsibility for any loss which may have been caused by the detention or examination thereof.

(6) If it appears that the description of the goods is not different from that stated in an account delivered under sub-section (1), the railway administration shall pay the cost of the detention, and examination, and be responsible to the owner of the goods for any such loss as aforesaid.

Dangerous or offensive goods.

59. (1) No person shall be entitled to take with him, or to require a railway administration to carry, any dangerous or offensive goods upon a railway.

(2) No person shall take any such goods with him upon a railway without giving notice of their nature to the station-master or other railway servant in charge of the place where he brings the goods upon the railway, or shall tender or deliver any such goods for carriage upon a railway without distinctly marking their nature on the outside of the package containing them, or otherwise giving notice in writing of their nature to the railway servant to whom he tenders or delivers them.

(3) Any railway servant may refuse to receive such goods for carriage, and, when such goods have been so received without such notice, as is mentioned in "sub-section (2)," * having to his knowledge been given, may refuse to carry them, or may stop their transit.

(4) If any railway servant has reason to believe any such goods to be contained in a package, with respect to the contents whereof such notice as is mentioned in sub-section (2) has not, to his knowledge, been given, he may cause the package to be opened for the purpose of ascertaining its contents.

(5) Nothing in this section shall be construed to derogate from the Indian Explosives Act, 1884 or any rule under this Act, and nothing in sub-sections (1), (3) and (4), shall be construed to apply to any goods tendered or delivered for carriage by order or on behalf of the Government, or to any goods which an officer, soldier, sailor, or police-officer, or "a member of the Indian Territorial Force or of the Auxiliary Force, India,"† may take with him upon a railway in the course of his empolyment or duty as such.

Exhibition to the public of authority for quoted rates.

60. At every station at which a railway administration quotes a rate to any other station for the carriage of traffic other than passengers and their luggage, the railway servant appointed by the administration to quote the rate shall, at the request of any

* These have been substituted for the words and figures "*Sub-section* (1)" by Act IX. of 1896, s. 3.

† The words within quotations have been substituted by Act 11 of 1923.

person, show to him, at all reasonable times, and without payment of any fee, the rate-books or other documents, in which the rate is authorized by the administration or administrations concerned.

Requisitions on railway administrations for details of gross charges.

61. (1) Where any charge is made by, and paid to, a railway administration in respect of the carriage of goods over its railway, the administration shall, on the application of the person by whom, or on whose behalf, the charge has been paid, render to the applicant an account showing how much of the charge comes under each of the following heads, namely :—

(*a*) the carriage of the goods on the railway ;
(*b*) terminals ;
(*c*) demurrage ; and
(*d*) collection, delivery, and other expenses, but without particularizing the several items of which the charge under each head consists.

(2) The application under sub-section (1) must be in writing, and be made to the railway administration within one month after the date of the payment of the charge by or on behalf of the applicant, and the account must be rendered by the administration within two months after the receipt of the application.

Carriage of Passengers.

Communication between passengers and railway servant in charge of trains.

62. The Governor-General in Council may require any railway administration to provide and maintain in proper order, in any train worked by it which carries passengers, such efficient means of communication between the passengers and the railway servants in charge of the train as the Governor-General in Council has approved.

Maximum number of passengers for each compartment.

63. Every railway administration shall fix, subject to the approval of the Governor-General in Council, the maximum number of passengers which may be carried in each compartment of every description of carriage, and shall exhibit the number so fixed in a conspicuous manner inside or outside each compartment in English, or in one or more of the vernacular languages in common use in the territory traversed by the railway, or both in English and in one or more of such vernacular languages, as the Governor-General in Council, after consultation with the railway administration, may determine.

Reservation of compartments for females.

64. (1) On and after the first day of January 1891, every railway administration shall, in every train carrying passengers, reserve for the exclusive use of females one compartment at least of the lowest class of carriage forming part of the train.

(2) One such compartment so reserved shall, if the train is to run for a distance exceeding fifty miles, be provided with a closet.

Exhibition of time-tables and tables of fares at stations.

65. Every railway administration shall cause to be posted in a conspicuous and accessible place at every station on its railway in English, and in a vernacular language in common use in the territory where the station is situate, a copy of the time-tables for the time being in force on the railway, and lists of the fares chargeable for travelling from the station where the lists are posted to every place for which card-tickets are ordinarily issued to passengers at that station.

Supply of tickets on payment of fares.

66. (1) Every person desirous of travelling on a railway shall, upon payment of his fare, be supplied with a ticket, specifying the class of carriage for which, and the place from, and the place to, which, the fare has been paid, and the amount of the fare.

(2) The matters required by sub-section (1) to be specified on a ticket shall be set forth —

(*a*) if the class of carriage to be specified thereon is the lowest class, then in a vernacular language in common use in the territory traversed by the railway, and

(*b*) if the class of carriage to be so specified is any other than the lowest class, then in English.

Provision for case in which tickets have been issued for trains not having room avilable for additional passengers.

67. (1) Fares shall be deemed to be accepted, and tickets to be issued, subject to the condition of there being room available in the train for which the tickets are issued.

(2) A person to whom a ticket has been issued, and for whom there is not room available in the train for which the ticket was issued, shall, on returning the ticket within three hours after the departure of the train, be entitled to have his fare at once refunded.

(3) A person for whom there is not room available in the class of carriage for which he has purchased a ticket, and who is obliged to travel in a carriage of a lower class, shall be entitled, on delivering up his ticket, to a refund of the difference between the fare paid by him and the fare payable for the class of carriage in which he travelled,

Prohibition against travelling without pass or ticket.

68. No person shall, without the permission of railway servant, enter any carriage on a railway for the purpose of travelling therein as a passenger, unless he has with him a proper pass or ticket.

Exhibition and surrender of passes and tickets.

69. Every passenger by railway shall, on the requisition of any railway servant appointed by the railway administration in this behalf, present his pass or ticket to the railway servant for examination. and, at or near the end of the journey for which the pass or ticket was issued, or in the case of a season pass or ticket, at the expiration of the period for which it is current, deliver up the pass or ticket to the railway servant,

Return and season tickets

70. A return ticket or season ticket shall not be transferable, and may be used only by the person for whose journey to and from the places specified thereon it was issued.

Power to refuse to carry persons suffering from infectious or contagious disorder.

71. (1) A railway administration may refuse to carry, except in accordance with the conditions prescribed under section 47, sub-section (1), clause (*d*), a person suffering from any infectious or contagious disorder.

(2) A person suffering from such a disorder shall not enter or travel upon a railway without the special permission of the station-master or other railway servant in charge of the place where he enters upon the railway.

(3) A railway servant giving such permission as is mentioned in sub-section (2) must arrange for the separation of the person suffering from the disorder from other persons being or travelling upon the railway.

CHAPTER VII.

RESPONSIBILITY OF RAILWAY ADMINISTRATIONS AS CARRIERS.

Measure of the general responsibility of a railway administration as a carrier of animals and goods.

72 (1) The responsibility of a railway administration for the loss, destruction, or deterioration of animals or goods delivered to the administration to be carried by railway shall, subject to the other provisions of this Act, be that of a bailee under sections 151, 152, and 161 of the Indian Contract Act, 1872.

(2) An agreement purporting to limit that responsibility shall, in so far as it purports to effect such limitation, be void unless it—

(*a*) is in writing signed by or on behalf of the person sending or delivering to the railway administration the animals or goods, and

(*b*) is otherwise in a form approved by the Governor-General in Council.

(3) Nothing in the Common Law of England or in the Carriers Act, 1865, regarding the responsibility of common carriers with respect to the carriage of animals or goods, shall affect the responsibility as in this section defined of a railway administration.

Further provision with respect to the liability of a railway administration as a carrier of animals.

73. (1) The responsibility of a railway administration under the last foregoing section for the loss, destruction, or deterioration of animals delivered to the administration to be carried on a railway shall not, in any case, exceed in the case of elephants or horses, five hundred rupees a head, or, in the case of "mules,"* camels or horned cattle, fifty rupees a head, or, in the case of "donkeys,"* sheep, goats, dogs, or other animals, ten rupees a head, unless, the person sending or delivering them to the administration caused them to be declared or declared them, at the time of their delivery for carriage by railway, to be respectively of higer value than five hundred, fifty, or ten rupees a head, as the case may be.

(2) Where such higher value has been declared, the railway administration may charge, in respect of the increased risk, a percentage upon the excess of the value so declared over the respective sums aforesaid.

(3) In every proceeding against a railway administration for the recovery of compensation for the loss, destruction, or deterioration of any animal, the burden of proving the value of the animal, and, where the animal has been injured, the extent of the injury shall lie upon the person claiming the compensation.

Further provision with respect to the liability of a railway administration as a carrier of luggage.

74. A railway administration shall not be responsible for the loss, destruction, or deterioration of any luggage belonging to, or in charge of, a passenger, unless a railway servant has booked and given a receipt therefor.

Further provision with respect to the liability of a railway administration as a carrier of articles of special value.

75. (1) When any articles mentioned in the second schedule are contained in any parcel or package delivered to a railway administration for carriage by railway, and the value of such articles in the parcel or package exceeds one hundred rupees, the railway administration shall not be responsible for the loss, destruction, or deterioration of the parcel or package, unless, the person sending or delivering the parcel or package to the administration caused its value and contents to be declared, or declared them at the time of the delivery of the parcel or package for carriage by railway, and, if so required by the administration, paid or engaged to pay a percentage on the value so declared by way of compensation for increased risk.

(2) When any parcel or package of which the value has been declared under sub section (1) has been lost or destroyed, or has deteriorated, the compensation recoverable in respect of such loss, destruction, or deterioration shall not exceed the value so declared, and the burden of proving the value so declared to have been the true value shall, notwithstanding anything in the declaration, lie on the person claiming the compensation.

(3) A railway administration may make it a condition of carrying a parcel declared to contain any article mentioned in the second schedule, that a railway servant authorized in this behalf has been satisfied by examination or otherwise that the parcel actually contains the article declared to be therein.

Burden of proof in suits in respect of loss of animals or goods.

76. In any suit against a railway administration for compensation for loss, destruction, or deterioration of animals or goods delivered to a railway administration for carriage by railway, it shall not be necessary for the plaintiff to prove how the loss, destruction, or deterioration was caused.

Notification of claims to refunds of overcharges and to compensation for losses.

77. A person shall not be entitled to a refund of an overcharge in respect of animals or goods carried by railway, or to compensation for the loss, destruction, or deterioration of animals or goods delivered to be so carried, unless his claim to the refund or compensation has been preferred in writing by him or on his behalf to the railway administration within six months from the date of the delivery of the animals or goods for carriage by railway.

Exoneration from responsibility in case of goods falsely described.

78. Notwithstanding anything in the foregoing provisions of this chapter, a railway administration shall not be responsible for the loss, destruction, or deterioration of any goods with respect to the description of which an account materially false has been delivered under sub section (1) of section 58 if the loss, destruction, or deterioration is in any way brought about by the false account, nor in any case for an amouut exceeding the value of the goods if such value were calculated in accordance with the description contained in the false account.

Settlement of compensation for injuries to officers, soldiers, and followers on duty.

79. Where an officer, soldier, or follower, while being or travelling as such on duty upon a railway belonging to, and worked by, the Government, loses his life, or receives any personal injury in such circumstances that, if he were not an officer, soldier, or follower being or travelling as such on duty upon the railway, compensation would be payable under Act No. XIII. of 1855, or to him, as the case may be, the form and

amount of the compensation to be made in respect of the loss of his life or his injury shall, where there is any provision in this behalf in the military regulations to which he was immediately before his death, or is, subject, be determined in accordance with those regulations, and not otherwise.

Suits for compensation for injury to through-booked traffic.

80. Notwithstanding anything in any agreement purporting to limit the liability of a railway administration with respect to traffic while on the railway of another administration, a suit for compensation for loss of the life of, or personal injury to, a passenger, or for loss, destruction, or deterioration of animals or goods, where the passenger was or the animals or goods were booked through over the railways of two or more railway administrations, may be brought either against the railway administration from which the passenger obtained his pass or purchased his ticket, or to which the animals or goods were delivered by the consignor thereof, as the case may be, or against the railway administration on whose railway the loss, injury, destruction, or deterioration occurred.

81. [*Repealed by Act IX. of* 1896, *s.* 5.]

Limitation of liability of railway administration in respect of accidents at sea

82. (1) When a railway administration contracts to carry passengers, animals, or goods partly by railway and partly by sea, a condition exempting the railway administration from responsibility for any loss of life, personal injury, or loss of or damage to animals or goods, which may happen during the carriage by sea, from the act of God, the King's enemies, fire, accidents from machinery, boilers, and steam, and all and every other dangers and accidents of the seas, rivers, and navigation of whatever nature and kind soever, shall, without being expressed, be deemed to be part of the contract, and, subject to that condition, the railway administration shall, irrespective of the nationality or ownership of the ship used for the carriage by sea, be responsible for any loss of life, personal injury, or loss of or damage to animals or goods, which may happen during the carriage by sea, to the extent to which it would be responsible under the Merchant Shipping Act, 1854, and the Merchant Shipping Act Amendment Act, 1862, if the ship were registered under the former of those Acts, and the railway administration were owner of the ship, and not to any greater extent.

(2) The burden of proving that any such loss, injury, or damage as is mentioned in sub-section (1), happened during the carriage by sea, shall lie on the railway administration.

CHAPTER VIII.

ACCIDENTS.

Report of railway accidents.

83. When any of the following accidents occurs in the course of working a railway, namely :—

(*a*) any accident attended with loss of human life, or with grievous hurt as defined in the Indian Penal Code, or with serious injury to property ;

(*b*) any collision between trains of which one is a train carrying passengers ;

(*c*) the derailment of any train carrying passengers, or of any part of such a train ;

(*d*) any accident of a description usually attended with loss of human life, or with such grievous hurt as aforesaid, or with serious injury to property ;

(*e*) any accident of any other description which the Governor-General in Council may notify in this behalf in the *Gazette of India* ;

the railway administration working the railway, and, if the accident happens to a train belonging to any other railway administration, the other railway administration also, shall, without unnecessary delay, send notice of the accident to the Local Government, and to the Inspector appointed for the railway ; and the station-master nearest to the place at which the accident occurred, or, where there is no station-master, the railway servant in charge of the section of the railway on which the accident occurred, shall, without unnecessary delay, give notice of the accident to the Magistrate of the district in which the accident occurred, and to the officer in charge of the police-station within the local limits of which it occurred, or to such other Magistrate and police-officer as the Governor-General in Council appoints in this behalf.

Power to make rules regarding notices of, and inquiries into accidents.

84. The Governor-General in Council may make rules, consistent with this Act and any other enactment for the time being in force, for all or any of the following purposes, namely :—

(*a*) for prescribing the forms of the notices mentioned in the last foregoing section, and the particulars of the accident which those notices are to contain ;

(*b*) for prescribing the class of accidents of which notice is to be sent by telegraph immediately after the accident has occurred ;

(*c*) for prescribing the duties of railway servants, police-officers, Inspectors, and Magistrates on the occurrence of an accident.

Submission of return of accidents.

85. Every railway administration shall send to the Governor-General in Council a return of accidents occurring upon its railway whether attended with personal injury or not, in such form and manner, and at such intervals of time as the Governor-General in Council directs.

Provision for compulsory medical examination of person injured in railway accident.

86. Whenever any person injured by an accident on a railway claims compensation on account of the injury, any Court or person having, by law or consent of parties, authority to determine the claim may order that the person injured be examined by some duly-qualified medical practitioner named in the order, and not being a witness on either side, and may make such order with respect to the costs of the examination as it or he thinks fit.

CHAPTER IX.

PENALTIES AND OFFENCES.

Forfeitures by Railway Companies.

Penalty for default in compliance with requisition under section 13.

87. If a railway company fails to comply with any requisition made under section 13, it shall forfeit to the Government the sum of two hundred rupees for the default, and a further sum of 50 rupees for every day after the first during which the default continues.

Penalty for contravention of section 16, 18, 19, 20, 21, or 24.

88. If a railway company moves any rolling-stock upon a railway by steam or other motive power in contravention of section 16, sub-section (2), or opens or uses any railway or work in contravention of section 18, section 19, section 20, or section 21, or re-opens any railway, or uses any rolling-stock, in contravention of section 24, it shall forfeit to the Government the sum of two hundred rupees for every day during which the motive power, railway, work, or rolling-stock is used in contravention of any of those sections.

Penalty for not having certain documents kept or exhibited at stations under section 47, 54, or 65.

89. If a railway company fails to comply with the provisions of section 47, sub-section (6), section 54, sub-section (2), or section 65, with respect to the books or other documents to be kept open to inspection, or conspicuously posted at stations on its railway, it shall forfeit to the Government the

sum of fifty rupees for every day during which the default continues.

Penalty for not making rules as required by section 47.

90. If a railway company fails to comply with the provisions of section 47 with respect to the making of general rules, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues.

Penalty for failure to comply with decision under section 48.

91. If a railway company refuses or neglects to comply with any decision of the Governor-General in Council under section 48, it shall forfeit to the Government the sum of two hundred rupees for every day during which the refusal or neglect continues.

Penalty for delay in submitting returns under section 52 or 85.

92. If a railway company fails to comply with the provisions of section 52 or section 85 with respect to the submission of any return, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues after the fourteenth day from the date prescribed for the submission of the return.

Penalty for neglect of provisions of section 53 or 63 with respect to carrying capacity of rolling-stock.

93. If a railway company contravenes the provisions of section 53 or section 63, with respect to the maximum load to be carried in any wagon or truck, or the maximum number of passengers to be carried in any compartment, or the exhibition of such load on the wagon or truck, or of such number in or on the compartment, or knowingly suffers any person owning a wagon or truck passing over its railway to contravene the provisions of the former of those sections, it shall forfeit to the Government the sum of twenty rupees for every day during which either section is contravened.

Penalty for failure to comply with requisition under section 62 for maintenance of means of communication between passengers and railway servants.

94. If a railway company fails to comply with any requisition of the Governor-General in Council under section 62 for the provision and maintenance in proper order, in any train worked by it which carries passengers, of such efficient means of communication as the Governor-General in Council has approved, it shall forfeit to the Government the sum of twenty rupees for each train run in disregard of the requisition,

Penalty for failure to reserve compartments for females under section 64.

95. If a railway company fails to comply with the requirements of section 64 with respect to the reservation of compartments for females or the provision of closets therein, it shall forfeit to the Government the sum of twenty rupees for every train in respect of which the default occurs,

Penalty for omitting to give the notices of accidents required by section 83 and under section 84.

96. If a railway company omits to give such notice of an accident as is required by section 83 aad the rules for the time being in force under section 84, it shall forfeit to the Government the sum of one hundred rupees for every day during which the omission continues.

Recovery of penalties.

97. (1) When a railway company has, through any act or omission, forfeited any sum to the Government under the foregoing provisions of this chapter, the sum shall be recoverable by suit in the District Court having jurisdiction in the place where the act or omission or any part thereof occurred.

(2) The suit must be instituted with the previous sanction of the Governor-General in Council, and the plaintiff therein shall be the Secretary of State for India in Council.

(3) The Governor-General in Council may remit the whole or any part of any sum forfeited by a railway company to the Government under the foregoing provisions of this chapter.

Alternative or supplementary character of remedies afforded by the foregoing provisions of this chapter.

98. Nothing in those provisions shall be construed to preclude the Government from resorting to any other mode of proceeding instead of, or in addition to, such a suit as is mentioned in the last foregoing section, for the purpose of compelling a railway comany to discharge any obligation imposed upon it by this Act.

Offences by Railway Servants.

Breach of duty imposed by section 60.

99. If a railway servant whose duty it is to comply with the provisions of section 60 negligently or wilfully omits to comply therewith, he shall be punished with fine which may extend to twenty rupees.

Drunkenness.

100. If a railway servant is in a state of intoxication while on duty, he shall be punished with fine which may extend to fifty rupees, or, where the improper performance of the duty would be likely to endanger the safety of any person travelling or being upon a railway, with imprisonment for a term which may extend to one year, or with fine, or with both,

Endangering the safety of persons.

101. If a railway servant, when on duty, endangers the safety of any person—

(*a*) by disobeying any general rule made, sanctioned published, and notified under this act, or

(*b*) by disobeying any rule or order which is not inconsistent with any such general rule, and which such servant

was bound by the terms of his employment to obey, and of which he had notice, or

(*c*) by any rash or negligent act or omission,

he shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to five hundred rupees. or with both.

Compelling passengers to enter carriages already full.

102 If a railway servant compels, or attempts to compel, or causes, any passenger to enter a compartment which already contains the maximum number of passengers exhibited therein or otheron under section 63, he shall be punished with fine which may extend to twenty rupees.

Ommission to give notice of accident

103. If a station-master or a railway servant in charge of a section of a railway omits to give such notice of an accident as is required by section 83 and the rules for the time being in force under section 84, he shall be punished with fine which may extend to fifty rupees.

Obstructing level-crossings.

104. If a railway servant unnecessarily.

(*a*) allows any rolling-stock to stand across a place where the railway crosses a public road on the level, or

(*b*) keeps a level-crossing closed against the public,

he shall be punished with fine which may extend to twenty rupees.

False returns.

105. If any return which is required by this Act is false in any particular to the knowledge of any person who signs it that person shall be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to one year, or with both.

Other Offences.

Giving false account of goods.

106. If a person requested under section 58 to give an account with respect to any goods gives an account which is materially false, he. and, if he is not the owner of the goods, the owner also, shall be punished with fine which may extend to ten rupees for every maund or part of a maund of the goods, and the fine shall be in addition to any rate or other charge to which the goods may be liable.

107. If, in contravention of section 59, a person takes with him any dangerous or offensive goods upon a railway, or tenders or delivers any such goods for carriage upon a railway he shall be punished with fine which may extend to five hundred rupees, and shall also be responsible for any loss, injury, or damage, which may be caused by reason of such goods having been so brought upon the railway.

Unlawfully bringing dangerous or offensive goods upon a railway.

108. If a passenger, without reasonable and sufficient cause makes use of, or interferes with, any means provided by a railway administration for communication between passengers and the railway servants in charge of a train, he shall be punished with fine which may extend to fifty rupees.

Needlessly interfering with means of communication in a train.

109. (1) If a passenger, having entered a compartment which is reserved by a railway administration for the use of another passenger, or which already contains the maximum number of passengers exhibited therein or thereon under section 63, refuses to leave it when required to do so by any railway servant, he shall be punished with fine which may extend to twenty rupees.

Entering compartment reserved or already full, or resisting entry into a compartment not full.

(2) If a passenger resists the lawful entry of another passenger into a compartment not reserved by the railway administration for the use of the passenger resisting, or not already containing the maximum number of passengers exhibited therein or thereon under section 63, he shall be punished with fine which may extend to twenty rupees.

110 (1) If a person, without the consent of his fellow-passengers, if any, in the same compartment, smokes in any compartment except a compartment specially provided for the purpose, he shall be punished with fine which may extend to twenty rupees.

Smoking.

(2) If any person persists in so smoking after being warned by any railway servant to desist, he may, in addition to incurring the liability mentioned in sub-section (1), be removed by any railway servant from the carriage in which he is travelling.

111. If a person, without authority in this behalf, pulls down, or wilfully injures, any board or document set up or posted by order of a railway administration on a railway or any rolling-stock, or obliterates or alters any of the letters or figures upon any such board or document, he shall be punished with fine which may extend to fifty rupees.

Defacing public notices.

Fraudulently travelling or attempting to travel without proper pass or ticket.

112. If a person, with intent to defraud a railway administration,—

(*a*) enters, in contravention of section 68, any carriage on a railway, or

(*b*) uses or attempts to use a single pass or single ticket which has already been used on a previous journey, or, in the case of a return ticket, a half thereof which has already been so used,

he shall be punished with fine which may extend to one hundred rupees in addition to the amount of single fare for any distance which he may have travelled.

Travelling without pass or ticket, or with insufficient pass or ticket, or beyond authorized distance.

113. (1) If a passenger travels in a train without having a proper pass or a proper ticket with him or, being in or having alighted from a train, fails or refuses to present for examination, or to deliver up, his pass or ticket immediately on requisition being made therefor under section 69, he shall be liable to pay, on the demand of any railway servant appointed by the railway administration in this behalf, the excess charge hereinafter in this section mentioned, in addition to the ordinary single fare for the distance which he has travelled, or, where there is any doubt as to the station from which he started, the ordinary single fare from the station from which the train originally started, or, if the tickets of passengers travelling in the train have been examined since the original starting of the train, the ordinary single fare from the place where the tickets were examined, or, in case of their having heen examined more than once, were last examioed,

(2) If a passenger travels or attempts to travel in or on a carriage, or by a train, of a higher class than that for which he has obtained a pass or purchased a ticket, or travels in or on a carriage beyond the place authorized by his pass or ticket, he shall be liable to pay, on the demand of any railway servant appointed by the railway administration in this behalf, the excess charge hereinafter in this section mentioned, in addition to any difference between any fare paid by him and the fare payable in respect of such journey as he has made,

(3) The excess charge referred to in sub-section (1) and sub-section (2) shall,—

(*a*) where the passenger has, immediately after incurring the charge, and befere being detected by a railway servant, noticed to the railway servant on duty with the train the fact of the charge having been incurred, be one rupee, two annas, or eight annas, and

(*b*) in any other case, be six rupees, one rupee, or three rupees,

according as the passenger is travelling or has travelled or has attempted to travel, in a carriage of the highest class, or in a carriage of the lowest class, or in a carriage of any other class or kind;

Provided that such excess charge shall in no case exceed,—

(*a*) where the liability to pay it arises under sub-section (1), the amount of the ordinary single fare which the passenger, incurring the charge is liable to pay under that sub-section, or

(*b*) where such liability arises under sub-section (2), the amount of the difference between the fare paid by the passenger incurring the charge and the fare payable in respect of such journey as he has made.

(4) If a passenger liable to pay the excess charge and fare mentioned in sub-section (1), or the excess charge and any difference of fare mentioned in sub section (2), fails or refuses to pay the same on demand being made therefor under one or other of those sub-sections, as the case may be, the sum payable by him shall, on application made to any Magistrate by any railway servant appointed by the railway administration in this behalf, be recovered by the Magistrate from the passenger as if it were a fine imposed on the passenger by the Magistrate, and shall, as it is recovered, be paid to the railway administration.

Transferring return half of return ticket.

114. If a person sells or attempts to sell, or parts or attempts to part with the possession of, "any half"* of a return ticket in order to enable any other person to travel therewith, or purchases such half of a return ticket, he shall be punished with fine which may extend to fifty rupees, and, if the purchaser of such half of a return ticket travels or attempts to travel therewith, he shall be punished with an additional fine which may extend to the amount of the single fare for "the journey"* authorized by the ticket.

Disposal of fines under the two last foregoing sections.

115. That portion of any fine imposed under section 112 or the last foregoing section which represents the single fare therein mentioned shall, as the fine is recovered, be paid to the railway administration before any portion of the fine is credited to the Government.

* The words quoted have been inserted by Act IX, of 1896, s. 6

Altering or defacing pass or ticket.

116. If a passenger wilfully alters or defaces his pass or ticket so as to render the date, number, or any material portion thereof illegible, he shall be punished with fine which may extend to fifty rupees.

Being or suffering person to travel on railway with infectious or contagious disorder.

117. (1) If a person suffering from an infectious or contagious disorder enters or travels upon a railway in contravention of section 71, sub-section (2), he, and any person having charge of him upon the railway when he so entered or travelled thereon, shall be punished with fine which may extend to twenty rupees, in addition to the forfeiture of any fare which either of them may have paid, and of any pass or ticket which either of them may have obtained or purchased, and may be removed from the railway by any railway servant

(2) If any such railway servant as is referred to in section 71, sub-section (2), knowing that a person is suffering from any infectious or contagious disorder, wilfully permits the person to travel upon a railway without arranging for his separation from other passengers he shall be punished with fine which may extend to one hundred rupees.

Entering carriage in motion, or otherwise improperly travelling on a railway.

118. (1) If a passenger enters or leaves, or attempts to enter or leave, any carriage while the train is in motion, or elsewhere than at the side of the carriage adjoining the platform or other place appointed by the railway administration for passengers to enter or leave the carriage, or opens the side-door of any carriage while the train is in motion, he shall be punished with fine which may extend to twenty rupees.

(2) If a passenger, after being warned by a railway servant to desist, persists in travelling on the roof, steps, or footboard of any carriage, or on an engine, or in any other part of a train not intended for the use of passengers, he shall be punished with fine which may extend to fifty rupees, and may be removed from the railway by any railway servant.

Entering carriage or other place reserved for female.

119. If a male person, knowing a carriage, compartment, room, or other place to be reserved by a railway administration for the exclusive use of females, enters the place without lawful excuse, or, having entered it, remains therein after having been desired by any railway servant to leave it, he shall be punished with fine which may extend to one hundred rupees, in addition to the forfeiture of any fare which he may have paid, and of any pass or ticket which he may have obtained or purchased, and may be removed from the railway by any railway servant.

Drunkenness or nuisance on a railway.

120. If a person, in any railway carriage or upon any part of a railway,—

(*a*) is in a state of intoxication, or

(*b*) commits any nuisance or act of indecency, or uses obscene or abusive language, or

(*c*) wilfully and without lawful excuse, interferes with the comfort of any passenger, or extinguishes any lamp,

he shall be punished with fine which may extend to fifty rupees, in addition to the forfeiture of any fare which he may have paid, and of any pass or ticket which he may have obtained or purchased, and may be removed from the railway by any railway servant.

Obstructing railway servant in his duty.

121. If a person wilfully obstructs or impedes any railway servant in the discharge of his duty, he shall be punished with fine which may extend to one hundred rupees.

Trespass and refusal to desist from trespass.

122. (1) If a person unlawfully enters upon a railway, he shall be punished with fine which may extend to fifty rupees.

(2) If a person so entering refuses to leave the railway on being requested to do so by any railway servant, or by any other person on behalf of the railway administration, he shall be punished with fine which may extend to fifty rupees, and may be removed from the railway by such servant or other person.

Disobedience of omnibus drivers to directions of railway servants.

123. If a driver or conductor of a tramcar, omnibus, carriage, or other vehicle, while upon the premises of a railway, disobeys the reasonable directions of any railway servant or police officer, he shall be punished with fine which may extend to twenty rupees.

Opening or not properly shutting gates.

124. In either of the following cases, namely :—

(*a*) if a person, knowing or having reason to believe that an engine or train is approaching along a railway, opens any gate set up on either side of the railway across a road, or passes or attempts to pass, or drives or takes, or attempts to drive or take, any animal, vehicle, or other thing across the railway ;

(*b*) if, in the absence of a gate-keeper, a person omits to shut and fasten such a gate as aforesaid as soon as he and any animal, vehicle, or other thing under his charge have passed through the gate,

the person shall be punished with fine which may extend to fifty rupees.

Cattle-trespass.

125. (1) The owner or person in charge of any cattle straying on a railway provided with fences suitable for the exclusion of cattle shall be punished with fine which may extend to five rupees for each head of cattle, in addition to any amount which may have been recovered, or may be recoverable under the Cattle-trespass Act, 1871.

(2) If any cattle are wilfully driven, or knowingly permitted to be, on any railway otherwise than for the purpose of lawfully crossing the railway, or for any other lawful purpose, the person in charge of the cattle, or, at the option of the railway administration, the owner of the cattle, shall be punished with fine which may extend to ten rupees for each head of cattle, in addition to any amount which may have been recovered or may be recoverable under the Cattle-trespass Act, 1871.

(3) Any fine imposed under this section may, if the Court so directs, be recovered in manner provided by section 25 of the Cattle-trespass Act, 1871.

(4) The expression "public road" in sections 11 and 26 of the Cattle-trespass Act, 1871, shall be deemed to include a railway, and any railway servant may exercise the powers conferred on officers of police by the former of those sections.

(5) The word "cattle" has the same meaning in this section as in the Cattle-trespass Act, 1871.

Maliciously wrecking or attempting to wreck a train.

126. If a person unlawfully —

(*a*) puts or throws upon or across any railway any wood, stone, or other matter or thing, or

(*b*) takes up, removes, loosens, or displaces any rail, sleeper, or other matter or thing belonging to any railway, or

(*c*) turns, moves, unlocks, or diverts any points or other machinery belonging to any railway, or

(*d*) makes or shows, or hides or removes, any signal or light upon or near to any railway, or

(*e*) does or causes to be done, or attempts to do, any other act or thing in relation to any railway,

with intent, or with knowledge that he is likely, to endanger the safety of any person travelling or being upon the railway, he shall be punished with transportation for life, or with imprisonment for a term which may extend to ten years.

127. If a person unlawfully throws or causes to fall or strike at, against, into, or upon any rolling-stock forming part of a train any wood, stone, or other matter or thing, with intent, or with knowledge that he is likely, to endanger the safety of any person being in or upon such rolling-stock, or in or upon any other rolling-stock forming part of the same train, he shall be punished with transportation for life, or with imprisonment for a term which may extend to ten years.

Maliciously hurting or attempting to hurt persons travelling by railway.

128. If a person, by any unlawful act, or by any wilful omission or neglect, endangers or causes to be endangered the safety of any person travelling or being upon any railway, or obstructs or causes to be obstructed, or attempts to obstruct, any rolling-stock upon any railway, he shall be punished with imprisonment for a term which may extend to two years.

Endangering safety of persons travelling by railway by wilful act or omission.

129. If a person rashly or negligently does any act, or omits to do what he is legally bound to do, and the act or omission is likely to endanger the safety of any person travelling or being upon a railway, he shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both,

Endangering safety of persons travelling by railway by rash or negligent act or omission.

130. (1) If a minor under the age of twelve years is, with respect to any railway, guilty of any of the acts or omissions mentioned or referred to in any of the four last foregoing sections, he shall be deemed, notwithstanding anything in section 82 or section 83 of the Indian Penal Code, to have committed an offence, and the Court convicting him may, if it thinks fit, direct that the minor, if a male, shall be punished with whipping, or may require the father or guardian of the minor to execute, within such time as the Court may fix, a bond binding himself, in such penalty as the Court directs, to prevent the minor from being again guilty of any of those acts or omissions.

Special provision with respect to the commission by children of acts endangering safety of persons travelling by railway.

(2) The amount of the bond, if forfeited, shall be recoverable by the Court as if it were a fine imposed by itself.

(3) If a father or guardian fails to execute a bond under sub-section (1) within the time fixed by the Court, he shall be punished with fine which may extend to fifty rupees.

Procedure.

131. (1) If a person commits any offence mentioned in section 100, 101, 119, 120, 121, 126, 127, 128, or 129, or in section 130, sub-section (1), he may be arrested, without warrant or other

Arrest for offences against certain sections.

written authority, by any railway servant or police-officer, or by any other person whom such servant or officer may call to his aid.

(2) A person so arrested shall with the least possible delay, be taken before a Magistrate having authority to try him, or commit him for trial.

Arrest of persons likely to abscond or unknown.

132. (1) If a person commits any offence under this Act, other than an offence mentioned in the last foregoing section, or fails or refuses to pay any excess charge or other sum demanded under section 113, and there is reason to believe that he will abscond, or his name and address are unknown, and he refuses on demand to give his name and address, or there is reason to believe that the name or address given by him is incorrect, any railway servant or police officer, or any other person whom such railway servant or police-officer may call to his aid, may, without warrant or other written authority, arrest him.

(2) The person arrested shall be released on his giving bail, or, if his true name and address are ascertained, on his executing a bond without sureties, for his appearance before a Magistrate when required.

(3) If the person cannot give bail, and his true name and address are not ascertained, he shall, with the least possible delay, be taken before the nearest Magistrate having jurisdiction.

(4) The provisions of chapters XXXIX. and XLII. of the Code of Criminal Procedure, 1882, shall, so far as may be, apply to bail given, and bonds executed, under this section.

Magistrates having jurisdiction under Act.

133. No Magistrate other than a Presidency Magistrate, or than a Magistrate whose powers are not less than those of a Magistrate of the second class, shall try any offence under this Act.

Place of trial.

134. (1) Any person commiting any offence against this Act or any rule thereunder shall be triable for such offence in any place in which he may be, or which the Local Government may notify in this behalf, as well as in any other place in which he might be tried under any law for the time being in force.

(2) Every notification under sub-section (1) shall be published in the local official Gazette, and a copy thereof shall be exhibited for the information of the public in some conspicuous place at each of such railway stations as the Local Government may direct.

CHAPTER X.

SUPPLEMENTAL PROVISIONS.

Taxation of railway by local authorities.

135. Notwithstanding anything to the contrary in any enactment, or in any agreement or award based on any enactmeut, the following rules shall regulate the levy of taxes in respect of railways, and from railway administrations in aid of the funds of local authorities, namely :—

(1) A railway administration shall not be liable to pay any tax in aid of the funds of any local authority, unless the Governor-General in Council has, by notification in the official Gazette, declared the railway administration to be liable to pay the tax.

(2) While a notification of the Governor-General in Council under elause (1) of this section is in force, the railway administration shall be liable to pay to the local authority either the tax mentioned in the notification, or, in lieu thereof, such sum, if any, as an officer appointed in this behalf by the Governor-General in Council may, having regard to all the circumstances of the case, from time to time determine to be fair and reasonable.

(3) The Governor-General in Council may, at any time, revoke or vary a notification under clause (1) of this section.

(4) Nothing in this section is to be construed as debarring any railway administration from entering into a contract with any local authority for the supply of water or light, or for the scavenging of railway premises, or for any other service which the local authority may be rendering, or be prepared to render, within any part of the local area under its control.

(5) "Local authority" in this section means a local authority as defined in the General Clauses Act, 1887, and includes any authority legally entitled to, or entrusted with, the control or management of any fund for the maintenance of watchmen, or for the conservancy of a river.

Restriction on execution against railway property.

136. (1) None of the rolling-stock, machinery, plant, tools, fittings, materials, or effects used or provided by a railway administration for the purpose of the traffic on its railway, or of its stations or workshops, shall be liable to be taken in execution of any decree or order of any Court "or of any local authority or person having by law power to attach or distrain property or otherwise to cause property to be taken in execution,"* without the previous sanction of the Governor-General in Council.

(2) Nothing in sub-section (1) is to be construed as affecting the authority of any Court to attach the earnings of a railway in execution of a decree or order.

Railway servants to be public servants for the purposes of chapter IX. of the Indian Penal Code.

137. (1) Every railway servant shall be deemed to be a public servant for the purposes of chapter IX. of the Indian Penal Code.

(2) In the definition of "legal remuneration" in section 161 of that Code, the word "Government" shall, for the purposes of sub-section (1), be deemed to include any employer of a railway servant as such.

(3) A railway servant shall not—

(*a*) purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property put up to auction under section 55 or section 56, or

(*b*) In contravention of any direction of the railway administration in this behalf, engage in trade.

(4) Notwithstanding anything in section 21 of the Indian Penal Code, a railway servant shall not be deemed to be a public servant for any of the purposes of that Code except those mentioned in sub-section (1).

Procedure for summary delivery to railway administration of property detained by a railway servant.

138. If a railway servant is discharged or suspended from his office, or dies, absconds, or absents himself, and he or his wife or widow, or any of his family or representatives, refuses or neglects, after notice in writing for that purpose, to deliver up to the railway administration, or to a person appointed by the railway administration in this behalf, any station, dwelling-house, office, or other building, with its appurtenances, or any books, papers, or other matters, belonging to the railway administration, and in the possession or custody of such railway servant at the occurrence of any such event as aforesaid, any Magistrate of the first class may, on application made by or on behalf of the railway administration, order any Police-officer, with proper assistance, to enter upon the building, and remove any person found therein, and take possession thereof, or to take possession of the books, papers, or other matters, and to deliver the same to the railway administration or a person appointed by the railway administration in that behalf.

Mode of signifying communications from the Governor-General in Council.

139. Any notice, determination, direction, requisition, appointment, expression of opinion, approval, or sanction to be given or signified on the part of the Governor-General in Council, for any of the purposes of, or in relation to, this Act, or any of

* The portion quoted has been inserted by Act IX. of 1898, s. 7.

the powers or provisions therein contained, shall be sufficient and binding, if in writing signed by a Secretary, Deputy-Secretary, Under-Secretary, or Assistant-Secretary, to the Government of India, or by any other officer or servant authorized to act on behalf of the Governor-General in Council in respect of the matters to which the same may relate, and the Governor-General in Council shall not in any case be bound in respect of any of the matters aforesaid unless by some writing signed in manner aforesaid.

Service of notices by railway administrations.

140. Any notice or other document required or authorized by this Act to be served on a railway administration may be served, in the case of a railway administered by the Government or a native State, on the Manager, and, in the case of a railway administered by a railway company, on the Agent in India of the railway company—

(*a*) by delivering the notice or other document to the Manager or Agent, or

(*b*) by leaving it at his office, or

(*c*) by forwarding it by post in a prepaid letter addressed to the Manager or Agent at his office, and registered under Part III. of the Indian Post Office Act, 1866.

Service of notices by railway administrations.

141. Any notice or other document required or authorized by this Act to be served on any person by a railway administration may be served—

(*a*) by delivering to the person, or

(*b*) by leaving it at the usual or last-known place of abode of the person, or

(*c*) by forwarding it by post in a prepaid-letter addressed to the person at his usual or last-known place of abode, and registered under Part III. of the Indian Post Office Act, 1866.

Presumption where notice is served by post.

142. Where a notice or other document is served by post, it shall be deemed to have been served at the time when the letter containing it would be delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the letter containing the notice or other document was properly addressed and registered.

Provisions with respect to rules.

143. (1) A rule under section, 22, section 34, or section 84, or the cancellation, rescission, or variation of a rule under any of those sections, or under section 47, sub section (4), shall not take effect until it has been published in the *Gazette of India*.

(2) Where any rule made under this Act, or the cancellation, rescission or variation or any such rule, is required by this Act to be published in the *Gazette of India*, it shall, besides being so published, be further notified to persons affected thereby in such manner as the Governor-General in Council, by general or special order, directs.

(3) The Governor-General in Council may cancel or vary any rule made by him under this Act.

Deligation of powers of Governor-General in Council.

144. (1) The Governor-General in Council may, by notification in the *Gazette of India*, invest, absolutely or subject to conditions, any Local Government with any of the powers or functions of the Governor-General in Council under this Act with respect to any railway, and may by that or a like notification, declare what Local Government shall, for the purposes of the exercise of powers or functions so conferred, be deemed to be the Local Government in respect of the railway.

(2) The provisions of section 139 with respect to proceedings of the Governor-General in Council shall, so far as they can be made applicable, apply to proceedings of a Local Government exercising the powers, or discharging the functions, of the Governor-General in Council in pursuance of a notification under sub-section (1).

Representation of Managers and Agents of Railways in Courts.

145. (1) The Manager of a railway administered by the Government or a Native State, and the Agent in India of a railway administered by a railway company, may, by instrument in writing, authorize any railway servant or other person to act for or represent him in any proceeding before any Civil, Criminal, or other Court.

(2) A person authorized by a Manager or Agent to conduct prosecutions on behalf of a railway administration shall, notwithstanding anything in section 495 of the Code of Criminal Procedure, 1882, be entitled to conduct such prosecutions without the permission of the Magistrate.

Power to extend Act to steam-tramways.

146. The Governor-General in Council may, by notification in the *Gazette of India*, extend this Act or any portion thereof to any tramway worked by steam or other mechanical power.

Power to exempt railways from Act.

147. The Governor-General in Council may, by a like notification exempt any railway from any of the provisions of this Act.

Matters supplemental to the definitions of "railway" and "railway servant".

148. (1) For the purposes of section 3, clauses (5), (6), and (7), and section 4 to 19 (both inclusive), 47 to 52 (both inclusive), 59, 79, 83, to 92 (both inclusive), 96, 97, 98, 100, 101, 103, 104, 107, 111, 122, 124, to 132 (both inclusive), 134 to 138, (both inclusive), 140, 141, 144, 145, and 147, the word "railway" whether it occurs alone or as a prefix to another word, has reference to a railway or portion of a railway under construction, and to a railway or portion of a railway not used for the public carriage of passengers, animals, or goods, as well as to a railway falling within the definition of that word in section 3, clause (4).

(2) For the purposes of sections 5, 21, 83, 100, 101, 103, 104, 121, 122. 125, and 137, sub-sections (1), (2), and (4), and section 138, the expression "railway servant" includes a person employed upon a railway in connection with the service thereof by a person fulfilling a contract with the railway administration.

Amendment of the Indian Penal Code.

149. In sections 194 and 195 of the Indian Penal Code, for the words, "by this Code or the law of England," the words, "by the law of British India or England," shall be substituted.

Amendment of the Sindh-Pishin Railway Act, 1887.

150. For that portion of the preamble to the Sindh-Pishin Railway Act, 1887, which begins with the words, "so far as it applies," and ends with the words, "in its entirety," the words, "should apply in its entirety to that part of the Sindh-Pishin section of the North-Western Railway which lies beyond the Province of Sindh," shall be substituted.

THE FIRST SCHEDULE.*

ENACTMENTS REPEALED.

(*See section* 2.)

Number and year.	Title.	Extent of repeal.
Acts of the Governor-General in Council.		
III. of 1865 ...	Carriages Act, 1865 ...	Section 7 (so far as it relates to railways) and section 10.
IV. of 1879 ...	Indian Railwny Act, 1879	The whole.
IV. of 1883 ...	Indian Railway Act, 1883	The whole.
XI. of 1886 ...	Indian Tramways Act, 1886	Section 49.
Act of the Lieutenant-Governor of Bengal in Council.		
II. of 1882 ...	Bengal Embankment Act, 1882.	Section 16, and in section 17 the proviso to the first paragraph of that section, the words, "or under the section last preceding," and the words, "or railroad," wherever they occur.

* So much of it as related to Act XX. of 1886, has been repealed by Act XIII of 1898.

THE SECOND SCHEDULE.

ARTICLES TO BE DECLARED AND INSURED.

(*See section* 75.)

(*a*) gold and silver, coined or uncoined, manufactured or unmanufactured;

(*b*) plated articles;

(*c*) cloths and tissue and lace of which gold or silver forms part, not being the uniform or part of the uniform of an officer, soldier, sailor, police-officer, or person enrolled as a volunteer under the Indian Volunteers Act, 1869, or of any public officer, British or foreign, entitled to wear uniform;

(*d*) pearls, precious stones, jewellery, any trinkets;

(*e*) watches, clocks, and timepieces of any description;

(*f*) Government securities;

(*g*) Government stamp;

(*h*) bills of exchange, hundis promissory-notes, bank-notes, and orders or other securities for payment of money;

(*i*) maps, writings, and title-deeds;

(*j*) paintings, engravings, lithographs, photographs, carvings, sculpture, and other works of art;

(*k*) art-pottery, and all articles made of glass, china, or marble;

(*l*) silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials;

(*m*) shawls;

(*n*) lace and furs;

(*o*) opium;

(*p*) ivory, ebony, coral, and sandalwood;

(*q*) musk, sandalwood oil, and other essential oils used in the preparation of *itr* or other perfume;

(*r*) musical and scientific instruments;

(*s*) any article of special value which the Governor-General in Council may, by notification in the *Gazette of India*, add to this schedule.

ACT X. OF 1890.

The Press and Registration of Books Act (1867) Amendment Act, 1890.

RECEIVED THE G.-G.'S ASSENT ON THE 21ST MARCH 1890.

An Act to amend Act XXV. of 1867.

WHEREAS it is expedient to amend Act XXV, of 1867 (*an act for the regulation of Printing-Presses and Newspapers, for the preservation of copies of books printed in British India, and for the registration of such books*) ; It is hereby enacted as follows :—

1., 2. [*Repealed by Act XII. of 1891, sch. I.*]

Amendment of section 6, Act XXV. 1867.

3. In section 6 of the said Act, for the words, "other Court within the local limits of whose ordinary original civil jurisdiction," the words, "other principal Civil Court of original jurisdiction for the place where," shall be substituted.

Substitution of new Part for Part III., Act XXV., 1886.

4. For Part III., (sections 9, 10, and 11) of the said Act the following shall be substituted, namely :—

"PART III.

"DELIVERY OF BOOKS.

[*Printed in Vol. I., p.* 825.]

Substitution of new sections for sections 16 and 17, Act XXV., 1867.

5. For sections 16 and 17 of the said Act the following shall be substituted, namely :—

"16. 17. [*Printed in Vol. I. , p.* 827.]

Amendment of section 18, Act XXV., 1867.

6. In section 18 of the said Act, there shall be substituted for the words and figure, "pursuant to section 9," the words, letter, and figure, "pursuant to clause (*a*) of the first paragraph of section 9," and for the words, "copies thereof in manner aforesaid," the words, letter, and figure. "copy thereof pursuant to clase (*a*) of the first paragraph of section 9,"

7. [*Repealed by Act XII. of* 1891, *sch. I.*]

ACT XI. OF 1890.

Prevention of Cruelty to Animals Act.

RECEIVED THE G.-G.'S ASSENT ON THE 21ST MARCH 1890.

An Act for the Prevention of Cruelty to Animals.

WHEREAS it is expedient to make further provisions for the prevention of cruelty to animals; It is hereby enacted as follows:—

Title, extent, and commencement, and supersession of other enactments.

1. (1) This Act may be called the Prevention of Cruelty to Animals Act, 1890.

(2) This section extends to the whole of British India; and the Local Government may, by notification in the official Gazette, extend, on and from a date to be specified in the notification, the whole or any part of the rest of this Act to any such local area as it thinks fit.

(3) When any part of this Act has been extended under sub-section (2) to a local area, the Local Government may, by notification in the official Gazette, direct that the whole or any part of any other enactment in force in the local area for the prevention of cruelty to animals shall, except as regards anything done, or any offence committed, or any fine or penalty incurred, or any proceedings commenced, cease to have effect in the local area, and such whole or part shall cease to have effect accordingly, until the Local Government, by a like notification, otherwise directs.

(4) The Local Government may cancel or vary a notification under sub-section (2) or sub-section (3).

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) "animal" means any domestic or captured animal: and

(2) "street" includes any way, road, lane, square. court, alley, passage, or open space, whether a thoroughfare or not, to which the public have access.

Penalty for cruely to animals in public places, and for sale in such places of animals killed with unnecessary cruelty.

3. If any person in any street or in any other place, whether open or closed, to which the public have access, or within sight of any person in any street or in any such other place,—

(*a*) cruelly and unnecessarily beats, over-drives, overloads, or otherwise ill-treats any animal, or

(*b*) binds or carries any animal in such a manner or position as to subject the animal to unnecessary pain or suffering, or

(*c*) offers, exposes, or has in his possession for sale, any live animal which is suffering pain by reason of mutilation, starvation, or other ill-treatment, or any dead animal which he has reason to believe to have been killed in an unnecessarily cruel manner,

he shall be punished with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to three months, or with both,

Penalty for practising phuka.

4. If any person performs upon any cow the operation called phuka, he shall be punished with fine which may extend to one hundred rupees, or with imprisonment which may extend to three months, or with both.

Penalty for killing animals with unnecessary cruelty anywhere.

5. If any person kills any animal in an unnecessarily cruel manner, he shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

Penalty for being in possession of the skin of a goat killed with unnecessary cruelty.

5A.* If any person has in his possession the skin of a goat, and has reason to believe that the goat has been killed in an unnecessarily cruel manner, he shall be punished with fine which may extend to one hundred rupees, or with imprisonment which may extend to three months, or with both, and the skin shall be confiscated.

Presumptions as to possession of the skin of a goat.

5B.* If any person is charged with the offence of killing a goat contrary to the provisions of section 5, or with an offence punishable under section 5A, and it is proved that such person had in his possession, at the time the offenee was alleged to have been committed, the skin of a goat with any part of the skin of the head attached thereto, it shall be presumed, until the contrary be proved that such goat was killed in an unnecessarily cruel manner, and that the person in possession of such skin had reason so to believe.

Penalty for employing anywhere animals unfit for labour.

6. (1) If any person employs in any work or labour any animal which, by reason of any disease, infirmity, wound, sore, or other cause, is unfit to be so employed, or permits any such unfit animal in his possession, or under his control, to be so employed, he shall be punished with fine which may extend to one hundred rupees.

* Sections 5A and 5B have been inserted by Act 14 of 1917.

(2) The Local Government may, by general or special order, appoint places to be infirmaries for the treatment and care of animals in respect of which offences against sub-section (1) have been committed.

(3) The Magistrate before whom a prosecution for such an offence has been instituted may direct that the animal in respect of which the offence is alleged or proved to have been committed shall be sent for treatment and care to an infirmary, and be there detained until it is in his opinion, or in the opinion of some other Magistrate, again fit for work or labour on which it has been ordinarily employed.

(4) The cost of the treatment, feeding, and watering of the animal in the infirmary shall be payable by the owner of the animal according to such scale of rates as the District Magistrate, or, in the case of an infirmary in a Presidency-town, the Commissioner of Police, may from time to time prescribe.

(5) If the owner refuses or neglects to pay such cost, and to remove the animal within such time as a Magistrate may prescribe, the Magistrate may direct that the animal be sold, and that proceeds of the sale be applied to the payment of such cost.

(6) The surplus, if any, of the proceeds of the sale, shall on application made by the owner within two months after the date of the sale, be paid to him, but the owner shall not be liable to make any payment in excess of the proceeds of the sale.

Penalty for permitting diseased animals to go at large or to die in public places.

7. If any person wilfully permits any animal, of which he is the owner, to go at large in any street while the animal is affected with contagious or infectious disease, or, without reasonable excuse, permits any diseased or disabled animal, of which he is the owner, to die in any street, he shall be punished with fine which may extend to one hundred rupees.

Special power of search and seizure in respect of certain offences.

7A.* If a police officer, not below the rank of sub-inspector, has reason to believe that an offence, under section 5 in respect of a goat, is being or is about to be, or has been committed in any place, or that any person has in his possession the skin of a goat with any part of the skin of the head attached thereto, he may enter and search such place or any place in which he has reason to believe any such skin to be, and may seize any such skin and any article or thing used or intended to be used in the commission of such offence.

Search-warrants.

8. (1) If a Magistrate of the first class, Sub-divisional Magistrate, Commissioner of Police, or District Superintendent of Police, upon information

* Sec. 7A has been inserted by Act 14 of 1917.

in writing, and after such inquiry as he thinks necessary,has reason to believe that an offence against section 4, section 5, or section 6, is being or is about to be or has been committed in any place, he may either himself enter and search, or, by his warrant, authorize any police-officer above the rank of a constable to enter and search, the place.

(2) The provisions of the Code of Criminal Procedure, 1882,* relating to searches under that Code, shall, so far as those provisions can be made applicable, apply to a search under sub-section (1) " or nnder section 7 A."†

Limitation for prosecutions.

9. A prosecution for an offence against this Act shall not be instituted after the expiration of three months from the date of the commission of the offence.

Destruction of suffering animals.

10. When any Magistrate, Commissioner of Police, or District Superintendent of Police has reason to believe that an offence against this Act has been committed in respect of any animal, he may direct the immediate destruction of the animal if, in his opinion, its sufferings are such as to render such a direction proper.

Saving with respect to religious rites and usages.

11. Nothing in this Act shall render it an offence to kill any animal in a manner required by the religion or religious rites and usages of any race, sect, tribe, or class.

Provision supplementary to section 1 with respect to extent of Act.

12. Notwithstanding anything in section 1, sections 9, 10, and 11 shall extend to every local area in which any section of this Act constituting an offence is for the time being in force.

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* See now Act V. of 1898.

† The words within quotations have been inserted by Act 14 of 1917.

ACT XIII OF 1890.

The Excise (Malt Liquors) Act, 1890.

RECEIVED THE G.-G.'S ASSENT ON THE 28TH MARCH 1890.

An Act to amend the Excise Act, 1881, and the Bengal Excise Act, 1878, and to apply to Malt Liquor certain provisions of the Sea Customs Act, 1878, respecting Spirit.

Whereas it is expedient* to apply to malt liquor certain provisions of the Sea Customs Act, 1878, respecting spirit ; It is hereby enacted as follows:—

Title and commencement.

1. (1) This Act may be called the Excise (Malt Liquors) Act, 1890; and

(2) It shall come into force at once.

Excise Act, 1881.

2 to 5. [*Repealed by Act XII. of 1896.*]

6 to 8. [*Repealed by Bengal Act V of 1909 and E. B. & A. Act I of 1910.*]

Drawback of Excise-duty on Export of Malt Liquor.

Application of provisions of section 150, Act VIII., 1878, to malt liquor.

9. The provisions of section 150 of the Sea Customs Act, 1878, with respect to the allowance of a drawback of excise-duty paid on spirit manufactured in British India and exported to a foreign port, and with respect to the regulation of the drawback by the quantity of such spirit, shall apply also, so far as they can be made applicable, to fermented liquor made in British India from malt and so exported, and to the drawback of the excise-duty paid on such liquor.

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* Certain words after this are repealed by Act 10 of 1914.

ACT XVI. OF 1890.

The Births, Deaths and Marriages Registration Act, (1886) Amendment Act, 1890.

RECEIVED THE G. G.'S ASSENT ON THE IITH SEPTEMBER 1890.

An Act to amend the Births, Deaths, and Marriages Registration Act, 1886.

WHEREAS it is expedient to amend the Births, Deaths, and Marriages Registration Act, 1886; It is hereby enacted as follows :—

Amendment of section 32, Act VI., 1886.

1. In section 32 of the said Act, for the words, "within one year from the date on which this Act comes into force," the words, "at any time before the first day of April 1891," shall be substituted.

2. [*Repealed by Act XXXVIII of* 1920.]

ACT XX. OF 1890.

The North-Western Provinces and Oudh Act, 1890.

RECEIVED THE G.-G.'S ASSENT ON THE 16TH OCTOBER 1890.

An act to provide for the Better Administration of the North-Western Provinces and Oudh, and to amend certain Enactments in force in those Provinces and in Oudh.

WHEREAS it is expedient to provide for the better administration of the territories respectively administered by the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh, and, for that purpose, to amend certain enactments which are in force in the said Provinces and in Oudh; It is hereby enacted as follows :—

Title.

1. This Act may be called the North-Western Provinces and Oudh Act, 1890.

PART 1.

THE NORTH-WESTERN PROVINCES.

Commencement of Part 1.

2. This Part shall come into force on such day as the said Lieutenant-Governor may, by notification in the official Gazette, direct.

3. [*Repealed by U. P. Act. III. of* 1901.]

4. [*Repealed by U. P. Act. III. of* 1901.]

And whereas it has been determined to annex the Jhansi Division, comprising the districts of Jhansi, Jalaun, and Lalatpur, to the Allahabad Division;

And whereas the said Jhansi Division is a scheduled district under the Scheduled Districts Act, 1874;

And whereas it is expedient that the law in force in the said division should, on such annexation, be the same as the law in force in the temporarily-settled districts comprised in the Allahabad Division, and that the said division should cease to be a scheduled district;

It is hereby enacted as follows:

Laws in force in certain districts of the Allahabad Division to apply to Jhansi.

5. (1) All enactments, which shall, on the day when this Part comes into force, be in force in the said temporarily-settled districts, and not in the said Jhansi Division, shall be deemed to come into force in that division on and from the said day.

(2) Except the Jhansi Encumbered Estates Act, 1882, and the Jhansi and Morar Act, 1886, all enactments which shall, on the said day, be in force in the said division, and not in the said temporarily-settled districts, including the Jhansi Courts Act, 1867, and Act No XXVII. of 1867, shall be deemed to be repealed on and from the said day in the said division.

6. (1) [*Amending Act XVI. of 1882: Repealed by U. P. Act I. of 1903.*]

(2) All proceedings pending on the said day under the said Act before the Commissioner of the Jhansi Division shall be disposed of by the Commissioner of the Allahabad Division.

Discharge of functions assigned to Deputy Commissioner and Commissioner by Act XVII. of 1886.

7. The functions assigned to the Deputy Commissioner and the Commissioner by the Jhansi and Morar Act, 1886, shall be discharged by the District Judge and the High Court respectively, and references to Courts in the Jhansi District subordinate to the Commissioner shall be deemed to apply to the Civil Courts established in that district under the Bengal, North Western Provinces, and Assam Civil Courts Act, 1887.

Jhansi division to cease to be a scheduled district.

8. (1) On and from the said day the said division shall cease to be a scheduled district, and in Part IV. of the first schedule to the Scheduled Districts Act, 1874, the words, "the Jhansi Division, comprising the Districts of Jhansi, Jalaun, and Lalatpur," shall be repealed.

(2) Section 4 of the Jhansi and Morar Act, 1886, and the last paragraph of the preamble to Part I. of that Act ending with the words, "the Jhansi District," shall also be repealed.

Application of Act XII. of 1887 to Jhansi and disposal of pending cases.

9. (1) In section 1, sub-section (2), of the Bengal, North-Western Provinces, and Assam Civil Courts Act, 1887, the words, "and except the Jhansi Division," shall be repealed

(2) All cases or proceedings pending in any Civil Court in the said Division on the said day shall be disposed of as follows :—

(*a*) if pending in the Court of a Tahsildar or of an Assistant Commissioner of the second class—by the Munsif ;

(*b*) if pending in the Court of an Assistant Commissioner of the first class—by the Subordinate Judge ;

(*c*) if pending in the Court of a Deputy Commissioner—by the District Judge ;

(*d*) if pending in the Court of the Commissioner—by the District Judge, unless the case pending is an appeal from a decree or order of the Deputy Commissioner, in which case the appeal shall be disposed of by the High Court,

(3) For the purposes of sections 20 to 22, both inclusive, of the Bengal, North-Western Provinces, and Assam Civil Courts Act, 1887, all decrees and orders passed by Civil Courts in the said division, and not appealed against before the said day, shal be deemed—

(*a*) if passed by the Court of a Tahsildar or an Assistant Commissioner of the second class—to have been passed by a Munsif,

(*b*) if passed by the Court of an Assistant Commissioner of the first class—to have been passed by a Subordinate Judge ;

(*c*) if passed by the Court of a Deputy Commissioner or the Commissioner—to have been passed by a District Judge.

(4) Where any Civil Court ceases, by reason of the passing of this Act, to have jurisdiction with respect to any case, any proceeding in relation to that case, which, if that Court had not ceased to have jurisdiction, might have been had therein, may be had in the Court to which the business of the former Court is transferred by sub-section (2) : but this sub-section shall not apply to cases for which provision is made in section 623 or section 649 of the Code of Civil Procedure.

(5) In the case of appeals from the decrees and orders mentioned in sub section (3) the period of limitation shall be calculated in accordance with the provisions of section 15 of the Jhansi Courts Act, 1867, as though this Act had not been passed.

PART II.

OUDH.

Commencement of Part II.

10. This Part shall come into force on such day as the Chief Commissioner of Oudh may, by notification in the official Gazette, direct.

Board of Revenue of the North-Western Provinces to be the Board of Revenue of, and Chief Revenue authority in Oudh.

11. (1) On and from the day on which this Part comes into force, the Board of Revenue constituted under the North-Western Provinces Land-Revenue Act 1873, shall be deemed to be also the Board of Revenue for the territories administered by the Chief Commissioner of Oudh, and shall be known and designated as the Board of Revenue of the North-Western Provinces and Oudh.

(2) All references made in any enactment as amended by this Part to the Board of Revenue shall be deemed, so far as they relate to Oudh, to refer to the said Board.

(3) In any enactment for the time being in force in the territories administered by the Chief Commissioner of Oudh, in which the expression, "Chief Revenue-authority" or "Chief Controlling Revenue-authority," is used, the expression shall, subject to the provisions of any enactment passed after the said day, be construed, so far as the said territories are concerned, as referring to the Board of Revenue of the North-Western Provinces and Oodh.

12 to 16. [*Repealed by U. P. Act III. of* 1901.]

17. [*Repealed by Act XII. of* 1891, *Sch. I.*]

18 to 20. [*Repealed by U. P. Act III. of* 1901]

21. [*Repealed by Act XII. of* 1891. *and U. P. Act III. of* 1901.]

22 to 27. [*Repealed by U. P. Act III. of* 1901.]

28 to 31. [*Repealed by U. P. Act III. of* 1899.]

32 to 34. [*Repealed by U. P. Act III. of* 1901.]

35. [*Repealed by Act. XII. af* 1891, *Sch. I.*]

36. [*Repealed by U. P. Act V. of* 1894.]

37. [*Repealed by U. P. Act V. of* 1894.]

Amendment of section 7, Act III. of 1879.

38. In* section 7 of the Destruction of Records Act, 1879, after the words, "the North-Western Provinces," the words, "and the Chief Commissioner of Oudh," shall be inserted.

Amendment of section 17 Act XIII. of 1879.

39. In section 17 of the Oudh Civil Courts Act, 1879, after the words, "Civil Procedure, section 15," there shall be inserted the words, "and of any other enactment for the time being in force," and there shall be substituted for the words, "five hundred rupees," in clause (c) of the same section, the words, "one thousand rupees," and for the proviso to the same section the following, namely:

[*Printed in Vol II., p. 326.*]

New section substituted for section 18, Act XIII. of 1879.

40. For section 18 of the same Act the following shall be substituted, namely :—

"18. [*Printed in Vol. II., p. 375.*]

Amendment of section 24, Act XIII. of 1879.

41. In section 24 of the same Act, for the words, "fifty rupees," the words, "one hundred rupees," sall be substituted,

Amendment of section 27, Aet XIII. of 1879.

42 In section 27 of the same Act, for the words, "Judicial Commissioner," the words, "District Judge," shall be substituted.

43. [*Rapealed by Act XII. of 1896.*]

Amendment of section 3, Act XXII. of 1886.

44. (1) In section 3 of the Oudh Rent Act, 1886, After clause (1), there shall be inserted the following, namely :—

"*1A*) [*Printed supra, p.* 163.]

(2) For clause (13) of the same section the following shall be substituted, namely :—

"(*13*) *Printed supra, p. 164.*]

Amendment of section 32, Act XXII. of 1886.

45. In section 32, sub-section (2), of the same Act, for the words, "one month," the words, "three months," shall be substituted.

Amendment of section 108, Act XXII. of 1886.

46. To section 108 of the same Act, before the words, "Courts other than," there shall be prefixed the words, "Except in the way of appeal as hereinafter provided."

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* Here certain words relating to the Indian Stamp Act, 1879, and repealed by Act II. of 1899, have been omitted.

Amendment of section 109, Act XXII. of 1886.

47. In section 109, clause (5), of the same Act, for the words, "the Judicial Commissioner," the words, "the Board," shall be substituted

48. [*Repealed by Act XII. of 1891, Sch. I.*]

New section substituted for section 116, Act XXII. of 1886.

49. For section 116 of the same Act, the following shall be substituted, namely :—

"116. [*Printed supra, p.* 213.]

50 [*Repealed by Act XII. of* 1891, *Sch. I.*]

Amendment of section 118, Act XXII. of 1886.

51. In section 118, sub-section (1), clause (c), of the same Act, for the words, "to the Judicial Commissioner," the words, "to the Board," shall be substituted.

New section substituted for section 110, Act XXII. of 1886.

52. For section 119 of the same Act the following shall be substituted, namely :—

"119, [*Printed supra, p.* 331.]

New sections inserted after section 119, Act XXII. of 1886.

53 After section 119 of the same Act the following shall be inserted, namely :—

"119A-119C. [*Printed supra, p.* 214.]

Pending appeals.

54. All appeals pending when this Part comes into force from decrees or orders passed under the same Act shall be disposed of as if this Act had not been passed.

Provided that the Chief Commissioner may, by order, transfer to the District Judge any appeals then pending before the Commissioner or Collector in cases in which the appeal will, under the Oudh Rent Act, 1886, as amended by this Part, lie to the District Judge.

New section inserted after section 120, Act XXII. of 1886.

55. After section 120 of the same Act the following shall be inserted, namely :—

"120A. [*Printed supra, p.* 215.]

56. [*Repealed by Act XII. of* 1891, *Sch I.*]

Amendment of section 123, Act XXII. of 1886.

57. In section 123 of the same Act there shall be substituted for the words, "The Judicial Commissioner," the words, "The Board or the Commissioner," for the words, "subordinate to him." the words, "subordinate to the Board or the Commissioner," and for the words, "competent to dispose of it," the words, "competent as regards the nature of the case to dispose of it."

Amendment of section 124, Act XXII. of 1886.

58. In section 124 of the same Act for the words, "the Chief Commissioner," in each place where they occur, the words, "the Board," shall be substituted.

Sections inserted after section 124, Act XXII. of 1886.

59. After section 124 of the same Act the following sections shall be inserted, namely :—

"124A-124D. [*Printed supra, pp.* 216-217.]

Amendment of section 158, Act XXII, of 1886.

60. In section 158 of the same Act there shall be substituted for the words, "Chief Commissioner," in sub-sections (1) and (5), the words, "Board with the previous sanction of the Chief Commissioner." and for the words, "The Chief Commissioner," in sub-sections (2) and (4), the words, "the Board," and for the word "his," in sub-section (2), the word "its."

Amendment of section 16, Act IX, of 1889.

61. In section 16, of the North-Western Provinces and Oudh Kanungos and Patwaris Act, 1889, there shall be inserted after the word and figures, "section 108," the word and figure, "clause (2)."

PART III.

THE NORTHWESTERN PROVINCES AND OUDH.

Commencement of Part III

62. This Part shall come into force on such day as the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh may, by notification in the official Gazette, direct.

Place where the Board may sit.

63.* (1) Notwithstanding anything in section 152 of the North-Western Provinces Rent Act, 1881, or in section 128 of the Oudh Rent Act, 1886, the Board of Revenue of the North-Western Provinces and Oudh shall, for the disposal of cases under those Acts, sit in such place or places in the North-Western Provinces or Oudh as the said Lieutenant-Governor and Chief Commissioner may, by notification in the official Gazette, appont in respect to cases under either of those Acts.

(2) For the disposal of cases other than those referred to in sub-section (1), the said Board may, subject to the orders of the said Lieutenant-Governor and Chief Commissioner, sit in any place in the North-Western Provinces or Oudh that the Board thinks fit.

64. [*Repealed by U. P., Act III. of* 1901.]

* S. 63, in so far as it relates to Act XII. of 1881 (The N. W. P. Rent Act) has been repealed by U. P. Act II. of 1901.

ACT I. OF 1891.

The Cattle-trespass Act (1871) Amendment Act, 1891.

RECEIVED THE G.-G.'S ASSENT ON THE 30TH JANUARY 1891.

An Act to amend the Cattle-trespass Act, 1871, and incorporate therein Act XVIII. of 1883.

Whereas it is expedient to amend the Cattle-trespass Act, 1871, and incorporate therein Act XVIII. of 1883 (*to amend the Cattle-trespass Act, 1871*); It is hereby enacted as follows :—

Substitution of new section for section 1, Act I. of 1871.

1. For section 1 of the Cattle-trespass Act, 1871, the following shall be substituted, namely :—

" 1. [*Printed in Vol. I., p.* 987.]

Additions to section 3, Act I., 1871.

2. To section 3 of the said Act the following shall be added, namely :—

[*Printed in Vol. I., p.* 988.]

Amendment of section 10, Act I., 1871.

3. In section 10 of the said Act, for the words, "take them, or cause them to be taken, without unnecessary delay," the words, "send them, or cause them to be sent, within twenty-four hours," shall be substituted.

Amendment of section 11, Act I., 1871.

4. In section 11 of the said Act, for the words, "take them without unnecessary delay," the words, "send them, or cause them to be sent, within twenty-four hours," shall be substituted.

Additions to section 12, Act I. of 1871.

5. (1) To the first paragraph of section 12 of the said Act, prescribing the scale according to which the pound-keeper is to levy a fine for every head of cattle impounded, the following proviso shall be added, namely:

[*Printed in Vol. I., p.* 990.]

(2) After the third paragraph of the same section the following shall be added, namely :—

[*Printed in Vol. I., p.* 990.]

Substitution of new Chapter for Chapter V., Act I., 1871.

6. For Chapter V. of the said Act the following shall be substituted, namely :—

CHAPTER V.

[*Printed in Vol. I., p.* 993.]

Amendment of section 25, Act I., 1871.

7. In section 25 of the said Act the words, "under the next following section or," shall be inserted between the words, "Any fine imposed," and the words, "for the offence of mischief."

Addition to section 26, Act I., 1871,

8. To section 26 of the said Act the following shall be added, namely :—

[*Printed in Vol. I., p.* 996.]

Addition of new Chapter after Chapter VII., Act I, 18871,

9. After Chapter VII. the following shall be added, namely :—

"CHAPTER VIII.

[*Printed in Val. I., p.* 997.]

Repeal of Act XVIII., 1883.

10 Act XVIII. of 1883 (*to Amend the Cattle-trespass Act*, 1871) is hereby repealed :

Provided that orders which have been made and notified under that Act by the Local Government, and are in force immediately before the commencement of this Act, shall be deemed to have been made under the Cattle-trespass Act, 1871, as amended by this Act.

11. [*Repealed by Act XV. of 1910.*]

Saving of references.

12. Any enactment or document referring to the Cattle-trespass Act. 1871, or to Act XVIII. of 1883 (*to amend the Cattle-trespass Act*, 1871), shall be construed to refer to the Cattle-trespass Act, 1871, as amended by this Act.

Commencement.

13. This Act shall come into force on the first day of April 1891.

ACT II. OF 1891.

The Christian Marriage Act (1872) Amendment Act, 1891.

RECEIVED THE G.-G.'S ASSENT ON THE 6TH FEBRUARY 1891.

An Act to amend the Indian Christian Marriage Act, 1872.

WHEREAS it is expedient to amend the Indian Christian Marriage Act, 1872; It is hereby enacted as follows :—

Substitution of new section for section 6, Act XV., 1872.

1. (1) For section 6 of the Indian Christian Marriage Act, 1872, the following shall be substituted, namely :—

"6. [*Printed in Vol I., p.* 1190.]

(2) A license to solemnize marriages granted to a Minister of Religion under Act XXV. of 1864 (*to provide further for the solemnization of marriages in India of persons professing the Christian Religion*) shall be deemed, if in force on the day on which the Indian Marriage Act, 1865, came into force, to have been, while that Act was in force, a license granted under that Act, and, if in force on the day on which the Indian Christian Marriage Act, 1872, came in to force, to have been, since that Act came into force, a license granted under that Act.

(3) A license to solemnize marriages granted to a Minister of Religion under Act XXV. of 1864 (*to provide further for the solemnization of marriages in India of persons professing the Christian Religion*), the Indian Marriage Act, 1865, or the Indian Christian Marriage Act, 1872, shall, if in force immediately before the commencement of this Act, be deemed to have been granted under the Indian Christian Marriage Act, 1872, as amended by sub-section (1) of this section.

(4) [*Repealed by Act XII. of* 1891, *Sch. I.*]

Addition to proviso to section 10, Act XV. 1872.

2. To the proviso to section 10 of the said Act the following shall be added, namely :—

[*Printed in Vol I., p.* 1191.]

Amendment of section 11, Act XV., 1872.

3. In section 11 of the said Act, after the words, "other than a church," the words, "where worship is generally held according to the forms of the Church of England," shall be added, and between the word, "no" and the word "church," in the expression, "unless there is no church," the word "such" shall be inserted.

Substitution of new section for sections 62, Act, XV, 1872.

4. (1) For section 62 of the said Act the following shall be substituted, namely :—

"62. (1) [*Printed in Vol. I., P.* 1206.]

" (2) [*Repealed by Act XII., of* 1891, *Sch. I.*]

(2) Clause (*c*) of section 30 of the Births, Deaths, and Marriages Registration Act, 1886, is hereby repealed.

Substitution of new section for section 68 Act XV., 1872,

5. For section 66 of the said Act the following shall be substituted, namely:—

"66. [*Printed in Vol. I., p.* 1207.]

Substitution of new section for section 69 Act XV, 1872,

6. For section 68 of the said Act the following shall be substituted, namely:—

"68. [*Printed in Vol. I., p.* 1208.]

Addition to section 69, Act XV, 1872.

7. To section 69 of the said Act the following shall be added namely :—

[*Printed in Vol. I., p.* 1208.]

Amendment of sections 71, and 72, Act XV, 1872,

8. (1) For clause (2) of section 71 of the said Act the following shall be substituted, namely :

[*Printed in Vol. I., p.* 1209.]

(2) In section 72 of the said Act, for the words "three months" the words, "two months," shall be substituted

Addition to section 74, Act XV., 1872.

9. To section 74 of the said Act the following shall be added, namely :—

[*Printed in Vol. I.* 1211.,]

10. [*Repealed by Act XXXVIII. of* 1920.]

ACT III. OF 1891.

The Indian Evidence Act (1872) Amendment Act 1891.

RECEIVED THE G.-G'S ASSENT ON THE 13TH FEBRUARY 1891.

An Act to amend the Indian Evidence Act, 1872, *and the Code of Criminal Procedure*, 1882

WHEREAS it is expedient to amend the Indian Evidence Act, 1872* it is hereby enacted as follows :—*

Amendment of section 14, Act I., 1872.

1. (1) For the *Explanation* to section 14 of the Indian Evidence Act, 1872, the following shall be substituted, namely :—

"*Explanation I., II.* [*Printed in Vol. I., p.* 1032.]

(2) For *Illustration* (*b*) to the name section the following shall be substituted, namely :—

"*Illustration* (*b*). [*Printed in Vol. I., p.* 1032]

Amendment of section 15, Act I., 1872.

2. In section 15 of the said Act, after the word, "intentional," there shall be inserted the words, "or done with a particular knowledge or intention."

Addition to section 26, Act I., 1872.

3. To section 26 of the said Act the following shall be added, namely :—

"*Explanation.* [*Printed in Vol. I, p.* 1038.]

Addition of *Explanation* to section 30, Act I., 1872.

4. In section 30 of the said Act, immediately before the *Illustrations*, the following shall be inserted, namely :—

"*Explanation.* [*Printed in Vol. I., p.* 1039.]

Addition to section 43, Act I., 1872.

5. (1) To section 43 of the said Act the following *Illustrations* shall be added, namely :—

'*Illustrations* (*e*), (*f*). [*Printed in Vol. I. p.* 1045.]

Substitution of new section for section 54, Act I, 1872.

6. For section 54 of the said Act the following shall be substituted, namely ,—

"45. [*Printed in Vol. I., p.* 1048.]

Amendment of *Explanation* to section 55, Act I., 1872.

7. In the *Explanation* to section 55, after the word "but" there shall be inserted the words and figures, "except as provided in section 54."

* Certain words after this repealed by Act 10 of 1914 have been ommitted.

Amendment of, and addition to section 86, Act I., 1872.

8. In section 86 of the said Act, for the words, "resident in," the words, "in or for" shall be the substituted.*

9. [*Repealed by Act V. of* 1898.]

ACT VIII OF 1891.

Easements (extending Act V. of 1882.)

RECEIVED THE G.-G.'S ASSENT ON THE 6TH MARCH 1891.

An Act to extend the Indian Easements Act, 1882, *to certain areas in which that Act is not in force.*

Whereas it is expedient to extend the Indian Easements Act, 1882, to certain areas in which that Act is not in force; It is hereby enacted as follows:—

Extension of Act V., 1882; to Bombay and the North-Western Provinces and Oudh;

1. The Indian Easements Act, 1882, is hereby extended to the territories respectively administered by the Governor of Bombay in Council and the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh.

ACT IX OF 1891.

The Indian Merchandise Marks and Sea Customs Acts Amendment Act, 1891.

RECEIVED THE G.-G.'S ASSENT ON THE 13TH MARCH 1891.

An Act to amend the Indian Merchandise Marks Act, 1889, *and the Sea Customs Act,* 1878.

Whereas it is expedient to amend the Indian Merchandise Marks Act, 1889, and the Sea Customs Act, 1878; It is hereby enacted as follows:—

1 and 2. [*Repealed by Act X of* 1914.]

Amendment of section 1 (*e*) (*ii*); Act VIII., 1878;

3. In clause (*e*), sub-clause (*ii*), of section 18 of the Sea Customs Act, 1878, as amended by section 10, sub-section (1), of the Indian Merchandise Marks Act, 1889, for the words, "that place and the country in which it is situated are," the words, "the country in which that place is situated is," shall be substituted.

Additions to Act IV, 1889.

4. After section 18 of the Indian Merchadise Marks Act, 1889, as amended by this Act, the following shall be anded, namely:—

"19-22. [*Printed supra, p.* 539-540.]

* The remainder of this section has been repealed by Act V of 1899, s. 5.

ACT X. OF 1891.

The Indian Criminal Law Amendment Act 1891.

An Act to amend the Indian Penal Code and the Code of Criminal Procedure, 1882.

Whereas it is expedient to amend the Indian Penal Code and the Code of Criminal Procedure, 1882; It is hereby enacted as follows :—

Indian Penal Code.

Amendment of section 375, Ac XLV., 1860:

1. In section 375 of the Indian Penal Code, in the clause marked *fifthly*, and in the *Exception*, the word "twelve" shall be substituted for the word "ten."

Code of Criminal Procedure, 1882.

2, 3. [*Repealed by Act V. of 1898.*]

ACT XII. OF 1891.

The Amending Act, 1891.

RECEIVED THE G.-G.'S ASSENT ON THE 21ST MARCH 1891.

An Act to amend certain* Enactments.*

WHEREAS it is* expedient that certain formal amendments should be made in the enactments specified in the second schedule to this Act;

It is hereby enacted as follows :—

Title, extent, and commencement.

1. (1) This Act may be called the* Amending Act, 1981.

(2) Save in so far as it applies, expressly or by necessary implication, to particular territory only, it extends to the whole of British India, inclusive of Upper Burma and British Beluchistan ; †

(3) It shall come into force at once.

2. (1) [*Repealed by Act I. of 1903.*]

(2) The enactments specified in the second schedule shall be modified to the extent and in the manner mentioned in the fourth column thereof ; but nothing in this sub-section shall affect any Act passed after this Act comes into force by the Governor

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* In the title, the preamble, and s 1, words repealed by Act I. of 1903 have been omitted.

† The word "and" after this has been omitted by Act 10 of 1914.

of Madras in Council, the Governor of Bombay in Council, the Lieutenant-Governor of Bengal in Council, or the Lieutenant-Governor of the North-Western Provinces and Oudh in Council.*

3. [*Repealed by Act I. of* 1903.]

THE FIRST SCHEDULE—[*Repealed by Act I. of* 1903.]

THE SECOND SCHEDULE.

ENACTMENTS AMENDED.

A description or citation of a portion of an Act or Regulation includes the words, section, or other part mentioned or referred to as forming the begining or as forming the end of the portion comprised in the description or citation.

Part I.—Acts of the Governor-General in Council.

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1835	XIX.	Assistant to Agent Sardars Dekkhan.	*Add the following section* :— 2. The provisions of the Code of Civil Procedure relating to appeals to a High Court from decrees passed in appeal, shall apply, so far as may be, to appeals to the Governor in Council under this Act. Procedure in appeals to Governor of Bombay in Council.
1839	VII.	Tahsildars, Madras.	In section 6, *for* the three last preceding sections *read* sections 3 and 5.
1846	I.	Pleaders.	In section 7, *for* the sections of Regulations *read* the section of the Regulation.
1850	XIX	Binding Apprentices.	In section 11, *for* section VIII. *read* section 9. In section 20, *for* and, *where the word occurs before* administrators, *read* or.

* Sub-seceion (3) has been omitted by Act 10 of 1914.

THE SECOND SCHEDULE—(*contd.*)

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1851	XII.	Land-revenue, Madras Town.	In the preamble and section 1 *for* within the limits of the Town of Madras as defined in Section XII, Regulation II. of 1802 of the Madras Code, *read* within the local limits of the ordinary original Civil jurisdiction of the High Court of Judicature at Madras.
*	*	* *	* * *
1856	XX.	Chaukidars ...	In section 38 (as amended by Act XXII. of 1871, section 3), *for* Commissioners of Circuit *read* Commissioner.
†	†	† †	† † †
1858	XXXVII.	Nawat of the Carnatic.	*For the list of names in Schedule A, read the following :—* 1. Her Highness Nawab Khair-un-Nissa Begam. 2. Nawab Ahmad un-Nissa Begam. 3. Nawab Qudiria Begum. 4. Rahim-un-Nissa Begam. 5. Ammak-ul-Ali Aliyat-un-Nissa Begam.
1859	I.	Merchant Seamen ...	In section 62, *for* Act XX. of 1841 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*), *read* the Succession Certificate Act, 1889. In section 115, *for* Sections XXI. and XXII. of this Act, *read* Chapter. IV. of the Indian Merchant Shipping Act, 1883, and section 22 of this Act.

* In this schedule the reference to Act VIII. of 1856 (Control of Gaols) has been omitted, as the Act has repealed by Act IX of 1894.

† The reference to Act XXV of 1857 has been repeated by Act IV of 1922.

THE SECOND SCHEDULE—(*contd.*)

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1860	XXVIII.	Boundary-marks, Madras.	In section 4, *for the words and figures from* in the same manner *to the end, read* in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts.
„	XLV.	Indian Penal Code.	In section 307, Illustration (*c*), *after* of *insert* the first paragraph of.
1863	XX.	Religious Endowments.	In section 3, *for* Section I. *read* the preamble to this Act.
*	*	* *	* * *
1865	X.	Indian Succession Act, 1865.	In section 242, *after* is *insert* or are.
1867	III.	Gambling ...	In the preamble, *after* Fort William *insert* and.
			In section 2, *for* sections 13, 17, and 18 *read* Sections 13 and 17.
„	XXIII.	Murderous Outrages, Punjab.	In section 10, *for* the Punjab Chief Court Act, 1866, *read* in any other enactment for the time being in force.
„	XXV.	Printed Presses and Books.	In section 3, *before* of the publisher *insert* the name.
1868	V.	Commissioner in Sindh.	In the schedule, *for* Act VII. of 1854 (for the apprehension within the territories under the Government of the East India Company of persons charged with the commission of heinous offences beyond the limits of the said territories, and for delivering them up to justice, and to provide for the execution of warrants in places out of the jurisdiction of the authorities issuing them) *read* The Foreign Jurisdiction and Extradition Act, 1879; *and for* Act VII. of 1865 (to give effect to rules for the

* The reference to Act III of 1864 has been repealed by 31 of 1920.

THE SECODEND SCHULE—(*contd.*).

1	2	3	4
Year.	No.	Subject or title.	Amendment.
			management and preservation of Government forests) *read* The Indian Forest Act, 1878.
1869	V.	Indian Articles of War.	* * * *
			In the heading to Article 170, *for* "*committed*" *read* "*of which any person is accused.*"
1869	XX.	Indian Volunteers Act, 1869.	In section 22, *for the words from* if for offences committed outside *to the end, read* in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts.
1870	VII.	Court-fees Act, 1870.	*For* section 34, *read the following:*—
			34. (1) The Local Government may, from time to time, make rules for regulating the sale of stamps to be used under this Act, the persons by whome alone such sale is to be conducted, and the duties and remuneration of such persons. Sale of stamps
			(2) all such rules shall be published in the local official Gazette, and shall thereupon have the force of law.
			(3) Any person appointed to sell stamps who disobeys any rule made under this section, and any person not so appointed who sells or offers for sale any stamp, shall be punished with imprisonment for a term which may extent to six months or with fine which may extend to five hundred rupees, or with both.
			In Schedule I., Article 2., *for* Act No. XIV. of 1859 (*to provide for the limitation of suits*), section 15, *read* the Specific Relief Act, 1877, section 9.

* The reference to Part I., cl (*c*), has been repealed by Act I. of 1903.

THE SECOND SCHEDULE—(*contd.*).

1	2	3	4
Year.	No.	Subject or title.	Amendment.
			In Schedule II., Article 4. for Bombay Act No. V. of 1864 (*to give Mamlatdars' Courts jurisdiction in certain cases to maintain existing possession, or to restore possession to any party dispossessed otherwise than by course of law*), *read* the Mamladars' Courts Act, 1876.
„	XXIV.	Oudh Taluqdars' Relief Act.	*In section 12, for the words section three, in the second place in which they occur, read section 4.*
*	* *	* *	* * *
1870	XXVII.	Amending the Indian Penal Code.	In section 13, *for* the said sections 124A and 225A *read* sections 124A, 225A, and 225B.
*	*	* *	* * *
1872	IV.	Punjab Laws Act, 1872.	In section 50. (as amended by Act XV. of 1875, section 3), *for* sections forty-three to forty-nine *read* sections 43 to 45.
"	V.	Jurisdiction over Sindh.	In section 2 (added by Act XX. of 72), *for* the Administrator-General's Act. 1867, *read* the Administrator-General's Act, 1874.
"	IX.	Indian Contract Act, 1872.	In section 25, clause (1) *for* assurances, *read* documents. In section 43, first paragraph, *for* one, *read* one or more. In section 63, Illustration (*e*), *for* compensation, *read* composition.
"	XV.	Indian Christian Marriage Act, 1872.	In section 4, *after* is *insert* or are. In Schedule III, *for* (See section 28), *read* (See sections 28 and 31).

* In this schedule the reference to Act XXVI, of 1870 (Prisons) has been repealed by Act IX, of 1894; the reference to Act V, of 1871, and that to s. 12 of Act IV, of 1872, repealed by Act III, of 1900 and Act II, of 1905, respectively.

THE SECOND SCHEDULE—(*contd.*)

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1873	VIII.	Northern India Canal aud Drainage Act, 1873.	In section 75, clause (3), *after* whom *insert* and.
1874	*	* *	* * *
†	†	† †	† † †
1874	XIV.	Scheduled Districts Act 1874.	*After* section 5, *insert following section* :—
			5A. In declaring an enactment in force in a scheduled district or part thereof under section 3 of this Act, or in extending an enactment to a scheduled district or part thereof under section 5 of this Act, the Local Government, with the previous sanction of the Governor-General in Council, may declare the operation of the enactment to be subject to such restrictions and modifications as the Government thinks fit. Modification of enactments in their application to scheduled districts.
			In the first schedule, Part I., No. II. *for* (7) The Konda Mutta of Belgam, *read* (7) The Konda Mutta of Merangi.
			In the first schedule, Part III., No. I *for* Divisions *read* Districts.
	XV.	Laws Local Extent Act 1874.	In the second schedule, Part (*a*). In the entry relating to Madras Regulation II. of 1806, *for* (parts of ss. I & 7), *read* (section 7, clauses second).
			In the sixth schedule, Part I., No. II., *for* (7) The Konda Mutta of Belgam, *read* (7) The Konda Nutta of Merangi.

* The reference to Act II. of 1874 has been repealed by Act III. of 1913.

† The reference to Act IX. of 1874 has been repealed by Act 31 of 1920.

THE SECOND SCHEDULE.—(*contd.*).

1	2	3	4
Year.	No.	Subject or title.	Amendment.
			In this sixth schedule, Part III., No. I, *for* Divisions, *read* Districts.
1876	X.	Bombay Revenue Jurisdiction Act, 1876.	In section 1, clause (*b*) *for* Act XV. of 1871, *read* Act XXI. of 1881.
*	*	* *	* * *
†	†	† †	† † †
"	XVIII.	Oudh Laws Act, 1876.	In section 39. clause (*f*), *for* Oudh Revenue Act, *read* Oudh Land-revenue Act, 1876.
‡	‡	‡ ‡	‡ ‡ ‡
			In section 83 *for the words from* if for offences committed outside *to the end, read* in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts.
			After the third paragraph of section 89 *insert the following* :—
			Every Revenue-officer granting a certificate of sale to the purchaser of immovable property sold by public auction shall send a copy of the certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the property comprised in the certificate is situate, and such officer shall file the copy in his Book No. 1.
			In section 90, clause (*a*). *for* or filed, *read* are filed.

* The reference to Act XIII. of 1826 hass been repealed by Act XX of 1923.

† The teferrence to Act XVII. of 1876 hss been repealed by Act I. of 1903.

‡ The reference to Act III. of 1877 has been repealed by Act X of 1908,

THE SECOND SCHEDULE—(*contd.*).

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1878	I.	Opium Act, 1878 ...	In section 24, *for* Deputy Collector, *read* Deputy Commissioner,
"	VII.	Indian Forest Act, 1878.	In section 41, clause (*e*), *for* depot, *read* depots.
"	VIII.	Sea-customs Act, 1878.	In section 2 *for* the first schedule, *read* Part I. of the schedule, In the schedule appended to section 167, in the first column of the entry numbered 3, *for* No. 2 *read* No. 4, *and for* landing or shipment *read* shipment and landing; *and* in the second column of the entry numbered 59, for 141, *read* 142.
"	XVII.	Northern India Ferries Act, 1878.	In section 17, clause (*c*), *for* first, *read* in the first instance, *and for the words and figures from* and then *to the end of the clause, read* and shall then at the discretion of the Local Government— (*i*) be placed at the disposal of any District Board or District Boards established under the Punjab District Boards Act, 1883, or, (*ii*) be applied to any of the purposes specified in the second clause of section 5 of the Central Provinces Additional Rates Act, 1878, as the case may be; and.
*	*	*	*

* The reference to Act I. of 1879 has been repealed by Act III. of 1899.

THE SECOND SCHEDULE—(*contd.*)

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1879	XVI.	Transport of Salt Act, 1879.	In section 3, clause (*a*), *for* section twenty-eight or section thirty-one of the Act of the Governor of Bombay in Council, No. VII. of 1873, or by a rawana granted under Madras Regulation I. of 1805, section eleven, clause third, *read* Chapter V. of the Madras Salt Act, 1889, or Chapter V. of the Bombay Salt Act, 1890, or the corresponding law for the time being in force in the territories administered by the Governor of Fort St. George in Council or the Governor of Bombay in Council, as the case may be.
*	*	* *	* * *
†	†	† †	† † †
1881	V.	Probate and Administration Act, 1881.	In section 59, *after* is *insert* or are. In section 83, *for* proceeding, *read* proceedings.
‡	‡	‡ ‡	‡ ‡ ‡
"	XVIII.	Central Provinces Land-revenue Act, 1881.	In section 33, *for* the first five-grades, *read* the last five classes; *for* the Central Provinces Courts Act, 1865, *read* the Central Provinces Civil Courts Act, 1885; *and for* sections twelve, nineteen and twenty, *read* section 7. In section 34, *for* the Central Provinces Courts Act, 1865, section twelve, nineteen, and twenty, *read* the Central Provinces Civil Courts Act, 1885, section 16 and section 17, sub-section (*l*), and the powers of a Court of a Commissioner described in the same Act' section 15, sub-section (*l*).

* The reference to Act XXI. of 1879 has been repealed by Act X. of 1914.

† The reference to Act VII. of 1880 has been repealed by Act 21 of 1923.

‡ The reference to Act XII of 1881 has been repealed by Act I. of 1903.

THE SECOND SCHEDULE—(*contd.*)

1	2	3	4
Year.	No.	Subject or title.	Amedment.
			In section 35, *for* the first four grades *read* the last four classes.
*	*	* *	* * *
1882	V.	Indian Easements Act, 1882.	In section 14, *for* right, *read* a right.
†	†	† †	† † †
*	*	* *	* * *
1882	XIV.	Code of Civil Procedure.	In section 6, clause (*d*), *for* Maulmain, Akyab, or Lassein, *read* or Maulmain.
			In section 266 clause (i), *for* Native, *read* Indian.
			In section 484, *for* the sum, *read* the same.
			In section 568, clause (*b*), *for* for *read* or.
‡	‡	‡ ‡	‡ ‡ ‡
1883	XIV.	North-Western Provinces and Oudh Local Boards Act, 1883.	In sections 36 and 37, Government Civil pension and Leave Codes, *wherever those words occur*, *read* Civil Service Regulations.
§	§	§ §	§ § §
„	XX.	Punjab Distict Boards Act, 1883.	In sections 28 and 29, *for* Government Civil Pension and Leave Codes, *wherever those words occur*, *read* Civil Service Regulations.
1884	VI.	Inland Steam-vessels Act, 1884.	In section 56, *for* to simple imprisonment *read* with simple imprisonment.

* The Reference to Act XXI. of 1881 has been repealed by Act XIII. of 1898, that to Act XXII. of 1881 has been repealed by Act of 1896: that to the Criminal Procedure Code (Act X. of 1882), by Act V. of 1898.

† The reference to Act VI. of 1882 has been repealed by Act VII of 1913.

‡ The reference to Act V. of 1383 has been repealed Act 21 of 1923.

§ The reference to Act XV. of 1883 has been repealed by Act 10 of 1914.

THE SECGND SCHEDULE—(*contd.*)

1	2	3	4
Year.	No.	Subject or title.	Amedment.
*	*	* *	* * *
*	*	* *	* * *
	XXIII.	Dekkhan Agriculturists' Relief Act, 1886.	In section 10, sub-section (3), *for* the] same section, *read* section 58.
1887	XVI.	Punjab Tenancy Act, 1887.	In section 45, sub-section (2), *before* year *insert* agricultural.
1888	III.	Police Act, 1888 ...	In section 2, sub-section (*1*) *for* the Bombay District Police Act, 1867, *read* or the corresponding law for the time being in force in the territories administered by the Governor of Bombay in Council.
„	VII.	Civil Procedure Code Amendment Act, 1888.	In section 49, sub-section (*2*) *for* the same section, *read* section 562.
			In section 52, sub-section (2), *for* the same section, *read* section 566.
1889	V.	Coroner of Madras.	In section 4, sub-section (2), *for* that Code, *read* the Code of Criminal Procedure, 1882.
††	†	† †	† † †
‡‡	‡	‡ ‡	‡ ‡ ‡
††	†	† †	† † †
§	§	§ §	§ § §
1891	VII.	Amending Act X. of 1841.	In section 6, sub-section (2), *for* the same section, *read* section 17 of the said Act.

* The reference to Act XVII. of 1884 has been repealed by Act XIII. of 1898; and that to Act XII. of 1886, by Act VIII. of 1899.

† The reference to Act XI. of 1889 has been repealed by Act VI. of 1900, that to Act XVIII. of 1889, by Act XVI. 1903.

‡ The reference to Act XIII of 1889 has been repealed by Act XV of 1910.

§ The refereec to Act III of 1890 has been repealed by Act 21 of 1923.

THE SECOND SCHEDULE—(*contd.*)

Part II.—Regulations of the Bengal Code.

1	2	3	4
Year.	No.	Subject.	Amendment.
1793	XI.	Inheritance ...	In section 3, *for* that section, *read* section 2, *and for* Regulation XXV., 1793, *read* the Estates, Partition Act, 1876.
1817	XII.	Patwaris ...	In section 31, *for* Boards are, *read* Board is. *For section 35 read the following* :— 35. (I) Any person aggrieved by a decision or order of a Collector under section 20 of this Regulation may appeal within six months from the date thereof to the Commissioner of the Division Appeal to Commissioner from decision or order under section 20. (2) The Commissioner may reverse or alter any such decision or order in appeal.
„	XX.	Police ...	In the heading prefixed to section 29, *for* Commercial, Salt, and Opium Department, *and for* those Departments, *read* the Department. In secsion 29, clause *Twelfth*, *for* Section XXXI., Regulat on XII., 1816, *read* Act XIII of 1857, section 21.
1818	III.	State Prisoners ...	In section 9, *after* situated, *insert* and.
1819	II.	Resumption of Revenue-fee Lands.	In section 6, clause *First*, *for the words from* in the Persian and Bengal languages *to* Conquered. Provinces, *read* in the vernacular of the district.

THE SECOND SCHEDULE—(*concld*).

Part II.—Regulations of the Bengal Code—(contd.)

1	2	3	4
Year.	No.	Subject.	Amendment.
			In section 12, *after* belong, *insert* he.
			In section 26, clause *Second*, *for* a appeal, *read* an appeal.
1822	III.	Board of Revenue for the Lower Provinces of the Presidency of Fort William in Bengal.	(*a*) In section 5, clause *First*, *for* the Govereor-Geueral in Council, by an order in Council, *and for* the Governor-General in Council similarly, (*b*) in section 5, clause *First*, first proviso, clause *Second*, and clause *Third*, *for* Government, and (*c*) in section 5, clauses *Fourth* and *Fifth*. *for* the Governor-General in Council—*read* the Lieutenant-Governor.
			In section 5, clause *First*, first proviso. *before* Collector *insert* Commissioner or.
			In section 5, clause *First*, third proviso, *for* formally confirmed, *read* made or confirmed in accordance with rules sanctioned.
1823	VI.	Indigo contracts ...	In section 6, *for* a investigatidn, *read* an investigation.
1825	XIII.	Settlement of Resumed Lakheraj Land.	In section 4, *for* the Regulatlons, *read* the Regulation.
			In section 5, *for* Regulations, *read* Regulation.

ACT XIV. OF 1891.

The Oudh Courts Act, 1891.

RECEIVED THE G.-G.'S ASSENT ON THE 21ST MARCH 1891.

An Act to amend the Constitution of the Court of the Judicial Commissioner of Oudh, and alter the Law with respect to Second Appeals and other matters in that Province.

WHEREAS it is expedient to amend the constitution of the Court of the Judicial Commissioner of Oudh, and alter the law with respect to Second Appeals and other matters in that Province; It is hereby enacted as follows:—

Title and commencement.

1. (1) This Act may be called the Oudh Courts Act, 1891.

(2) It extends to all the territories for the time being administered by the Chief Commissioner of Oudh.*

2. [*Repealed by Act XVI. of* 1897.]

Definitions.

3. In this Act, unless there is something repugnant in the subject or context, the expressions, "High Court" and "Chief Justice," mean the High Court of Judicature for the North-Western Provinces and the Chief Justice of that Court, respectively.

Appointment of additional Judicial Commissioner.

4.† (1) The Local Government‡. may, by a notification in the official Gazette, appoint three or more persons to be Additional Judicial Commissioners, and to exercise jurisdiction as such in the Court of the Judicial Commissioner of Oudh.

(2) Every person so appointed shall hold his office during the pleasure of the Local Government.

(3) On the occurrence of a vacancy in the office of Judicial Commissioner or an Additional Judicial Commissioner, or during the absence of the Additional Judicial Commissioner the Local Government may, by a notification in the official Gazette, appoint such person as it thinks fit to act as Judicial Commissioner or an Additional Judicial Commissioner; and the person so appointed may exercise jurisdiction as Judicial Commissioner until some person has been appointed to fill the vacancy under section 6 of the Oudh Civil Courts Act, 1879, or under this section, and has

* Here the word "*and*," as also sub-section (3), is repealed by Act XVI. of 1897, s. 9.

† New s. 4 has been substituted by U. P. Act II. of 1917.

‡ Certain words repealed by Act 38 of 1920 have been omitted.

entered on the discharge of the duties of his office, or until the absent Judicial Commissioner has returned from his absence and has resumed charge of the duties of his office, or until the Local Government sees fit to cancel his appointment, as the case may be.

Jurisdiction of Additional Judicial Commissioner and distribution of business.

5.* (1) Subject to the other provisions of this Act, an Additional Judicial Commissioner shall exercise the same jurisdiction as the Judicial Commissioner may exercise under any enactment for the time being in force, but only in such cases as the Judicial Commissioner may direct.

(2) The Judicial Commissioner may, from time to time, transfer any case with respect to which he may have directed an Additional Judicial Commissioner to exercise jurisdiction and of which the hearing before such Additional Judicial Commissioner has not commenced, for hearing and disposal to his own file or to the file of "another"† Additional Judicial Commissioner (if any).

(3) Where this Act or any other enactment for the time being in force requires a case to be heard by a bench of two Judges of the Court of the Judicial Commissioner of Oudh and that Court for the time being consists of three Judges, the Judicial Commissioner shall, from time to time, determine what two Judges shall constitute such bench.

Law applicable to Additional Judicial Commissioner.

6. Subject to the other provisions of this Act, every enactment for the time being applicable to the Judicial Commissioner shall apply to "an" Additional Judicial Commissioner when exercising any Jurisdiction under the last foregoing section, as if he were the Judicial Commissioner.

7. (1) [*Repealed by Act XVI. of* 1897, *s.* 5.]

(2) "If the Court of the Judicial Commissioner of Oudh for the time being consists of only two Judges and any such case as is referred to in section 377 of the Code of Criminal Procedure, 1882,"† is heard before the Judicial Commissioner, and the Additional Judicial Commissioner, and they are divided in opinion, they shall submit the case, with their opinions thereon, to the High Court to be laid before such Judge, or such Bench of two or more Judges, of that Court as the Chief Justice may appoint.

(3) Such Judge or Bench, after such examination and hearing as he or it thinks fit, shall deliver his or its opinion in writing, and cause a copy thereof, under the signature of the Registrar

* S. 5 has been re-enacted by Act XVI. of 1897.

† The word within quotation has been substituted by U. P. Act II. of 1917.

of the High Court, to be transmitted to the Judicial Commissioner and the Additional Judicial Commissioner sitting together shall, on receipt of the copy, proceed to dispose of the case in conformity with the opinion of the Judge or Bench.

(4) When the Chief Justice has appointed a Bench of two or more Judges of the High Court under sub-section (2), and the Judges differ as to the opinion to be delivered, communicated, and followed under sub-section (3), the opinion to be so delivered, communicated, and followed, shall be—

(*a*) if there is a majority of the Judges, the opinion of the majority, and

(*b*) if the Judges are equally divided, the opinion of the senior Judge.

Hearing of other cases by a Bench.

8. Any of the following proceedings, namely :—

(*a*) an appeal from an original decree or order of a District Judge or Additional Judge,

(*b*) an appeal which, under section 18, sub-section (1), of the Oudh Civil Courts Act, 1879, as amended by the North-Western Provinces and Oudh Act, 1890, lies from a decree or order of a Subordinate Judge to the Judicial Commissioner,

(*c*) any other appeal, whether Civil or criminal, or any application or other matter, with respect to which appeal or application, or other matter, the Judicial Commissioner or "an"† Additional Judicial Commissioner, as the case may be, before whom it is pending, has certified under his hand that it should, in his opinion, be heard by two Judges,

shall be heard by "a bench consisting or two Judges of the Court of the Judicial Commissioner of Oudh."*

Provided, with respect to clauses (*a*) .and (*b*), as follows, namely :—

(*i*) that the amount or value of the subject-matter of the suit in the Court of first instance was ten thousand rupees or upwards, and the amount or value of the matter in dispute on appeal to the Judicial Commissioner is the same sum or upwards, or

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* In s 7, sub-section (2), the words quoted have been submitted for the original by Act XVI. of 1897.

† Inserted by Act XVI of 1897.

(*ii*) that the decree or order appealed from involves, directly or indirectly, some claim or question to, or respecting, property of like amount or value.

Rules in case of difference of opinion.

9. "If the Court of the judicial Commissioner of Oudh for the time being consists of only two Judges and"* in any case before the Judicial Commissioner and the Additional Judicial Commissioner sitting together, other than a case for which provision is made in section 7 of this Act. a difference of opinion arises, the following rules shall be observed :—

(*a*) If the case is a civil case, then, unless the Judicial Commissioner and the Additional Judicial Commissioner concur in a decision reversing or varying the decree or order under their consideration, such decree or order shall be upheld ;

Provided that, if the difference of opinion is on a question of law, or of custom having the force of law, or as to the construction of any document or the admissibility of any evidence, and either the Judicial Commissioner or the Additional Judicial Commissioner is of opinion that the question should be referred to the High Court, the Judicial Commissioner and the Additional Judicial Commissioner shall jointly state the question, and forward such statement, with their respective opinions on the question, to the High Court.

(*b*) If the case is a criminal case, then the Judicial Commissioner and the Additional Judicial Commissioner shall jointly state the question as to which they differ, and forward such statement, with their respective opinions on the question, to the High Court.

Procedure on reference under last foregoing section

10. (1) On receiving a statement forwarded in any case under the last foregoing section, the High Court, by a Bench constituted by two or more Judges as the Chief Justice may determine, shall decide the question referred therein, and transit to the Judicial Commissioner a copy of its judgement under the signature of its Registrar, and the Judicial Commissioner and the Additional Judicial Commissioner sitting together shall, on receipt of the copy, proceed to dispose of the case in comformity with the decision of the High Court.

(2) When the Judges differ as ro the decision of any such question, the decision to be given, communicated, and followed under sub-section (1), shall be –

(*a*) if there is a majority of the Judges, the decision of the majority, and

(*b*) if the Judges are equally divided, the decision of the senior Judge.

(3) It shall not be necessary for any party to the case to be present in the High Court, either personally or otherwise, when the question referred comes before that Court for decision.

(4) The costs, if any, consequent on the statement of the question for the decision of the High Court shall be costs in the case.

11. (1) and (2) [*Repealed by Act XVI. of* 1897.]

(3) For the last paragraph of section 23 of the same Act the following shall be substituted, namely :—

[*Printed in Vol. II., p. 406.*]

Power to make rules as to judgments, evidence and affidavits.

"**12*** The Judicial Commissioner may, from time to time, with the previous sanction of the Local Government, by notification in the official Gazette, make rules to provide for—

(1) the recording of judgments, orders and sentences;

(2) the taking down of the evidence of witnesses; and

(3) the admission of affidavits as evidence of the matters to which such affidavits relate;

and the Court of the Judicial Commissioner of Oudh shall, on the publication of any such rules, be bound thereby instead of by such parts of the Code of Criminal Procedure, 1882, and the Code of Civil Procedure, as relate to the mode of recording judgments, orders and sentences and of taking down the evidence of witnesses, and may, in accordance with such rules, permit the admission of affidavits as evidence of the matters aforesaid."

ACT XVI OF 1891.

The Colonial Courts of Admiralty (India) Act, 1891.

RECEIVED THE G.-G.'S ASSENT ON THE 14TH MAY 1891.

An Act to declare certain Courts in British India to be Colonial Courts of Admiralty.

WHEREAS it is provided by the Colonial Courts of Admiralty Act, 1890, that the Legislature of a British possession may, by any colonial law, declare any Court of unlimited civil jurisdiction in that possession to be a Colonial Court of Admiralty;

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* S. 12 has been added by Act XVI of 1897.

And whereas it is expedient, in pursuance of that provision, to declare certain Courts in British India to be Colonial Courts of Admiralty :

It is hereby enacted as follows :—

Title and commencement.

1. (1) This Act may be called the Colonial Courts of Admiralty (India) Act, 1891 ; and

(2) It shall come into effect,—

(*a*) if Her Majesty's pleasure thereon has been signified, by notification in the *Gazette of India*, on or before the first day of July 1891, then on that day, or

(*b*) if Her Majesty's pleasure thereon has not been so signified on or before that day, then on the day on which Her Majesty's pleasure shall be signified by such a notification as aforesaid.

Appointment of Colonial Courts of Admiralty,

2. The following Courts of unlimited civil jurisdiction are hereby declared to be Colonial Courts of Admiralty, namely :—

(1) the High Court of Judicature at Fort William in Bengal,
(2) the High Court of Judicature at Madras,
(3) the High Court of Judicature at Bombay,
(4) "the High Court of Judicature at Rangoon"*
(5) the Court of the Resident at Aden, and
(6) the District Court of Karachi.

Construction of Indian Acts referring to Admiralty and Vice-Admiralty Courts,

3. The expressions, "Court having Admiralty jurisdiction" and "Admiralty Court," and the expression, "Admiralty or Vice-Admiralty cause," and other expressions referring to Admiralty or Vice-Admiralty Courts or Causes, shall, wherever any such expression occurs in any enactment of the Governor-General in Council, or of a Governor in Council or Lieutenant-Governor in Conncil, be deemed to include a Colonial Court of Admiralty and a Colonial Court of Admiralty cause, and to refer to a Colonial Court of Admiralty or a Colonial Court of Admiralty cause, respectively.

Court-fees in suits in the Colonial Courts of Admiralty at Rangoon, Aden, and Karachi.

4. Court-fees in suits instituted in the Colonial Court of Admiralty at Rangoon, Aden, or Karachi, shall, unless the jurisdiction of the Court is to be exercised in any matter relating to the slave-trade, be leviable in accordance with the provisions of Chapter III. of the Court fees Act, 1870.

5. [*Repealed by Act X of* 1914.]

THE SCHEDULE.

[Repealed by Act X of 1914.]

* Substituted by Act II of. 1923.

ACT XVIII OF 1891.

The Bankers' Books Evidence Act, 1891.

RECEIVED THE G.-G.'S ASSENT ON THE IST OCTOBER 1891.

An act to amend the Law of Evidence with respect to Bankers' Books

WHEREAS it is expedient to amend the Law of Evidence with respect to Bankers' Books; It is hereby enacted as follows:—

Title extent and commencement

1. (1) This Act may be called the Bankers' Books Evidence Act, 1891.

(2) It extends to the whole of British India ;*

(3) It shall come into force at once.

Definitions

2. In this Act, unless there is something repugnant in the subject or context,—

" (1) 'Company' means a company registered under any of the enactments relating to companies for the time being in force in the United Kingdom or any of the Colonies or Dependencies thereof or in British India, or incorporated by an Act of Parliament or of the Governor-General in Council, or by Royal Charter or Letters Patent ;"†

(2) "bank" and "banker" mean—

(*a*) any company carrying on the business of bankers;

(*b*) any partnership or individual to whose books the provisions of this Act shall have been extended as hereinafter provided:

"(*c*) any Post Office Savings Bank or Money Order Office."‡

(3) "bankers' books" include ledgers, day-books, cash-books, account-books, and all other books used in the ordinary business of a bank :

(4) "legal proceeding" means any proceeding or inquiry in which evidence is or may be given, and includes an arbitration :

(5) "the Court" means the person or persons before whom a legal proceeding is held or taken :

(6) "Judge" means a Judge of a High Court :

(7) "trial" means any hearing before the Court at which evidence is taken ; and

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* The word "and" has been omitted by Act 10 of 1914.

† This definition has been substituted by Act XII. of 1900.

‡ Clause (*c*) of sub-section (2) has been added by Act I. of 1893.

(8) "certified copy" means a copy of any entry in the books of a bank, together with a certificate written at the foot of such copy that it is a true copy of such entry; that such entry is contained in one of the ordinary books of the bank, and was made in the usual and ordinary course of business; and that such book is still in the custody of the bank, such certificate being dated and subscribed by the principal accountant or manager of the bank with his name and official title.

Power to extend provisions of Act.

3. The Local Government may, from time to time, by notification in the official Gazette, extend the provisions of this Act to the books of any partnership or individual carrying on the business of bankers within the territories under its administration, and keeping a set of not less than three ordinary account-books, namely, a cash book, a day-book or journal, and a ledger, and may, in like manner, rescind any such notification.

Mode of proof of entries in bankers' books.

4. Subject to the provisions of this Act, a certified copy of any entry in a banker's book shall, in all legal proceedings, be received 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 now by law admissible, but not further or otherwise.

Case in which officer of bank not compellable to produce books.

5. No officer of a bank shall in any legal proceeding to which the bank is not a party be compellable to produce any banker's book, the contents of which can be proved under this Act, or to appear as a witness to prove the matters, transactions, and accounts therein recorded, unless by order of the Court or a Judge made for special cause.

Inspection of books by order of Court or Judge.

6. (1) On the application of any party to a legal proceeding, the Court or a Judge may order that such party be at liberty to inspect and take copies of any entries in a banker's book for any of the purposes of such proceeding, or may order the bank to prepare and produce, within a time to be specified in the order, certified copies of all such entries, accompanied by a further certificate that no other entries are to be found in the books of the bank relevant to the matters in issue in such proceeding, and such further certificate shall be dated and subscribed in manner hereinbefore directed in reference to certified copies.

(2) An order under this or the preceding section may be made either with or without summoning the bank, and shall be served

on the bank three clear days (exclusive of bank holidays) before the same is to be obeyed, unless the Court or Judge shall otherwise direct.

(3) The bank may, at any time before the time limited for obedience to any such order as aforesaid, either offer to produce their books at the trial, or give notice of their intention to show cause against such order, and thereupon the same shall not be enforced without further order.

Costs

7. (1) The cost of any application to the Court or Judge under or for the purposes of this Act, and the costs of anything done or to be done under an order of the Court or a Judge made under or for the purposes of this Act, shall be in the discretion of the Court or Judge, who may further order such costs or any part thereof to be paid to any party by the bank if they have been incurred in consequence of any fault or improper delay on the part of the bank.

(2) Any order made under this section for the payment of costs to or by a bank may be enforced as if the bank were a party to the proceeding.

(3) Any order under this section awarding costs may, on application to any Court of Civil Judicature designated in the order, be executed by such Court as if the order were a decree for money passed by itself:

Provided that nothing in this sub-section shall be construed to derogate from any power which the Court or Judge making the order may possess for the enforcement of its or his dsrections with respect to the payment of costs.

ACT II. OF 1892.

The Marriages' Validation Act, 1892.

RECEIVED THE G.-G.'S ASSENT ON THE 29TH JANUARY 1892.

An Act to validate certain Marriages solemnized under Part VI. of the Indian Christian Marriage Act 1872.

WHEREAS provision is made in Part VI. of the Indian Christian Marriage Act, 1872, for the solemnization of marriages between persons of whom both are Native Christians, but not of marriages between persons of whom one only is a Native Christian:

And whereas persons licensed under section 9 of the said Act have in divers parts of British India, through ignorance of the law, permitted marriages to be solemnized in their presence under the said Part between persons of whom one is a Native Christian, and the other is not a Native Christian;

And whereas it is expedient that such marriages, having been solemnized in good faith, should be validated ;

It is hereby enacted as follows :—

Commencement.

1. [*Repealed by Act X of* 1910.]

Definition.

2. In this Act the expression "Native Christian" has the same meaning as in the Indian Christian Marriage Act, 1872.

Validation of irregular marriages.

3. All marriages which have already been solemnized, under Part VI. of the Indian Christian Marriage Act, 1872, between persons of whom one only was a Native Christian, shall be as good and valid in law, as if such marriages had been solemnized between persons of whom both were Native Christians :

Provided that nothing in this section shall apply to any marriage which has been judicially declared to be null and void, or to any case where either of the parties has, since the solemnization of such marriage, and prior to the commencement of this Act, contracted a valid marriage.

Validation of records of irregular marriages.

4. Certificates of marriages, which are declared by the last foregoing section to be good and valid in law, and register-books, and certified copies of true and duly-authenticated extracts therefrom, deposited in compliance with the law for the time being in force, in so far as the register books and extracts relate to such marriages as aforesaid, shall be received as evidence of such marriages, as if such marriages had been solemnized between persons of whom both were Native Christians.

Application of Act to marriages under Act V of 1865.

5. References in this Act to the Indian Christian Marriage Act, 1872, shall, so far as may be requisite, be construed as applying also to the corresponding portions of the Indian Marriage Act, 1865.

Penalty for solemnizing irregular marriages.

6. If any person licensed, under section 9 of the said Act, to grant certificates of marriage between Native Christians shall, at any time after the commencement of this Act, solemnize, or affect to solemnize, any marriage under Part VI of the said Act or grant any such certificate as therein mentioned, knowing that one of the parties to such marriage, or affected marriage, was, at the date of such solemnization, not a Christian, he shall be liable to have his license cancelled, and, in addition thereto, he shall be deemed to have been guilty of an offence prohibited by section 73 of the said Act, and shall be punishable accordingly.

ACT IV. OF 1892.*

The Court of Wards Act. (Bengal) Amendment Act 1892.

RECEIVED THE G.-G.'S ASSENT ON THE 25TH MARCH 1892.

An Act to amend the Bengal Court of Wards Act, 1879.

WHEREAS it is expedient to amend the Court of Wards Act, 1879, passed by the Lieutenant-Governor of Bengal in Council; It is hereby enacted as follows :—

Construction and commencement.

1. (1) This Act shall be read with, and taken as part of, the Act aforesaid.†

Addition to section 3.

2. In section (3) at the end of the clause defining "estate" the following words shall be added, namely "and includes a share in or of an estate other than an undivided share held in coparcenary as the property of a Hindu joint family governed by the *Mitak-shara* or *Mithila* law."

Addition to section 6.

3. To section 6 the following clause shall be added, namely :—

"(*e*) persons as to whom the Local Government has declared, on their application, that they are disqualified, and that it is expedient in the public interest that their estates should be managed by the Court."

Addition to section 7.

9. To section 7 the following proviso shall be added, namley :—

Provided that the Court shall not be empowered to take charge of the person of a proprietor disqualified on his own application under clause (*e*) of section 6,"

Addition to section 9.

5.‡ At the end of section 9 the following shall be added, namely :—

"And in any case in which the Court has taken charge of the property of a person disqualified from managing his own estate under the provisions of section 6. clause (*e*), it may, in its discretion,—

(*e*) at any time withdraw from such charge, or

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* Virtually amended in the former Provinces of Bengal by Ben. Act I. of 1906.

† In s. (1) the word "*and*" and *sub-section* (2) have been repealed by Act I. of 1903.

‡ Repealed in Bengal Presidency by Ben. Act I. of 1914, Sch. IV.

(*f*) retain such charge, notwithstanding the death of the proprietor, until all debts and liabilities incurred by, or due from, the said proprietor, or which are a charge upon the property, or any part thereof, together with all interest due thereon, have been discharged :

Provided that, after the death of the proprietor, the Court shall not retain charge on account of any debt or liability which has been declared by a competent Civil Court not to be binding on the representative of such deceased proprietor."

Amendment of section 10.

6. In section 10, in the place of the first two clauses, the following shall be inserted, namely:—

"Whenever a Civil Court is satisfied that an order should be made under section 7 of the Guardians and Wards Act, 1890, appointing a guardian of the person or property of a minor or both;

"whenever a Civil Court removes, under section 39 of the same Act, the guardian of a minor."

Substitution of new section for section 11.

7. For section 11 the following section shall be substitued, namely:—

"11. Whenever one or more of the joint proprietors, of whose properties the Court has taken charge, ceases to be subject to the jurisdiction of the Court the Court may retain charge of the persons and properties of the still disqualified proprietors during the continuance of their disqualification.

Proeedure when any of joint proprietors ceases to be disqualified

"And in case any person entitled to any property jointly with any disqualified proprietor shall consent thereto, the Court may retain or resume the charge of the property of such proprietor, or any part thereof, so long as the property of any such disqualified proprietor as aroresaid remains in charge of the Court."

8. In section 12, for the words, "which, befor the commencement of this Act, was placed," the following words shall be substituted, namely: 'which either before or after the commencement of this Act was or is placed;" and at the end fo the first clause, after the figures 1858 the following words shall be added, namely: "or under any other enactment for the time being in force."

Amendment of section 12.

9. [*Repeal of proviso in section 48.*] *Repealed by Act V. of 1897*

10. In section 49, for the words, "remains under the charge of the Court with his consent under section 11," the following words shall be substituted namely: " is under the charge of the Court under clause (*e*) of section 6, or under the second clause of section 11."

Amendment of section 49.

11.* In section 56, instead of the words who has consented to leave his property under the charge of the Court of wards as provided in the second clause of section 11," the following words shall be substituted namely: "whose property is under the charge of the Court under clause (*e*) of section 6, or under the second clause of section 11."

Amendment of section 56

12. To section 60 the following words shall be added namely: "or to assign over or charge any allowance to be received by him from the Court.'

Addition to section 60

13. After section 60 the following section shall be inserted namely:—

Insertion of new section after section 60

"60A. No property which is or has been under the charge of the Court shall be liable at any time, except with the leave of the Court, to be taken in execution of a decree made in respect of any contract entered into by the ward without the leave of the Court while his property was under such charge."

Exemption of wards property from execution-proceedings in certain cases.

ACT V. OF 1892.†

The Bengal Military Police Act, 1892.

RECEIVED THE G. G'S ASSENT ON THE 25TH MARCH 1892.

An Act for the Regulation of the Bengal Military Police.

WHEREAS it is expedient to make provisions for the better regulation of the Bengal Reserve Police; It is hereby enacted as follows :—

1. (1) This Act may be called the Bengal Military Police Act, 1892,

Title, extent and commencement.

(2) It extends to the whole of the territories subject to the Lieutenant Governor of Bengal : and

(3) It shall come into force on such day as the Local Government may, by notification in the *Calcutta Gazette* appoint in this behalf.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) "Military Police-officer" means a person appointed to the Bengal Police Force under section 7 of Act V. of 1861, who has signed the statement in the schedule to this Act, in accordance with the provisions of this Act :

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* Vide foot note to s. 5.

† **Repeated in Eastern Bengal and Assam by E. B. and A. Act 3 of 1912. s 2. Repealed in Bengal Presidency by Ben. Act I. of 1914.**

(2) "active service" means service against hostile tribes or other persons in the field :

(3) "District Magistrate" includes a Deputy Commissioner, an Assistant Commissioner in charge of a sub division, and the Superintendent of the South Lushai Hills :

(4) "Commandant" means a person appointed by the Local Government to be a Commandant of Military Police and includes a District Superintendent of Police and an Assistant District Superintendent of Police in charge of the civil police of a district of a sub-divislon :

(5) "Second-in-Command" means a person appointed by the Local Government to be a Second in-Comand of Military Police, and includes an Assistant district Superintendent of Police not in charge of the civil police of a district or of a sub-division : and

(6) the expressions, "reason to believe," "criminal force," "assault," "fradulently," and "voluntarily causing hurt," have the meanings assigned to them respectively in the Indian Penal Code.

Enrolment and discharge of Military Police officers.

3. (1) Before an officer appointed to the Bengal Police Force, under section 7 of Act V. of 1861, is appointed to be a Military Police officer, the statement in the schedule shall be read, and if necessary, explained to him in the presence of a Magistrate, Commandant, or Second-in-Command, and shall be signed by him in acknowledgment of its having been so read to him.

(2) Notwithstanding any notice given under section 9 of Act V. of 1861, a Military Police-officer shall not be entitled to be discharged from the Bengal Police Force, except in accordance with the terms of the statement which he has signed under this Act.

Classes and grades of Military Police-officers.

4. (1) There may be all or any of the following classes of Military Police-officers, which shall take rank in the order mentioned, namely :—

(i) subadars-major,
(ii) subadars,
(iii) jamadars,
(iv) havildars-major,
(v) havildars,
(vi) naiks,
(vii) buglers, and
(viii) sepoys,

and such grades in each class as the Local Government may direct.

(2) The expression "superior officer" in this Act means, in relation to any Police-officer,—

(*a*) any officer of a higher class than, or of a higher grade in the same class as, himself, and

(*b*) any Second-in-Command, Commandant, or District Magistrate.

More heinous offences.

5. A Military Police-officer who—

(*a*) begins, excites, causes, or joins in any mutiny or sedition, or, being present at any mutiny or sedition, does not use his utmost endeavours to suppress it, or knowing, or having reason to believe in the existence of any mutiny, or of any intention to mutiny, does not, without delay, give information thereof to his commanding or other superior officer; or

(*b*) uses or attempts to use criminal force to, or commits an assault on, his superior officer, whether on or off duty; or

(*c*) shamefully abandons or delivers up any garrison, fortress, post, or guard which is committed to his charge, or which it is his duty to defend ; or

(*d*) directly or indirectly holds correspondence with, or assists or relieves, any person in arms against the State, or omits to discover immediately to his commanding or other superior officer any such correspondence coming to his knowledge ; or

who, while on active service,—

(*e*) disobeys the lawful command of his superior officer; or

(*f*) deserts the service ; or,

(*g*) being a sentry, sleeps upon his post, or quits it without being regularly relieved or witout leave ; or

(*h*) without authority leaves his commanding officer, or his post or party, to go in search of plunder ; or

(*i*) quits his guard, picquet, party, or patrol without being regularly relieved or without leave ; or

(*j*) uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to camp or quarters, or forces a safe guard, or, without authority, breaks into any house or any other place for plunder, or plunders, destroys, or damages any property of any kind ; or

(*k*) intentionally causes or spreads a false alarm in action, camp, garrison, or quarters,

shall be punished with transportation for life, or for a term of not less than seven years, or with imprisonment for a term which may extend to fourteen years, or with fine which may extend to three months' pay, or with fine to that extent in addition to such sentence of transportation or imprisonment, as the case may be, as may be passed upon him under this section.

Less heinous offences.

6. A Military Police-officer who—

(*a*) is in a state of intoxication when on or for any duty, or on parade or on the line of march; or

(*b*) strikes or attempts to force any sentry; or,

(*c*) being in command of a guard, picquet, or patrol, refuses to receive any prisoner duly committed to his charge, or, without proper authority, releases any prisoner, or negligently suffers any prisoner to escape; or,

(*d*) being under arrest or in confinement, leaves his arrest or confinement before he is set at liberty by proper authority; or

(*e*) is grossly insubordinate or insolent to his superior officer in the execution of his office; or

(*f*) refuses to superintend, or assist in the making of any field-work or other work of any description ordered to be made either in quarters or in the field; or

(*g*) strikes or otherwise ill-uses any Military Police-officer subordinate to him in rank or position; or,

(*h*) being in command at any post or on the march, and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has committed any riot or trespass, fails, on proof of the truth of the complaint, to have due reparation made, as far as possible, to the injured person, and to report the case to the proper authority; or

(*i*) designedly, or through neglect, injures or loses, or fraudulently disposes of his arms, clothes, tools, equipments, ammunition, accoutrements, or Military Police necessaries, or any such articles entrusted to him, or belonging to any other person: or

(*j*) malingers, or feigns, or produces disease or infirmity in himself, or intentionally delays his cure, or aggravates his disease or infirmity; or,

(*k*) with intent to render himself or any other person unfit forservice, voluntarily causes hurt to himself or any other person; or

who, while not on active service,—

(*l*) disobeys the lawful command of his superior officer; or

(*m*) plunders, destroys or damages any property of any kind; or,

(*n*) being a sentry sleeps upon his post, or quits it without being regularly relieved or without leave; or

(*o*) deserts the service;

shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to three months' pay, or with both.

Minor punishment.

7. (1) A District Magistrate, Commandant, or Second-in-Command, or an officer not being below the rank of subadar commanding a separate detachment or an outpost, or in temporary command at the head-quarters of a district during the absence of the District Magistrate, Commandant, and Second-in-Command, may without a formal trial, award to any Military Police-officer, who is subject to his authority, any of the following punishments for the commission of any petty offence against discipline which is not otherwise provided for in this Act, or which is not of a sufficiently serious nature or call for a prosecution before a Criminal Court, that is to say—

(*a*) imprisonment to the extent of seven days in the quarter-guard or such other place as may be considered suitable, with forfeiture of all pay and allowances during its continuance;

(*b*) punishment drill, extra guard, fatigue or other duty, not exceeding thirty days in duration, with or without confinement to quarters.

(2) Any one of these punishments may be awarded separately, or in combination with any one or more of the others.

Place of imprisonment.

8. A person sentenced under this Act to imprisonment for a period not exceeding three months shall, when he is also dismissed from the Bengal Police Force, be imprisoned in the nearest or such other jail as the Local Government may, by general or special order, direct; but, when he is not also dismissed from that force, he may, if the convicting officer or District Magistrate so directs, be confined in the quarter-guard, or such other place as the convicting officer or District Magistrate may consider suitable.

Saving of prosecutions under other law.

9. (1) Nothing in this Act shall prevent any person from being prosecuted under Act V of 1861, or under any order or rule made under that Act, or under any other enactment for the time

being in force for any act or omission punishable hereunder, or from being liable, if so prosecuted, to any other or higher penalty than is provided for that act or omission by this Act:

(2) Provided that no person shall be punished twice for the same offence.

Conferment of Magisterial powers on police-officers.

10. Notwithstanding anything in Act V. of 1861, or any other enactment for the time being in force, the Local Government may invest any police-officer, not below the rank of Commandant, with the powers of a Magistrate of any class for the purpose of enquiring into or trying any offence committed by a Military Police-officer, and punishable under Act V. of 1861 or this Act.

Disciplinary and other powers of Commandants and Seconds-in-Command of Military Police otherwise than in respect of Military Police.

11. Subject to such rules as the Local Government may make in this behalf, a Commandant or Second-in-Command of Military Police shall have, with respect to police-officers appointed to the Bengal Police force under section 7 of Act V. of 1861, who are not Military Police-officers, the same disciplinary powers as a District Superintendent of Police has with respect to them under that section.

Privileges of Commandants and Second-in-Command of Military Police as police officers.

12. A Commandant or Second in-Command of Military Police shall be entitled to all the privileges which a police-officer has under sections 42 and 43 of Act V. of 1861, section 125 of the Indian Evidence Act, 1872, and any other enactment for the time being in force,

Power to make rules.

13. The Local Government may, as regards the Military Police make such orders and rules consistent with this Act as it thinks expedient.

THE SCHEDULE.

STATEMENT.

(*See sections 2 and 3.*)

AFTER you have served for three years in the Bengal Military Police, you may, at any time, when not on active service, apply for your discharge, through the officer to whom you may be subordinate, to a Commandant of Military Police or to the District Magistrate of the district in which you may be serving, and you will be granted your discharge after two months from the date of your application, unless your discharge would cause the vacancies in the Bengal Military Police to exceed one-tenth of the sanctioned strength; in that case, you must remain until this objection is waived by competent authority or

removed. But when on active service you have no claim to a discharge, and you must remain and do your duty until the necessity for retaining you in the Bengal Military Police ceases, when you may make your application in the manner hereinbefore prescribed. In the event of your re-enlistment after you have been discharged, you will have no claim to reckon for pension or any other purpose your service previous to your discharge.

(Signature of police-officer in acknowledgment of the above having been read to him.) } *A. B.*

Signed in my presence after I had ascertained that *A. B.* understood the purport of what he signed } *C. D.*, *Magistrate, Commandant, or Second-in-Command.*

ACT VII. OF 1892.*

The Madras City Civil Court Act, 1892.

RECEIVED THE G.-G.'S ASSENT ON THE 12TH AUGUST 1892.

An Act to establish an additional Civil Court for the City of Madras.

Whereas it is expedient to establish an additional Civil Court for the City of Madras ; It is hereby enacted as follows :—

Title and commencement.

1. (1) This Act may be called the Madas City Civil Court Act, 1892 ;†

(2) It ahall come into force at once.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) "City Court" means the Court established under the next following section :

(2) "City of Madras" means the area within the local limits for the time being of the ordinary original civil jurisdiction of the High Court :

(3) "High Court" means the High Court of Judicature at Madras : and

(4) "Small Cause Court" means the Court of Small Causes of Madras.

Constitution of the City Court.

3. The Local Government may, by notification in the official Gazette, establish a Court, to be called the Madras City Civil Court, with jurisdiction to receive, try, and dispose of all suits and

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* Certain word after this repealed by Act 17 of 1914 has been omitted.

† For modifications *vide* Madras, Act V. of 1916.

other proceedings of a civil nature not exceeding two thousand five hundred rupees in value, and arising within the City of Madras except suits or procedings which are cognizable—

(*a*) by the High Court as a Court of Admiralty or Vice-Admiralty or as a Colonial Court of Admiralty or as a Court having testamentary intestate, or marimonial jurisdiction, or

(*b*) by the Court for the relief of insolvent debtors, or

(*c*) by the Small Cause Court.

Appointment, suspension, and removal of Judges.

4. The Local Government may, by notification in the official Gazette, appoint so many persons as it may think fit to be Judges of the City Court; and may, for any misconduct, by a like notification, suspend or remove any Judge so appointed.

Judge of City Court to be Judge of Small Cause Court.

5. (1) Every person appointed a Judge of the City Court shall be, by virtue of his office, a Judge of the Small Cause Court, with respect to cases cognizable by that Court.

(2) Every such Judge shall be liable to perform any duties of a Judge of the Small Cause Court which the Chief Justice of the High Court may require him to perform.

Powers of Judges when City Court consists of more than one Judge.

6. When the City Court consists of more than one Judge,—

(*a*) each of the Judges may exercise all or any of the powers conferred on the Court by thls Act or any other law for the time being in force ;

(*b*) the Local Government may appoint any one of the Judges to be the principle Judge ; and

(*c*) the principal Judge may, from time to time, make such arrangements as he may think fit for the distribution of the business of the Court among the various Judges thereof.

Appointment, powers, duties, and punishment of ministerial officers.

7. (1) The Judges of the City Court, or when the Court consists of more than one Judge, the Principal Judge, may, from time to time, with the sanction of the Local Government, appoint as many clerks, bailiffs, and other ministerial officers as may be necessary for the administration of justice by the Court. and for the exercise and performance of the powers and duties conferred and imposed on it by this Act or any other law for the time being in force.

(2) The officers so appointed shall exercise such powers, and discharge such duties of a ministerial nature, as ths said Judge or principal Judge may, from time to time, direct.

(3) The said Judge or principal Judge may, subject to the control of the High Court,—

(*a*) suspend or remove any officer so appointed, or,

(*b*) fine any such officer who is guilty of misconduct or neglect in the performance of the duties of his office.

(4) Any fine imposed on an officer under sub-section (3) may be deducted from his salary.

Questions arising in suits, &, under Act to be dealt with according to law administered by High Court.

8. All questions wnich arise in suits or other proceedings under this Act in the City Court shall be dealt with and determined according to the law for the time being administered by the High Court in the exercise of his ordinary original civil jurisdiction.

Valuation of immovable property for jurisdictional purposes.

9. When the subject matter of any suit or other proceeding is land, or a house, or a garden, its value, for the purposes of the jurisdiction conferred on the City Court by this Act, shall, subject to the other provisions of this Act, be fixed in manner provided by the Court-fees Act, 1870, section 7, clause v.

Process-fees.

10. Fees chargeable for serving or executing processes issued by the City Court, or served or executed under its direction or control, shall be such as the High Court may prescribe with the approval of the Governor of Fort St. George in Council.*

Appoiniment of Receivers.

11. The powers conferred by Chapter XXXVI. of the Code of Civil Procedure on High Courts and District Courts as to the appointment o f Receivers may be exercised by the City Court or any Judge thereof.

Amendment of Act XV. of 1882, section 31.

12. In clause (*a*) of section 31 of the Presidency Small Cause Courts Act, 1882, for the words, "to the High Court," the words, "to the Madras City Civil Court or the High Court of Judicature at Fort William or Bombay, as the case may be," shall be substituted.

Repayment of half fees on settlement before hearing.

13. Whenever any suit or proceeding in the City Court is settled by agreement of the parties before issues have been settled, or any evidence recorded, half the amount of the institution fees paid by the plaintiff shall be repaid to him by the Court.

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* Certain word after this repealed by Act IV. of 1914 have been omitted.

Allowance for fees paid in City Court in cases removed to High Court.

14. When, under section 13 of the Letters Patent for the High Court, dated the twenty-eight day of December 1865, or under section 25 of the Code of Civil Procedure, the High Court has removed for trial by itself any suit from the City Court, fees on the scale for the time being in force in the High Court as a Court of ordinary original civil jurisdiction shall be payable in that Court in respect of the suit and proceedings therein :

Provided that, in the levy of any such fees which, according to the practice of the Court, are credited to the Government, credit shall be given to the plaintiff in the suit for any fee which, in the suit City Court, he has already paid under the Court-fees Act, 1870, on the plaint.

Appeals.

15. (1) The Court authorized to hear appeals from the City Court shall be the High Court.

(2) The period of limitation for an appeal from a decree or order of the City Court shall be the same as that provided by law for an appeal from a decree or order of the High Court in the exercise of its original jurisdiction.

Saving of original civil jurisdiction of High Court.

16. Nothing in this Act contained shall affect the original civil jurisdiction of the High Court :

Provided that—

(1) if any suit or other proceeding is instituted in the High Court which, in the opinion of the Judge who tries the same (whose opinion shall be final), ought to have been instituted in the City Court, no costs shall be allowed to a successful plaintiff, and a successful defendant shall be allowed his costs as between attorney and client ;

(2) in any suit or other proceeding pending at any time in the High Court, any Judge of such Court may, at any stage thereof, make an order transferring the same to the City Court if, in his opinion, such suit or proceeding is within the jurisdiction of that Court, and should be tried therein ;

(5) in any suit or other proceeding so transferred, the Court-fees Act, 1870, shall apply, credit being given for any fees levied in the High Court.

Seal to be used.

17. The City Court shall use a seal of such form and dimension as may be, for the time being, prescribed by the Local Government.

Holidays and vacations.

18. (1) The Judge of the City Court, or, when the Court consists of more than one Judge, the principal Judge, shall, at the commencement of each year, draw up a list of holidays and vacations to be observed in the Court, and shall submit the same for the approval of the Local Government.

(2) Such list, when it has received such approval, shall be published in the official Gazette, and the said holidays and vacations shall be observed accordingly.

ACT VIII. OF 1892.

The Lansdowne Bridge Act, 1892.

RECEIVED THE G.-G.'S ASSENT ON THE 22ND OCTOBER 1892.

An Act to remove doubts as to the levy and collection of tolls upon the Lansdowne Bridge over the Indus at Sukkur in the Presidency of Bombay, and for other purposes.

WHEREAS, by an Act passed by the Governor of Bombay in Council, intituled "an Act for enabling Government to levy tolls on public roads and bridges in the Presidency of Bombay,"* the Act of the Governor-General in Council "for enabling Government to levy tolls on public roads and bridges"† was repealed as far as it affected the Presidency of Bombay ;

And whereas the bridge on the line of the North-Western Railway over the Indus at Sukkur in the said Presidency of Bombay, commonly known as "The Lansdowne bridge," was made and is repaired at the expense of the Government of India ;

And whereas, in consequence of such repeal as aforesaid doubts have arisen whether or not there is any subsisting authority competent to impose and levy tolls for the use of the said bridge, and it is expedient to remove such doubts ;

It is enacted as follows :—

Title, extent, and commencement.

1. (1) This Act may be called the Lansdowne Bridge Act, 1892.

(1) It extends to the whole of British India ;‡

(3) It shall come into force at once.

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* Bom. Act III. of 1875. † Act VIII. of 1851.

‡ Certain word after this repealed by Act 10 of 1914 has been omitted.

Levy of tolls.

2. Notwithstanding the repeal of the lastly hereinbefore-mentioned Act, the Governor-General in Council may cause such rates of toll, not exceeding the rates mentioned in the schedule annexed to that Act, as he may think fit to be levied in respect of the said Lansdowne Bridge, and may place the collection of such tolls under the management of such persons as may appear, to him proper ; and all the provisions of the said last mentioned Act shall apply to such tolls and the collection and recovery thereof in the same manner as if such provisions were herein re-enacted verbatim.

Validation of past levy of tolls.

3. All tolls heretofore levied or collected upon the said Lansdowne Bridge under the authority of the Governor-General in Council, or of the Governor of Bombay in Council, shall be deemed to have been duly levied and collected under the authority of the said Act as if the same had not been repealed.

Application of Act to public roads and bridges.

4. Where any public road or bridge has or shall have been made and repaired at the expense of the Government of India and no other adequate provision shall have been made for the levy and collection of tolls thereon, the Governor-General in Council may, by notification in the *Gazette of India*, apply this Act, to such road or bridge, and thereupon all the provisions of this Act shall apply to such road or bridge as if the same had been herein named in addition to the said Lansdowne Bridge.

ACT X. OF 1892.

The Government Management of Private Estates Act.

RECEIVED THE G.-G.'S ASSENT ON THE 25TH OCTOBER 1892.

An Act to provide for the levy of a rate on private estates under the management of the Government to meet the costs of supervision and management.

WHEREAS it is expedient to provide for the levy of a rate on private estates under the management of the Government to cover the costs of all Government establishments in so far as they are employed in the supervision and management of such estates, other than establishments specially entertained for any particular estate or group of estates, and to meet all contingent expenditure incurred by the Government in connection with such supervision and management; It is hereby enacted as follows:—

Title, extent and commencement.

1. (1) This Act may be called the Government Management of Private Estates Act, 1892.

(2) It extends to the whole of British India, inclusive of* British Baluchistan ; †

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) "immoveable property" includes land, buildings, hereditary allowances, rights to ways, lights, ferries fisheries, or any other benefit to arise out of land, and things attached to the earth, or permanently fastened to anything which is attached to the earth, but not standing timber, growing crops, or grass;

(2) "gross income" includes all receipts of every kind in produce or cash, except money borrowed, recoveries of principal, and the proceeds of sale of immoveable property or of moveable property properly classed as capital ;and

(3) "private estates under Government management" include—

(*a*) estates under the Court of Wards ;

(*b*) encumbered estates under Government management ;

(*c*) estates attached for default of payment of Government revenue ;

(*d*) minors' estates placed under the guardianship of a revenue-officer, of the Government by a Civil Court ;

(*e*) estates managed by a Collector in pursuance of any order made under the Code of Civil Procedure ; and

(*f*) all other estates made over to, or taken under the management of, a revenue-officer of the Government as such under any law for the time being in force, or in virtue of any agreement.

Power to levy rate.

3. It shall be lawful for the Local Government—

(1) to levy on all private estates under Government management a rate, not exceeding five per cent. on the gross income, calculated, as nearly as may be possible, to cover—

(*a*) the costs of all Government establishments in so far as they may be employed in the supervision or management of such estates other than establishments specially

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* Here the words "*Upper Burma and*" replealed by Act XIII. of 1898, s. 18, have been omitted.

† Certain words after this repealed by Act 10 of 1914 has been omitted.

entertained for the supervision or management of any particular estate or group of estates, and

(*b*) all contiugent expenditure incurred in consequence of such supervision or management ;

(2) from time to time to vary such rate ; and

(3) to reduce or remit such rate in any special case or cases as may be equitable :

Provided that, in deciding the amount of the rate to be levied under this Act on any particular estate or group of estates, the Local Government shall consider the expenditure incurred on special establishments for such estate or estates.

Power to levy special charges.

4. In cases where an officer of the Government is employed to give legal advice, or to audit accouuts on behalf of any estate, the Local Government, if it considers the services rendered to be of a special nature, may, in its discretion, direct a special charge to be made against that estate on account of such services, irrespective of the rate leviable under the last foregoing section.

Saving as to special expenditure.

5. Nothing in this Act shall apply to the cost of establishments specially entertained, or to expenditure of any description specially incurred in respect of any particular estate or estates.

Validation of levy of past rates.

6. All rates for general supervision or management levied by any Local Government before the commencement of this Act shall be deemed to have been levied under this Act.

Power to make rules.

7. The Local Government may make any rules, and issue any orders, which may be necessary for carrying this Act into effect, and which are consistent therewith.

Exemption from jurisdiction of Courts.

8. Where any Government establishment is employed in such supervision as aforesaid, the Local Government shall be the sole judge of the cost attributable to such employment, and its decision thereon shall not be questioned in any Court of Law or otherwise.

9. [*Repealed by Act* 10 *of* 1914.]

ACT I. OF 1893.

The Bankers' Books Evidence Act.

RECEIVED THE G.-G'S ASSENT ON THE 20TH JANUARY 1893.

An Act to extend the Provisions of the Bankers' Books Evidence Act, 1891, to the Books of Post Office Savings Banks and Money Order Offices.

WHEREAS it is expedient to extend the provisions of the Bankers' Books Evidence Act, 1891, to the Books of the Savings Banks and Money Order Offices of the Post Office; It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Bankers' Books Evidence Act, 1893;*

(2) It shall come into force at once.

Addition to definition of "Bank" and "Banker" in section 2, sub-section (2) of Act XVIII. of 1891.

2. After clause (*b*) of sub-section (2) of section 2 of the said Bankers' Books Evidence Act, 1891, the following clause shall be added, namely :—

"(*c*) any Post Office Savings Bank or Money Order Office."

ACT II. OF 1893.

The Porahat Estate Act, 1893.

RECEIVED THE G.-G.'S ASSENT ON THE 3RD FEBRUARY 1893.

An Act to annex the Estate of Porahat to the Singhbhum District, and for certain other purposes.

WHEREAS the estate of Porahat was confiscated by the British Government in the year 1858, and is now under the administration of the officer holding the appointment of Deputy Commissioner of the Singhbhum District;

And whereas the said estate has, by proclamation, been declared and appointed by the Governor-General in Council to be subject to the Lieutenant-Governorship of Bengal;

And whereas it is expedient that the said estate should be annexed to the Singhbhum District, and should, as forming part of that district, be declared, for the purposes of the Scheduled Districts Act, 1874, to form part also of the scheduled district described in that Act as the Chutia Nagpur Division;

It is hereby enacted as follows :—

Title and commencement.

1. (1) This Act may be called the Porahat Estate Act, 1893.†

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* Certain word after this repealed by Act X of 1914 has been omitted.

† Here the word "*and*" and *sub-s.* (2) are repealed by Act I. of 1903.

Annexation of Porahat estate to Singhbhum District.

2. The estate of Porahat shall henceforth become and be part of the Singhbhum District.

Estate to become part of the scheduled district of Chutia Nagpur.

3. The said estate of Porahat, as forming part of the Singhbhum District, shall form part of the scheduled district described in Part III. of the first schedule to the Scheduled Districts Act, 1874, as the Chutia Nagpur Division.

Validation of acts done since the beginning of 1858

4. All acts of executive authority, proceedings, decrees, and sentences which have been done, taken, or passed in or with respect to the said estate of Porahat since the beginning of the year 1858, and before the commencement of this Act, by any officer of the Government or by any person acting under his authority, or otherwise in pursuance of an order of the Government, and which have been or shall be ratified by the Lieutenant-Governor of Bengal, shall be deemed to have been done, taken, and passed in accordance with law; and no suit or other proceeding shall be maintained or continued against any person whatever on the ground that any such acts, proceedings, decrees, or sentences were not done, taken, or passed in accordance with law.

ACT IV OF 1893.

The Partition Act.

RECEIVED THE G.-G.'S ASSENT ON THE 9TH MARCH 1893.

An Act to amend the Law relating to partition.

WHEREAS it is expedient to amend the law relating to partition; It is hereby enacted as follows :—

Title, extent, commencement, and saving.

1. (1) This Act may be called the Partition Act, 1893.

(2) It extends to the whole of British India;*

(3) It shall come into force at once.

(4) But nothing herein contained shall be deemed to affect any local law providing for the partition of immoveable property paying revenue to Government.

Power to Court to order sale instead of division in partition suits.

2. Whenever in any suit for partition, in which, if instituted prior to the commencement of this Act, a decree for partition might have been made, it appears to the Court that, by reason of the nature of the property to which the suit relates, or of the

* Certain word after this re pealed by Act 10 of 1914 has been omitted.

number of the shareholders therein, or of any other special circumstances, a division of the property cannot reasonably or conveniently be made, and that a sale of the property and distribution of the proceeds would be more beneficial for all the shareholders, the Court may, if it thinks fit, on the request of any of such shareholders interested individually or collectively to the extent of one moiety or upwards, direct a sale of the property and a distribution of the proceeds.

Procedure when sharer undertakes to buy.

3. (1) If, in any case in which the Court is requested, under the last foregoing section, to direct a sale, any other shareholder applies for leave to buy at a valulation the share or shares of the party or parties asking for sale, the Court shall order a valuatlon of the share or shares in such manner as it may think fit, and offer to sell the same to such shareholder at the price so ascertained, and may give all necessary and proper directions in that behalf,

(2) If two or more shareholders severally apply for leave to buy as provided in sub section (1), the Court shall order a sale of the share or shares to the shareholder who offers to pay the highest price above the valuation made by the Court.

(3) If no such shareholder is willing to buy such share or shares at the price so ascertained, the applicant or applicants shall be liable to pay all costs of, or incident to, the application or applications.

Partition-suit by transferee of share in dwelling-house.

4. (1) Where a share of a dwelling-house belonging to an undivided family has been transferred to a person who is not a member of such family, and such transferee sues for partition, the Court shall, if any member of the family being a shareholder shall undertake to buy the share of such transferee, make a valuation of such share in such manner as it thinks fit, and direct the sale of such share to such shareholder, and may give all necessary and proper direction in that behalf.

(2) If, in any case described in sub-section (1), two or more members of the family being such shareholders severally undertake to buy such share, the Court shall follow the procedure prescribed by sub-section (2) of the last foregoing section.

Representation of parties under disability.

5. In any suit for partition a request for sale may be made, or an undertaking or application for leave to buy may be given or made, on behalf of any party under disability by any person authorized to act on behalf of such party in such suit, but the Court shall not be bound to comply with any such request, undertaking, or application, unless it is of opinion that the sale or purchase will be for the benefit of the party under such disability.

Reserved bidding and bidding by shareholders.

6. (1) Every sale under section 2 shall be subject to a reserved bidding, and the amount of such bidding shall be fixed by the Court in such manner as it may think fit, and may be varied from time to time.

(2) On any such sale any of the shareholders shall be at liberty to bid at the sale on such terms as to non-payment of deposit, or as to setting off or accounting for the purchase-money or any part thereof instead of paying the same, as to the Court may seem reasonable.

(3) If two or more persons of whom one is a shareholder in the property, respectively advance the same sum at any bidding at such sale, such bidding shall be deemed to be the bidding of the shareholder.

Procedure to be followed in case of sales.

7. Save as hereinbefore provided, when any property is directed to be sold under this Act, the following procedure shall, as far as practicable, be adopted, namely :—

(*a*) if the property be sold under a decree or order of the High Court of Calcutta, Madras, or Bombay in the exercise of its original jurisdiction, or of the Court of the Recorder of Rangoon, the procedure of such Court in its original civil jurisdiction for the sale of property by the Registrar ;

(*b*) if the property be sold under a decree or order of any other Court, such procedure as the High Court may, from time to time, by rules prescribe in this behalf, and until such rules are made, the procedure prescribed in the Code of Civil Procedure in respect of sales in execution of decrees.

Orders for sale to be deemed decrees.

8. Any order for sale made by the Court under section 2, 3, 4, shall be deemed to be a decree within meaning of section 2 of the Code of Civil Procedure.

Saving of power to order partly partition and partly sale.

9. In any suit for partition the Court may, if it shall think fit, make a decree for a partition of part of the property to which the suit relates, and a sale of the remainder under this Act.

Application of Act to pending suits.

10. This Act shall apply to suits instituted before the commencement thereof, in which no scheme for the partition of the property has been finally approved by the Court.

ACT VI. OF 1893.

The Dinshaw Manockjee Petit Baronetcy Act.

RECEIVED THE G.-G.'S ASSENT ON THE 9TH MARCH 1893.

An Act for settling Bonds of the Municipal Corporation of the City of Bombay producing an annual income of one lakh and twenty-five thousand rupees and a mansion-house and hereditaments called "Petit Hall" in the Island of Bombay, the property of Sir Dinshaw Manockjee Petit, Baronet, so as to accompany and support the title and dignity of a Baronet lately conferred by Her Present Majesty Queen Victoria on him for and during the term of his natural life, and from and immediately after his decease to hold to his second son, Framjee Dinshaw Petit, Esquire, and the heirs male of his body lawfully begotten, and in default of such issue with remainder to the heirs male of the body of the said Sir Dinshaw Manockjee Petit, and for other purposes connected therewith.

WHEREAS by Letters Patent of Her Majesty Queen Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, dated at Westminister on or about the first day of September in the fifty-fourth year of Her Reign, and by Warrant under the Queen's sign-manual, Her said Majesty made known that she, of Her special Grace, certain knowledge, and mere motion, had erected, appointed, and created her trusty and well-beloved Sir Dinshaw Manockjee Petit of "Petit Hall," in the Island of Bombay, Knight to the dignity, state, and degree of a Baronet, and him, the said Sir Dinshaw Manockjee Petit, for Her Majesty, her heirs and successors, she did erect, appoint, and create a Baronet of the United Kingdom of Great Britain and Ireland by the said Letters Patent, to hold to him, for and during the term of his natural life, and from and immediately after his decease to hold to Framjee Dinshaw Petit, Esquire, second son of the said Sir Dinshaw Manockjee Petit, and the heirs male of his body lawfully begotten and to be begotten, and in default of such issue with remainder to the heirs male of the boby of the said Sir Dinshaw Manockjee Petit lawfully begotten and to be begotten;

And whereas, in fulfilment of an engagement in that behalf made with Her Majesty's Government, the said Sir Dinshaw Manockjee Petit is desirous of settling in perpetuity such property on himself and on the said Framjee Dinshaw Petit and the heirs male of their respective bodies who may succeed to the said Baronetcy, as shall be adequate to support the dignity of the title conferred on him and them as aforesaid;

And whereas the said Sir Dinshaw Manockjee Petit is seised of a Mansion-house and hereditaments situate in the Island of Bombay called "Petit Hall, and has an absolute estate of inheritance therein, and is desirous, in fulfilment of the aforesaid engagement, of settling bonds or debentures, of the Municipal Corporation of the City of Bombay producing an annual income of one lakh and twenty-five thousand rupees, and the said Mansion-house and hereditaments, to the uses, upon the trusts and for the purposes hereinafter limited and declared, concerning the same respectively;

And whereas the said Sir Dinrhaw Manockjee Petit is also desirous that the said Framjee Dinshaw Petit and the heirs male of his body, and also the heirs male of the body of the said Sir Dinshaw Manockiee Petit to whom the said title and dignity of Baronet shall descend, shall, at the time of such descent upon them respectively, take and bear the names of "Dinshaw Manockjee Petit" in lieu of any other name or names whatever which they respectively may bear at the time of such descent on them respectively; and he is also desirous that the Accountant-General, Bombay, the Collector of Bombay, and the Chief Presidency Magistrate, Bombay, all for the time being, shall be trustees of the aforesaid Municipal bonds, Mansion house, and hereditaments, and be likewise the trustees for carrying into execution the general purposes and powers of this Act, with relation to the same securities, and also witht relation to the same Mansion-house and hereditaments;

And whereas the said Sir Dinshaw Manockjee Petit is desirous of settling the said bonds and the said Mansion-house and hereditaments so as aforesaid agreed to be settled by him for the purpose of supporting the dignity of the said Baronetcy, to the uses, upon the trusts, and for the purposes hereinafter limited and declared concerning the same respectively;

And whereas it is expedient that the aforesaid purposes should be effected by an Act of the Council of the Governor-General for making Laws and Regulations;

It is enacted as follows:—

Incorporation of trustees.

1. That Arthur Frederick Cox, Esquire, the Accountant-General of Bombay, James MacNabb Campbell, Esquire, the Collector of Bombay, and Charles Philip Cooper, Esquire, the Chief Presidency Magistrate of Bombay, and their successors, the Accountant-General of Bombay, the Collector of Bombay, and the Chief Presidency Magistrate of Bombay, all for the time being, shall be and they are hereby created a Corporation with perpetual succession and a common seal under the style and title of "The Trustees of the Dinhaw Manockjee Petit

Baronetcy," and that the said Arthur Frederick Cox, James Mac-Nabb Campbell, and Charles Philip Cooper, and their said successors (hereinafter styled "The Corporation") shall be and they are hereby constituted, as such Corporation, the Trustees for executing the powers and purposes of this Act.

Heirs of Sir Dinshaw Manockjee Petit to take his name.

2. The said Framjee Dinshaw Petit and the heirs male of his body and all other the heirs male of the body of the said Sir Dinshaw Manockjee Petit, to whom the said title and dignity shall descend, pursuant to the limitations of the Patent whereby the said dignity was granted, shall take upon themselves respectively the names of "Dinshaw Manockjee Petit" in lieu and in the place of any other name or names whatever; and the said Framjee Dinshaw Petit, and also such heirs male of his body and all such other the heirs male of the said Sir Dinshaw Manockjee Petit severally and successively, shall be called by the names of "Dinshaw Manockjee Petit," and by those names shall name, style, and write themselves, respectively, upon all occasions whatever.

Vesting and application of income of settled property.

3. Immediately from and after the passing of this Act, bonds of the Municipal Corporation of the City of Bombay producing an annual income of not less than one lakh and twenty-five thousand rupees shall be transferred into the name of the Corporation, who shall hold the same upon the trusts and for the purposes hereinafter expressed concerning the same (that is to say) upon trust to continue to hold the said bonds until the same shall be discharged by the Municipal Corporation of the City of Bombay, or shall be sold by the said Trustees at their discretion, and on such discharge or sale to invest the sum to be received on such occasion in or on any stocks, funds, or securities for the principal or interest of which is guaranteed by the Government of the United Kingdom of Great Britain and Ireland or the Government of India; and in like manner, as often as the same shall become necessary, to alter, vary, and change such stocks, funds, and securities for others of the same or like nature: and upon further trust from time to time to pay and apply the dividends, interest and annual income of the said bonds, stocks, funds, and securities into and for the benefit of the said Sir Dinshaw Manockjee Petit during his natural life; and from and immediately after his decease for the benefit of the said Framjee Dinshaw Petit if he shall survive the said Dinshaw Manockjee Petit during his natural life; and from and immediately after the death of the survivor of them the said Sir Dinshaw Manockjee Petit and Framjee Dinshaw Petit for the benefit of the person who, as heir male of the body of the said Framjee Dinshaw Petit or of the said Sir Dinshaw Manockjee Petit, as the case may be, shall, for the time being, have succeeded

to, and be in the enjoyment of, the title of Baronet conferred by the said Letters Patent as aforesaid, notwithstanding any rule of law or equity to the contrary, and upon failure and in default of heirs male of the body of the said Framjee Dinshaw Petit and Sir Dinshaw Manockjee Petit, to whom the same title and dignity of Baronet may descend, upon trust for the said Sir Dinshaw Manockjee Petit his executors, administrators, and assigns, which ultimate remainder or reversion it shall be lawful for the said Sir Dinshaw Manockjee Petit, his executors, administrators, and assigns, at any time or times during the continuance of the said title and dignity of Baronet, and until there shall be a failure of heirs male of the body of the said Sir Dinshaw Manockjee Petit as aforesaid, to assign, transfer, bequeath, and dispose of by deed or will or other assurance or assurances.

Application of income during minority.

4. The Corporation, during the minority of any person for the time being entitled to, and in enjoyment of, the said dignity of Baronet under the limitations of the said Letters Patent, shall pay and apply for and towards the maintenance, education, and benefit of such Baronet, in each and every year during such his minority as aforesaid, so much only of the annual interest, dividends, and income of the said Trust Funds and premises as the Corporation shall, in their discretion, think proper, and shall, from time to time, invest the residue of the said annual dividends, interest and income of the said Trust Funds and premises in and upon stocks, funds, and securities of, or the principal or interest of which is guaranteed by the Government of the United Kingdom of Great Britain and Ireland or the Government of India, and shall, upon such Baronet attaining his majority, pay over, transfer, and assign to him, or as he shall direct, and for his absolute benefit, the said investments and all accumulations thereof.

Mansion-house limited to the use of the Baronet for the time being.

5. The Mansion-house and other hereditaments called "Petit Hall," situate in the Island of Bombay, with their rights, members, and appurtenances, of which the said Sir Dinshaw Manockjee Petit is seised to him and his, heirs, shall, by force of this Act, from and immediately after the passing thereof, stand limited unto and to the use of, the Corporation upon the trusts hereinafter declared (that is to say) upon trust for the said Sir Dinshaw Manockjee Petit for and during the term of his natural life, and, from and immediately after his decease, upon trust for the said Framjee Dinshaw Petit for and during the term of his natural life, provided he shall survive the said Sir Dinshaw Manockjee Petit, and, from and immediately after the decease of the survivor of them the said Sir Dinshaw Manockjee Petit and Framjee Dinshaw Petit, upon trust for the heirs male of the body of the said Framjee Dinshaw Petit who may succeed to the title of Baronet conferred

by the said Letters Petent as aforesaid, and upon failure and default of heirs male of the body of the said Framjee Dinshaw Petit to whom the same title and dignity of Baronet may descend as aforesaid, upon trust for the heirs male of the body of the said Sir Dinshaw Manockjee Petit who may succeed to the said title, and, upon failure and default of such last mentioned heirs male, upon trust for the said Sir Dinshaw Manockjee Petit, his heirs, and assigns for ever, which ultimate remainder or reversion it shall be lawful for the said Sir Dinshaw Manockjee Petit and his heirs and assigns, at any time or times during the continuance of the said title and dignity of Baronet, and until there shall be a failure of heirs male of the body of the said Sir Dinshaw Manockjee Petit, as aforesaid, to grant, convey, devise, and dispose of, by deed or will, or by any other assurance or assurances by which such an estate in remainder or reversion is capable by law of being conveyed or disposed of by Parsee inhabitants of British India.

Devolution of interest where beneficiary refuses, neglects, or discontinues to use the names "Dinshaw Manockjee Petit."

6. Provided always that, in case any person, to whom, for the time being, the said title of Baronet shall have descended, shall, for the space of one whole year after he shall, by virtue of this Act, become entitled to the dividends, interest, and income of the said stocks, funds, and securities, or to the possession or receipt of the rents and profits of the said hereditaments, or, being then under age, shall, for the space of one whole year after he shall attain the age of twenty-one years, refuse or neglect to use the names of "Dinshaw Manockjee Petit" as hereinbefore enacted, or in case any such person, having so used those names, shall for the space of six calender months consecutively during his natural life, discontinue so to use such names, then, in any or either of the said cases, the estate or interest in the said trust funds and premises of the person who shall so refuse or neglect to use or having used shall so discontinue to use the said names of "Dinshaw Manockjee Petit" shall, during the remainder of his respective natural life, be suspended; and that, during any and every such suspension, the dividends, interest, and income of the said stocks, funds, and securities, and the possession and actual occupation, and also the rents and profits of the said hereditaments, shall devolve and belong to the person who, as heir male of the body of the said Framjee Dinshaw Petit or the said Sir Dinshaw Manockjee Petit, as the case may be, would have succeeded to, and been in the enjoyment of, the title of Baronet conferred by the said Letters Patent in case the person so refusing or neglecting to use or discontinuing to use the said names of "Dinshaw Manockjee Petit" had departed this life; but, if there should be no such heir male, then to the person or persons who would be entitled to the same in case there had then been a total failure of issue male of the said Sir Dinshaw Manockjee Petit.

Power to charge settled property for jointure of widow.

7. It shall be lawful for the said Sir Dinshaw Manockjee Petit and Framjee Dinshaw Petit, and for any person upon whom the said title of Baronet shall, from time to time, descend, when in the actual enjoyment of the said title, and who shall not refuse, neglect, or discontinue to use, for the respective periods hereinbefore in that behalf mentioned, the said names of "Dinshaw Manockjee Petit" as hereinbefore enacted either before or after his marriage with any woman or women by any deed or deeds, writing or writings, with or without power of revocation to be by him sealed and delivered in the presence of two or more credible witnesses (but subject and without prejudice to any annuity or annuities, if any, which shall be then subsisting and payable by virtue of any appointment made under, and in pursuance of this present power), to limit and appoint unto any woman or women whom he shall marry for her or their life or lives, and for her or their jointure or jointures in bar of dower or other legal or customary rights any annuity or yearly sum not exceeding the sum of ten thousand rupees, clear of all taxes, charges, and deductions whatsoever to commence and take effect immediately after the decease of the person limiting or appointing the same, and to be issuing and payable out of the dividends, interests, and annual income of the said stocks, funds, and securities, and to be paid and payable by equal half-yearly payments on the thirtieth day of June and the thirty-first day of December, the first of the said half-yearly payments to be made on the half-yearly day which shall first happen after the decease of the person who shall have appointed such annuity or yearly sum: Provided always that, in case any person on whom such title shall descend shall have refused or neglected to use the names of "Dinshaw Manockjee Petit," or shall discontinue to use such names for six calendar months consecutively during his natural life, every such limitation and appointment, either previously or afterwards made by him, shall be and become inoperative and invalid, and no such annuity thereby created or appointed shall take effect or be payable, or chargeable, on the said stocks, funds, and securities, notwithstanding any such limitation or appointment,

Limitation to amount of jointure.

8. Provided always that the said dividends, interest, and annual income of the said stocks, funds, and securities shall not, at one and the same time, be subject to the payment of more than the yearly sum of twenty thousand rupees for or in respect of any jointure or jointures which shall be made in pursuance of the power hereinbefore contained, so that, if, by virtue of or under the same power, the said dividends, interest, and annual income would, in case this present provision had not been inserted, be charged at any one time with a greater yearly sum for jointures in the whole than the yearly sum of twenty thousand rupees, the

yearly sum which shall occasion such excess or such part thereof as shall occasion the same shall, duriug the time of such excess, abate and not be payable.

Exclusion of wives from interest in Mansion-house.

9. The said Mansion-house and hereditaments called "Petit-Hall," with their rights, members, and appurtenances, shall not be subject to any right, interest, or estate whatsoever which the wife of the said Sir Dinshaw Manockjee Petit or Framjee Dinshaw thereto may or might have, or claim to have, in the said Mansion-house and hereditaments under any custom or law of the Parsees, or otherwise howsoever.

Limitation of transfers to life of transferor.

10. Save as regards the ultimate remainders or reversions, hereinbefore limited in trust for the said Sir Dinshaw Manockjee Petit, his heirs, executors, administrators, and assigns respectively, so long as the said title and dignity of Baronet shall endure, and until there shall be a failure of heirs male of the body of the said Sir Dishaw Manockjee Petit, to whom the said title and dignity of Baronet might descend pursuant to the limitations of the Patent wherby the said dignity was granted, neither the said Sir Dinshaw Manockjee Petit nor the said Framjee Dinshaw Petit, nor any of the heirs male of their respective bodies in whose favour trusts arc hereinbefore declared of the dividends, interest, and annual income of the said bonds, stocks, funds, and securities or of the said Mansion-house and hereditaments called "Petit Hall," shall transfer, dispose of, alien, convey, charge or encumber the said bonds, stocks, funds, and securities or any part thereof, or the dividends, interest, and annual income thereof, or of any part thereof, or the said Mansion-house or hereditaments or any part thereof, for any greater, or larger estate, interest or time than during his natural life, and for such portion thereof only as he shall continue to use the names of "Dinshaw Manockjee Petit," nor shall any such person as aforesaid, either alone, or jointly with any other or others of them, or with any other person or persons whomsoever have any power to discontinue or bar the estates tail hereinbefore limited in trust for the heirs male of the respective bodies of the said Framjee Dinshaw Petit and Sir Dinshaw Manockjee Petit, or either of them, or any estate or interest hereby or herein created or declared in trust or for the benefit of any person or persons for whose benefit trusts are declared by this Act of the dividends, interest, and annual income of the said bonds, stocks, funds, and securities, or of the said Mansion-house, hereditaments and the rents and profits thereof, or to prevent any such person or persons from succeeding to, holding or enjoying, receiving or taking the same premises according to the true intent of the provisions hereinbefore contained nor shall the same premises or any of them be

held by any Court of law or equity to have vested in any such person as aforesaid for any greater estate or interest than during his life, and only during such portion thereof as he shall continue to use the names of "Dinshaw Manockjee Petit," and every attempt to make any conveyance, assignment, or assurance contrary to the intention of this Act shall be and is hereby declared and enacted to be void.

Addition of stocks, funds, or securities to settled property.

11. If at any time or times hereafter the said Sir Dinshaw Manockjee Petit or any other person or persons shall be desirous of augmenting the funds and securities for the time being subject to the trusts of this Act, and for that purpose and with that intent shall, at his or her own expense, transfer and deliver to the Corporation any stocks, funds, or securities of or the principal or interest of which is guaranteed by, the Government of the United Kingdom of Great Britain and Ireland or the Government of India, then, and as often as the same shall happen, the said Corporation may, with the previous consent of the Governor of Bombay in Council, accept such stocks, funds, and securities, and the same shall thenceforth be held by the said Corporation upon the same trusts as are declared by this Act with regard to the said bonds of the Municipal Corporation of the City of Bombay, or upon such of them as shall then be subsisting and capable of taking effect: Provided always that the total amount of the stocks, funds, and securities for the time being subject to the trusts of this Act shall at no time exceed fifty lakhs of rupees.

Insurance of Mansion-house, and application of moneys received in respect of insurance.

12. The Corporation shall keep the said Mansion-house called "Petit Hall," and all the out-buildings and offices thereof, and also all other messuages of buildings which may, from time to time, be added thereto or substituted therefor, or which may hereafter become subject to any of the trusts of this Act, adequately insured in the name of the said Corporation, or of the persons for the time being constituting the same against loss or damage by fire, and may apply any portion of the income of the funds for the time being subject to the trusts of this Act to that purpose, and, in case the hereditaments and premises so insured or any part thereof shall be destroyed or damaged by fire, the moneys received in respect of such insurance shall either be laid out under the direction of the said Corporation in re-building or reinstating the hereditaments and premises so destroyed or damaged by fire, or, upon the application of the person for the time being entitled to, and in the enjoyment of, the said dignity of Baronet, and, with the consent of the Governor of Bombay in Council to be notified by a resolution of the Government of Bombay, may be laid out in the purchase of other hereditaments in the Presidency of Bombay suitable for the support of the dignity of the said title, in which last-

mentioned case the hereditaments so purchased shall, immediatly from and after the completion of the purchase thereof, be and become subject to the uses and trusts of this Act, or such of them as shall then be subsisting and capable of taking effect in the same manner, and to the same effect, as if such last-mentioned hereditaments had expressly been named or described in the fifth section of this Act. Until such insurance moneys shall have been so laid out, the Corporation may invest the same or any part thereof in any of the Government securities specified in section 16.

Mansion-house and other hereditaments to be kept in repair.

13. The said Mansion-house and premises called "Petit Hall," and all additions thereto, and also all other messuages and hereditaments which, from time to time, may be or become subject to the trusts declared by this Act concerning the said Mansion-house and premises, shall be kept in good repair, order, and condition by and at the expense of the person for the time being in the enjoyment of the title of Baronet conferred by the said Letters Patent; and, in case any such person shall, at any time, neglect or refuse to keep the said Mansion-house, hereditaments, and premises or any of them in such good order and condition, it shall be lawful for the Corporation to keep or cause the same to be kept in good order and condition, and to defray the expense incident thereto from the income of the funds for the time being subject to the provisions of this Act.

Power of Corporation to sell or exchange Mansion-house or other hereditaments.

14. The Corporation shall hold the said Mansion-house and hereditaments known as "Petit Hall," and also any other hereditaments for the time being vested in them by virtue of this Act, upon trust with the consent of the person entitled to, and in the actual enjoyment of, the title of Baronet conferred by the said Letter's Patent, and, with the consent of the Governor of Bombay in Council to be notified as aforesaid, to sell or exchange for other lands or hereditaments in the Presidency of Bombay the said Mansion house and hereditaments and also any other such hereditaments as aforesaid, and upon any such exchange to give or receive any money for equality of exchange.

Powers of Corporation in respect of such sale or exchange.

15. And it is hereby declared that any such sale as aforesaid may be made either by public auction or private contract, and that the Corporation may make any stipulations as to title or evidence or commencement of title or otherwise in any conditions of sale or contract for sale or exchange of the said hereditaments or any part thereof, and may buy in or rescind or vary any contract for sale or exchange, and re-sell or re-exchange without being responsible for any loss occasioned thereby.

Investment of moneys received on such sale or exchange.

16. And it is hereby declared that the said Corporation shall receive all moneys which may become payable upon any such sale or exchange as aforesaid, and with all convenient speed invest the same either in the purchase of any stocks, funds, or securities of, or the principal and interest of which is guaranteed by, the Government of the United Kingdom of Great Britain and Ireland or the Government of India, or in the purchase of other lands or hereditaments situate in the Presidency of Bombay and suitable for the support of the dignity of the said title, yet so as that every such purchase of lands or hereditaments be made with the consent in writing of the person then entitled to, and in the actual enjoyment of the said title.

Investments and lands resulting from such sale or exchange to be held on trusts declared by this Act.

17. And it is hereby declared that the stocks, funds, and securities and the lands or hereditaments, respectively, so to be purchased or taken in exchange as aforesaid, shall, from and immediately after the completion of the purchase or exchange thereof, respectively, be held upon the trusts in and by this Act declared of and concerning the said bonds of the Municipal Corporation for the City of Bombay and the said Mansion house and premises called "Petit Hall," respectively, or such of them, respectively, as may then be subsisting and capable of taking effect.

Reimbursement of expenses of Corporation.

18. It shall be lawful for the Corporation, out of the money which shall come to their hands by virtue of the trusts and provisions of this Act, to retain and reimburse themselves all costs, damages, and expenses which they shall or may sustain, expend, or disburse in or about the execution of the aforesaid powers, trusts, and provisions, or in relation thereto.

Saving of existing rights.

19. Saving always to the Queen's Most Excellent Majesty, Her heirs, and successors, and to all and every other person and persons, bodies politic and corporate, and his, her, and their respective heirs, successors, executors, and administrators, and every of them (other than and except the said Sir Dinshaw Manockjee Petit, his devisees, heirs, and assigns), all such estate, right, title, interest, claim, and demand whatsoever of, into, out of, or upon the said Mansion-house and hereditaments called "Petit Hall," or any part or parts thereof, as they, every or any of them, had, before the passing of this Act, and would, could, or might have had, held, or enjoyed in case this Act had not been passed.

ACT XI. OF 1893.

RECEIVED THE G.-G.'S ASSENT ON THE 21ST SEPTEMBER 1893.

An Act to make Provision for certain Matters connected with the Tributary Mahals of Orissa.

WHEREAS it is expedient* to indemnify certain persons, and validate acts done by them in, or in relation to, the said Mahals, and to admit of certain sentences passed in those Mahals being carried into effect in British India; It is hereby enacted as follows:—

Title, extent, and commencement.

1. (1) This Act may be called the Tributary Mahals of Orissa Act, 1893.

(2) It extends to the whole of British India.†

2. [*Repealed by Act I. of* 1903.]

Indemnity in respect of acts done before the commencement of this Act.

3. No suit, prosecution, or other proceeding shall be begun or continued in respect of any act done before the commencement of this Act by any officer of the Government in respect of any of the Tributary Mahals of Orissa or any inhabitant thereof, such act purporting to have been done in the exercise of executive or judicial authority, and having, before or after the commencement of this Act, been ratified by the Government; and every such act is hereby confirmed and made valid, and every such officer indemnified and discharged from liability in respect thereof.

Execution in British India of certain sentences passed in Tributary Mahals.

4. (1) The Lieutenant-Governor of Bengal may authorize the reception, detention, or imprisonment in any place under his government, for the period specified in the sentence, of—

(*a*) any person sentenced to imprisonment or transportation for any term by any Court or tribunal acting under the authority of the British Government in, or in respect of, any Tributary Mahal in Orissa;

(*b*) any Native Indian subject of Her Majesty residing in any such Mahal, or any Native subject of a Chief of any such Mahal, when, in either case, such Native subject as aforesaid has been sentenced by such a Chief, or by subordinate Court of such a Chief, to imprisonment for a term exceeding six months.

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* Here the words "*repeal certain enactments relating to the Tributary Mahals of Orissa, and*" have been reperled by Act I. of 1903.

† Here the word "*and*" and *sub-section* (3) are repealed by Act I. of 1903.

(2) The place or places within the territories subject to the Lieutenant-Governor of Bengal in which persons may be received, detained, or imprisoned under sub section (1) shall be such as the said Lieutenant-Governor may, by general or special order direct.

(3) A sentence shall be of the same force and effect in the place in which it may be carried into effect under this section as if it had been passed by a competent Court in that place.

THE SCHEDULE,

[*Repealed by Act I. of* 1903.]

ACT I. OF 1894.

The Land Acquisition Act. 1894.*

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received His Excellency's Assent on the 2nd February 1894.

As Act to amend the Law for the Acquisition of Land for Public Purposes and for Companies.

WHEREAS it is expedient to amend the law for the acquisition of land needed for public purposes and for Companies, and for determining the amount of compensation to be made on account of such acquisition ; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

Short title, extent, and commencement.

1. (1) This Act may be called the Land Acquisition Act, 1894 ;

(2) It extends to the whole of British India ; and

(3) It shall come into force on the first day of March 1894.

Repeal.

2. (1) [*Repealed by Act X of* 1914.]

(2) But all proceedings commenced, officers appointed or authorized, agreements published, and rules made under the said Land Acquisition Act, shall, as far as may be, be deemed to have been respectively commenced, appointed or authorized, published, and made under this Act.

* Applies to the Calcutta Municipality with modifications—*see* Ben. Act III. of 1899, s. 557.

Declared in force—

(i) in the Santhal Parganas—by Reg III. of 1872, s. 3, as amended by Reg. III. of 1899, s. 3 ;

(ii) in Upper Burma (except the Shan States)—by Act XIII. of 1898, s. 4.

(3) Any enacment or document referring to the said Land Acquisition Act, or to any enactment thereby repealed, shall, so far as may be, be construed to refer to this Act, or to the corresponding portion thereof,

Definitions.

3. In this Act, unless there is some thing repugnant in the subject or context,—

(*a*) the expression "land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth ;

(*b*) the expression 'person interested" includes all persons claiming an interest in compensation to be made on account of the acquistion of land under this Act ; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land ;

(*c*) the expression "Collector" means the Collector of a district, and includes a Deputy Commissioner and any officer specially appointed by the Local Government to perform the functions of a Collector under this Act ;

(*d*) the expression "Court" means a principal Civil Court of original jurisdiction unless the Local Government has appointed (as it is hereby empowered to do) a special judicial officer within any specified local limits to perform the functions of the Court under this Act ;

(*e*) the expression "Company" means a Company registered under the Indian Companies Act, 1882, or under the (English) Companies Acts, 1862 to 1890, or incorporated by an Act of Parliament or of the Governor-General in Council, or by Royal Charter or Letters Patent "and includes a society registered under the Societies Registiation Act, 1860* and a registered society within the meaning of the Co-operative Societies Act, 1912." † ‡

(*f*) the expression "public purpose" includes the provision of village sites in districts in which the Local Government shall have declared, by notification in the official Gezette, that it is customary for the Government to make such provision ; a id

(*g*) the following persons shall be deemed persons "entitled to act" as. and to the extent hereinafter provided (that is to say)—

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* Act XXI of 1860. † Act II of 1912.

‡ The words within quolation have been added by Act XVII of 1919.

trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any such case, and that to the same extent as the persons beneficially interested could have acted if free from disability ;

a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and, whether of full age or not, to the same extent as if she were unmarried and of full age ; and

the guardians of minors and the committees or managers of lunatics or idiots shall be deemed respectively the persons so entitled to act to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted :

provided that—

(*i*) no person shall be deemed "entitled to act" whose interest in the subject-matter shall be shown, to the satisfaction of the Collector or Court, to be adverse to the interest of the person interested for whom he would otherwise be entitled to act ;

(*ii*) in every such case the person interested may appear by a next friend, or, in default of his appearance by a next friend, the Collector or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof ;

(*iii*) the provisions of Chapter XXXI. of the Code of Civil Procedure shall, *mutatis mutandis* apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this Act ; and

(*iv*) no person "entitled to act" shall be competent to receive the compensation-money payable to the person for whom he is entitled to act unless he would have been competent to alienate the land, and receive and give a good discharge for the purchase-money on a voluntary sale.

PART II.

ACQUISITION.

Preliminary Investigation.

Publication of preliminary notification, and powers of officers thereupon.

4. (1) Whenever it appears to the Local Govenment that land in any locality "is needed or"* is likely to be needed for any public purpose, a notification to that effect shall be published in the official Gazette, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality.

(2) Thereupon it shall be lawful for any officer, either generally or specially authorized by such Government in this behalf, and for his servants and workmen—

to enter upon and survey and take levels of any land in such locality ;

to dig or bore into the sub-soil ;

to do all other acts necessary to ascertain whether the land is adapted for such purpose ;

to set out the boundaries of the land proposed to be taken, aud the intended line of the work (if any) proposed to be made thereon;

to mark such levels, boundaries, and line by placing marks and cutting trenches ;

and, where otherwise the survey cannot be completed, and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop fence, or jungle :

Provided that no person shall enter into any building, or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof), without previously giving such occupier at least seven days' notice in writing of his intention to do so.

Payment for damage.

5. The officer so authorized shall, at the time of such entry, pay or tender payment for all necessary damage to be done as aforesaid ; and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector or other chief revenue-officer of the district, and such decision shall be fined.

Objections.

Hearing of objections.

*__5A.__ (1) Any person interested in any land which has been notified under section 4, sub-section (1), as being needed or likely to be needed for a publice purpose or for a Company, may, within thirty days after the issue of the notification, object to the aquisition of the land or of any land in the locality, as the case may be.

(2) Every objection under sub-section (7) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard either in person or by pleader and shall, after hearing all such objections and after making such further enquiry, if any, as he thinks necessary. submit the case for the decision of the Local Government,

* Section 5A has been added by Act 38 of 1923.

together with the record of the proceedings held by him and a report containing his recommendations on the objections. The decision of the Local Government on the objections shall be final.

(3) For the purpose of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act.

Declaration of intended Acquisition.

Declaration that land is required for a public purpose.

6. (1) Subject to the provisions of Part VII. of this Act, "when the Local Government is satisfied after considering the report, if any, under section 5A, sub-section (2)"† that any particular land is used for a public purpose, or for a Company a declaration shall be made to that effect under the signature of a Secretary to such Government, or of some officer duly authorized to certify its orders :

Provided that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a Company or wholly or partly out of public revenue or some fund controlled or managed by a local authority,

(2) The declaration shall be published in the official Gazette, and shall state the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and where a plan shall have been made of the land, the place where such plan may be inspected.

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a Company, as the case may be ; and, after making such declaration, the Local Government may acquire the land in manner hereinafter appearing.

Afterdeclaration, Collector to take order for acquisition.

7. Whenever any land shall have been so declared to be needed for a public purpose or for a Company the Local Government, or some officer authorized by the Local Government in this behalf, shall direct the Collector to take order for the acquisition of the land.

Land to be marked out, measured, and planned.

8. The Collector shall thereupon cause the land (unless it has been already marked out under section 4) to be marked out. He shall cause it to be measured, and (if no plan has been made thereof) a plan to be made of the same.

† The words within quotations have been added by Act 38 of 1923.

Notice to persons interested.

9. (1) The Collector shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensation for all interests in such land may be made to him.

(2) Such notice shall state the particulars of the land so needed and shall require all persons interested in the land to appear, personally or by agent, before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, and their objections (if any) to the measurements made under section 8. The Collector may in any case require such statement to be made in writing, and signed by the party or his agent.

(3) The Collector shall also serve notice to the same effect on the occupier (if any) of such land, and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside, or have agents authorized to receive service on their behalf, within the revenue-district in which the land is situate.

(4) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post in in a letter addressed to him at his last-known residence, address, or place of business, and registered under Part III. of the Indian Post Office Act, 1866.

Power to require and enforce the making of statements as to names and interests.

10. (1) The Collector may also require any such person to make or deliver to him, at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition), a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co proprietor, sub-proprietor, mortgagee, tenant, or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for three years next preceding the date of the statement.

(2) Every person required to make or deliver a statement under this section or section 9 shall be deemed to be legally bound to do so within the meaning of section 175 and 176 of the Indian Penal Code.

Enquiry into Measurements, Value, and Claims, and Award by the Collector.

Enquiry and award by Collector.

11. On the day so fixed, or on any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any), which any person interested has stated pursuant to a notice given under section 9, to the measurements made under section 8, and into the value of the land "at the date of the publication of the notification under section 4, sub-section (1)"* and into the respective interests of the persons claiming the compensation, and shall make an award under his hand of—

(*i*) the true area of the land;

(*ii*) the compensation which, in his opinion, should be allowed for the land; and

(*iii*) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

Award of Collector when to be final.

12. (1) Such award shall be filed in the Collector's office, and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and value of the land, and the apportionment of the compensation among the persons interested.

(2) The Collector shall give immediate notice of his award to such of the persons interested as are not present, personally or by their representatives, when the award is made.

Adjournment of enquiry.

13. The Collector may, for any cause he thinks fit, from time to time adjourn the enquiry to a day to be fixed by him.

Power to summon and enforce attendance of witnesses and production of documents.

14. For the purpose of enquiries under this Act, the Collector shall have power to summon and enforce the attendance of witnesses, including the parties interested or any of them, and to compel the production of documents 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 Civil Procedure.

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* The words within quotations have been inserted by Act 38 of 1923.

Matters to be considered and neglected.

15. In determining the amount of compensation, the Collector shall be guided by the provisions contained in sections 23 and 24.

Taking Possession.

Power to take possession.

16. When the Collector has made an award under section 11, he may take possession of the land, which shall thereupon vest absolutely in the Government, free from all encumbrances.

Special powers in case of urgency.

17. (1) In cases of urgency, whenever the Local Government so directs, the Collector, though no such award has been made, may, on the expiration of fifteen days from the publication of the notice mentioned in section 9, sub-section (1), take possession of any waste or arable land needed for public purposes or for a Company. Such land shall thereupon vest absolutely in the Government free from all encumbrances.

(2) Whenever, owing to any sudden change in the channel of any navigable river or other unforeseen emergency, it becomes necessary for any Railway Administration to acquire the immediate possession of any land for the maintenance of their traffic, or for the purpose of making thereon a riverside or ghat station, or of providing convenient connection with, or access to, any such station the Collector may, immediately after the publication of the notice mentioned in sub-section (1), and with the previsous sanction of the Local Government, enter upon, and take possession of, such land, which shall thereupon vest absolutely in the Government free from all encumbrances:

Provided that the Collector shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least forty-eight hours' notice of his intention so to do, or such longer notice as may be reasonably sufficient to enable such occupier to remove his moveable property from such building without unnecessary inconvenience.

(3) In every case under either of the preceding sub-sections, the Collector shall, at the time of taking possession, offer to the persons inrerested compensation for the standing crops and trees (if any) on such land, and for any other damage sustained by them caused by such sudden dispossession, and not excepted in section 24; and in case such offer is not accepted, the value of such crops and trees and the amount of such other damage shall be allowed for in awarding compensation for the land under the provisions herein contained.

(4) In the case of any land to which, in the opinion of the Local Government, the provisions of sub-section (1) or sub-section

(2) are applicable, the Local Government may direct that the provisions of section 5A shall not apply, and if it does so direct a declaration may be made under section 6 in respect of the land at any time after the publication of the notification under section 4, sub-section (1)*

PART III.

REFERENCE TO COURT AND PROCEDURE THEREON.

Reference to Court.

18. (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payab'e, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken :

Provided that every such application shall be made—

(*a*) if the person making it was present or represented before the Collector at the time when he made his award—within six weeks from the date of the Collector's award ;

(*b*) in other cases—within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.

Collector's statement to the Court,

19. (1) In making the reference, the Collector shall state, for the information of the Court, in writing under his hand,—

(*a*) the situation and extent of the land, with particulars of any trees, buildings, or standing crops thereon ;

(*b*) the names of the persons whom he has reason to think interested in such land ;

(*c*) the amount awarded for damages and paid or tendered under sections 5 and 17, or either of them, and the amount of compensation awarded under section 11 ; and

(*d*) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

* The words within quotations have been added by Act 38 of 1923.

(2) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by, the parties interested respectively.

Service notice.

20. The Court shall thereupon cause a notice, specifying the day on which the Court will proceed to determine the objection, and directing their appearance before the Court on that day, to be served on the following persons, namely—

(*a*) the applicant;

(*b*) all persons interested in the objection except such (if any) of them as have consented without protest to receive payment of the compensation awarded; and,

(*c*) if the objection is in regard to the area of the land or to the amount of the compensation, the Collector.

Restriction on scope of proceedings.

21. The scope of the inquiry in every such proceeding shall be restricted to a consideration of the interests of the persons affected by the objection.

Proceedings to be in open Court.

22. Every such proceeding shall take place in open Court, and all persons entitled to practise in any Civil Court in the province shall be entitled to appear, plead, and act (as the case may be) in such proceeding.

Matters to be considered in determining compensation.

23. (1) In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration,—

first, the market-value of the land at the date of the publication of the "notification under Section 4, Sub-section (1)";*

secondly, the damage sustained by the person interested by reason of the taking of any standing crops or trees which may be on the land at the time of the Collector's taking possession thereof;

thirdly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land;

fourthly, the damage (if any) sustained by the person interested at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, moveable or immoveable, in any other manner, or his earnings;

* The words within quotations have been substituted by Act 38 of 1923.

fifthly, if, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change ; and,

sixthly, the damage (if any) *bona fide* resulting from diminution of the profits of the land between the time of the publication of the declaration under section 6 and the time of the Collector's taking possession of the land.

(2) In addition to the market-value of the land as above provided, the Court shall, in every case, award a sum of fifteen per centum on such market-value in consideration of the compulsory nature of the acquisition.

Matters to be neglecting in determining compensation.

24. But the Court shall not take into consideration,—

first, the degree of urgency which has led to the acquisition ;

Secondly, any disinclination of the person interested to part with the land acquired ;

thirdly, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit ;

fourthly, any damage which is likely to be caused to the land acquired after the date of the publication of the declaration under section 6, by or in consequence of the use to which it will be put ;

fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired ;

Sixthly, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put ; or,

seventhly, any outlay or improvements on, or disposal of, the land acquired, commenced, made, or effected without the sanction of the Collector after the date of the publication of the "notification under section 4, sub-section (1)"*

Rules as to amount of compensation.

25. (7) When the applicant has made a claim to compensation, pursuant to any notice given under section 9, the amount awarded to him by the Court shall not exceed the amount so claimed, or be less than the amount awarded by the Collector under section 11.

* The word within quotations have been substituted by Act 38 of 1923.

(2) When the applicant has refused to make such claim, or has omitted, without sufficient reason (to be allowed by the Judge), to make such claim, the amount awarded by the Court shall in no case exceed the amount awarded by the Collector.

(3) When the applicant has omitted, for a sufficient reason (to be allowed by the Judge), to make such claim, the amount awarded to him by the Court shall not be less than, and may exceed, the amount awarded by the Collector.

Forms of awards.

26. Every award under this Part shall be in writing signed by the Judge, and shall specify the amount awarded under clause *first* of sub-section (1) of section 23, and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

"(2) Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment within the meaning of section (2) clause (2), and section 2, clause (9), respectively of the Code of Civil Procedure, 1908"*

Costs.

27. (1) Every such award shall also state the amount of costs incurred in the proceedings under this Part, and by what persons, and in what proportions, they are to be paid.

(2) When the award of the Collector is not upheld, the costs shall ordinarily be paid by the Collector unless the Court shall be of opinion that the claim of the applicant was so extravagant, or that he was so negligent in putting his case before the Collector that some deduction from his costs should be made, or that he should pay a part of the Collectors's costs.

Collector may be directed to pay interest on excess compensation.

28. If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation, is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of six per centum per annum from the date on which he took possession of the land to the date of payment of such excess into Court.

PART IV.

APPORTIONMENT OF COMPENSATION.

Particulars of apportionment to be specified.

29. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award,

* The words within quotations have been added by Act 19 of 1921.

and, as between such persons, the award shall be conclusive evidence of the correctness of the apportionment.

Dispute as to apportionment.

30. When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court.

PART V.

PAYMENT.

Payment of compensation or deposit of same in Court.

31. (1) On making an award under section 11 the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next sub-section.

(2) If they shall not consent to receive it or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation, or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted:

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:

Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18:

Provided also that nothing herein contained shall affect the liability of any person who may receive the whole or any part of any compensation awarded under this Act to pay the same to the person lawfully entitled thereto.

(3) Notwithstanding anything in this section, the Colletor may with the sanction of the Local Government, instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, the remission of land-revenue on other lands held under the same title, or in such other way as may be equitable, having regard to the interests of the parties concerned.

(4) Nothing in the last-foregoing section shall be construed to interfere with or limit the power of the Collector to enter into any arrangement with any person interested in the land, and competent to contract in respect thereof.

Investment of money deposited in respect of lands belonging to persons incompetent to alienate.

32. (1) If any money shall be deposited in Court under sub-section (2) of the last-preceding section, and it appears that the land in respect whereof the same was awarded belonged to any person who had no power to alienate the same, the Court shall—

(*a*) order the money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money shall have been deposited was held, or,

(*b*) if such purchase cannot be effected forthwith, then in such Government or other approved securities as the Court shall think fit;

and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would, for the time being, have been entitled to the possession of the said land, and such moneys shall remain so deposited and invested until the same be applied—

(*i*) in the purchase of such other lands as aforesaid; or

(*ii*) in payment to any person or persons becoming absolutely entitled thereto.

(2) In all cases of moneys deposited to which this section applies, the Court shall order the costs of the following matters, including therein all reasonable charges and expenses incident thereto, to be paid by the Collector, namely—

(*a*) the costs of such investments as aforesaid;

(*b*) the costs of the orders for the payment of the interest or other proceeds of the securities upon which such moneys are for the time being invested, and for the payment out of Court of the principal of such moneys, and of all proceedings relating thereto, except such as may be occasioned by litigation between adverse claimants.

Investment of money deposited in other cases.

33. When any money shall have been deposited in Court under this Act for any cause other than that mentioned in the last-preceding section, the Court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such Government or other approved securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as it may consider will give the parties interested therein the same benefit therefrom as they might have had from the land in respect whereof such money shall have been deposited, or as near thereto as may be.

payment of interest.

34. When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of 6 per centum per annum from the time of so taking possession until it shall have been so paid or deposited.

PART VI.

TEMPORARY OCCUPATION OF LAND.

Temporary occupation of waste or arable land. Procedure when difference as to compensation exists.

35. (1) Subject to the provisions of Part VII. of this Act, whenever it appears to the Local Government that the temporary occupation and use of any waste or arable land are needed for any public purpose or for a Company, the Local Government may direct the Collector to procure the occupation and use of the same for such term as it shall think fit not exceeding three years from the commencement of such occupation.

(2) The Collector shall thereupon give notice in writing to he persons interested in such land of the purpose for which the same is needed, and shall, for the occupation and use thereof for such term as aforesaid, and for the materials (if any) to be taken therefrom, pay to them such compensation, either in a gross sum of money, or by monthly or other periodical payments, as shall be agreed upon in writing between him and such persons respectively.

(3) In case the Collector and the persons interested differ as to the sufficiency of the compensation or apportionment thereof, the Collector shall refer such difference to the decision of the Court.

Power to enter and take possession, and compensation on restoration.

36. (1) On payment of such compensation, or on executing such agreement, or on making a reference under section 35, the Collector may enter upon and take possession of the land, and use or permit the use thereof in accordance with the terms of the said notice.

(2) On the expiration of the term, the Collector shall make or tender to the persons interested compensation for the damage (if any) done to the land, and not provided for by the agreement, and shall restore the land to the persons interested therein :

Provided that, if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such term, and, if the persons interested shall

so require, the Local Government shall proceed under this Act to acquire the land as if it was needed permanently for a public purpose, or for a Company.

Difference as to condition of land.

37. In case the Collector and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter conneted with the said agreement, the Collector shall refer such difference to the decision of the Court.

PART VII.

ACQUISITION OF LAND FOR COMPANIES.

Company may be authorized to enter and survey.

38. (1)* The Local Government may authorize any officer of any Company desiring to acquire land for its purposes to exercise the powers conferred by section 4.

(2) In every such case section 4 shall be construed as if, for, the words "for such purpose," the words "for the purposes of the Company" were substituted ; and section 5 shall be construed as if after the words "the officer," the words "of the Company" were, inserted.

Previous consent of Local Government and execution of agreement necessary.

39. The provisions of sections 6 to 37 (both inclusive) shall not be put in force in order to acquire land for any Company unless with the previous consent of the Local Government, nor unless the Company shall have executed the agreement hereinafter mentioned.

Previous enquiry.

40. (1) Such consent shall not be given unless the Local Government be satisfied, "either on the report of the collector under section 5A, sub-section (2) or †" by an enquiry held as hereinafter provided,—

(*a*) that such acquisition is needed for the construction of some work,‡ and

(*b*) that such work‡ is likely to prove useful to the public.

(2) Such enquiry shall be held by such officer, and at such time and place, as the Local Government shall appoint.

(3) Such officer may summon and enforce the attendance of witnesses, and compel the production of documents by the same means, and, as far as possible, in the same manner, as is provided by the Code of Civil Procedure in the case of a Civil Court.

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* Certain words after this repealed by Act 38 of 1920 have been omitted.

† The words within quotations have been added by Act 38 of 1923.

‡ Vide S. 57 of Act IX of 1910.

Agreement with Secretary of State in Council.

41.* If the Local Government is satisfied "after considering the report, if any, of the Collector under section 5A, sub-section (2) or on the report of the officer making an enquiry under section 40,"† that the proposed acquisition is needed for the construction of a work, and that such work is likely to prove useful to the public, it shall, subject to such rules as the Governor-General of India in Council may, from time to time, prescribe in this behalf, require the Company to enter into an agreement with the Secretary of State for India in Council, providing, to the satisfaction of the Local Government, for the following matters, namely—

(1) the payment to Government of the cost of acquisition ;

(2) the transfer, on such payment, of the land to the Company ;

(3) the terms on which the land shall be held by the Company ;

(4) the time within which, and the conditions on which, the work shall be executed and maintained ; and

(5) the terms on which the public shall be entitled to use the work.

Publication of agreement

42. Every such agreement shall, as soon as may be after its execution, be published in the *Gazette of India*, and also in the local official Gazette, and shall thereupon (so far as regards the terms on which the public shall be entitled to use the work) have the same effect as if it had formed part of this Act.

Sections 39 to 42 not to apply where Government bound by agreement to provide land for Companies.

43. The provisions 39 to 42, both inclusive, shall not apply, and the corresponding sections of the Land Acquisition Act, 1870, shall be deemed never to have applied, to the acquisition of land for any Railway or other Company, for the purposes of which, under any agreement between such Company and the Secretary of State for India in Council, the Government is or was bound to provide land.

How agreement between Railway Company and Secretary of State may be proved.

44. In the case of the acquisition of land for the purposes of a Railway Company, the existence of such an agreement as is mentioned in section 43 may be proved by the production of a printed copy thereof purporting to be printed by order of Government.

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* Certain words repealed by Act 38 of 1923 hove been omitted.

† The words within quotations have been added by Act 38 of 1923.

PART VIII.

MISCELLANEOUS.

Service of notices.

45. (1) Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section 4, by the officer therein mentioned, and, in the case of any other notice, by or by order of the Collector or the Judge.

(2) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(3) When such person cannot be found, the service may be made on any adult male member of his family residing with him; and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Collector, or in the Court-house, and also in some conspicuous part of the land to be acquired :

Provided that, if the Collector or Judge shall so direct, a notice may be sent by post, in a letter addressed to the person named therein at his last-known residence, address, or place of business, and registered under Part III. of the Indian Post Office Act, 1866 and service of it may be proved by the production of the addressee's receipt.

Penalty for obstructing acquisition of land.

46. Whoever wilfully obstructs any person in doing any of the acts authorized by section 4 or section 8, or wilfully fills up, destroys, damages, or displaces any trench or mark made under section 4, shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding one month, or to fine not exceeding fifty rupees, or to both.

Magistrate to enforce surrender.

47. If the Collector is opposed or impeded in taking possession under this Act of any land, he shall, if a Magistrate, enforce the surrender of the land, to himself, and, if not a Magistrate, he shall apply to a Magistrate or (within the towns of Calcutta, Madras, and Bombay) to the Commissioner of Police, and such Magistrate or Commissioner (as the case may be) shall enforce the surrender of the land to the Collector.

Completion of acquisition not compulsory, but compensation to be awarded when not completed.

48. (1) Except in the case provided for in section 36, the Government shall be at liberty to withdraw from the acquisition of any land of which posession has not been taken.

(2) Whenever the Government withdraws from any such acquisition the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder and shall pay such amount to the person interested, together, with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land,

(3) The provisions of Part III. of this Act shall apply, so far as may be, to the determination of the compensation payable under this section.

Acquisition of part of house or building.

49. (1) The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory, or other building if the owner desire that the whole of such house, manufactory, or building shall be so acquired :

Provided that the owner may, at any time before the Collector has made his award under section 11, by notice in writing, withdraw or modify his expressed desire that the whole of such house, manufactory, or building shall be so acquired ;

Provided also that, if any question shall arise as to whether any land proposed to be taken under this Act does or does not from part of a house, manufactoy, or building within the meaning of this section, the Collector shall refer the determination of such question to the Court, and shall not take possession of such land until after the question has been determined.

In deciding on such a reference, the Court shall have regard to the question whether the land proposed to be taken is reasonably required for the full and unimpaired use of the house, manufactory, or building.

(2) If, in the case of any claim under section 23, sub-section (1), *thirdly*, by a person interested, on account of the severing of the land to be acquired from his other land, the Local Governments is of opinion that the claim is unreasonable or excessive, it may, at any time before the Collector has made his award, order the acquisition of the whole of the land of which the land first sought to be acquired forms a part.

(3) In the case last hereinbefore provided for, no fresh declaration or other proceedings under sections 6 to 10, both inclusive shall be necessary ; but the Collector shall, without delay, furuish a copy of the order of the Local Government to the person intested, and shall thereafter proceed to make this award under section 11.

Acquisition of land at cost of a local authority or Company.

50. (1) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any Company, the charges of, and incidental to, such acquisition shall be defrayed from or by such fund or Compay.

(2) In any proceeding held before a Collector or Court in such cases, the local authority or Company concerned may appear and adduce evidence for the purpose of determining the amount of compensation :

Provided that no such local authority or Company shall be entitled to demand a reference under section 18.

Exemption from stamp-duty and fees.

51. No award or agreement made under this Act shall be chargeable with stamp-duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.

Notice in case of suits for anything done in pursuance of Act.

52. No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing, of the intended proceeding, and of the cause thereof, nor after tender of sufficient amends.

Code of Civil Procedure to apply to proceedings before Court.

53. Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure shall apply to al proceedings before the Court under this Act

Appeal in proceedings before Court.

"**54.** Subject to the provisions of the Code of Civil Procedurel 1908, applicable to appeals from original decrees, and notwithstanding any thing to the contrary in any enactment for the timo bring in force, an appeal shall the in any proceedings under this Act to the High Court from the award, or from any part of the award, of the Court and from any decree of the High Court, passed on such appeal as aforesaid an appeal shall lie to His Majesty in Council subject to the provisions contained in sections 110 of the Code of Civil Procedure, 1908 and in Order XLV thereof."*

Power to make rules.

55. (1) The Local Government shall have power to make rules consistent with this Act for the guidance of officers in all matters connected with its enforcement, and may, from time to time, alter and add to the rules so made.

* Section 54 has been added by Act 19 of 1921

(2) The power to make, alter, and add to rules under sub-section (1) shall be subject to the condition of the rules being made, altered, or added to after previous publication.

(3) All such rules, alterations, and additions shall* be published in the official Gazette, and shall thereupon have the force of law.

"Provided that where the provision of this Act are put in force for the acquisition of land,

(*a*) for the purpose of any railway, or

(*b*) for such other purposes, counected with the administration of a central subject as defined in section 45 A of the Government of India Act, as the Governor General in Council may by notification in the Gazette of India declare in this behalf, the power to make, alter and add to rules conferred on the Local Government by this sub-section shall be exercised subject to the control of the Governor General in Council."†

ACT III. OF 1894.

The Indian Criminal Law Amendment Act, 1894.‡

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the G.-G.'s Assent on the 23rd February 1894.

An Act to amend the Code of Criminal Procedure, 1882, *and the Indian Penal Code.*

WHEREAS it is expedient to amend § the Indian Penal Code; It is hereby enacted as follows :—

Code of Criminal Procedure, 1882.

1 to 4.—[*Repealed by Act V. of* 1898.]

Addition to section 177 of Indian Penal Code.

5. To section 177 of the Indian Penal Code, the following shall be added, namely—

"*Explanation.*—In section 176 and in this section, the word 'offence' includes any act committed at any place out of British India, which, if committed in British India, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459, and 460; and the word 'offender' includes any person who is alleged to have been guilty of any such act.

* Certain words after this repealed by Act 4 of 1915 have been omitted.

† The words within quotations have been added by Act 38 of 1920.

‡ This Act may be so cited.—*See* the Indian Short Titles Act (XIV. of 1897). Declared in force in the Sonthal Parganas by Reg. III. of 1872, s. 3, as amended by Reg. III. of 1899. s. 3.

§ Certain words after this repealed by Act 10 of 1914 have been omitted.

Addition to section 203 of same Code.

6. To section 203 of the said Code, the following shall be added, namely:—

"*Explanation.*—In sections 201 and 202, and in this section, the word 'offence' includes any act committed at any place out of British India, which, if committed in British India, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459, and 460.

Addition to section 212 of same Code.

7. In section 212 of the Indian Penal Code, immediately before the *Exception*, the following shall be inserted, namely:—

" 'Offence' in this section includes any act committed at any place out of British India, which, if committed in British India, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459, and 460: and every such act shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in British India."

Addition of new sections after section 216 of same Code.

8. After section 216 of the said Code, the following shall be inserted, namely:—

"216A. Whoever, knowing, or having reason to belive, that any persons are about to commit, or have recently committed, robbery or dacoity, harbours them or any of them, with the intention of facilitating the commission of such robbery or dacoity, or of screening them or any of them from punishment, shall be punised with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Penatly for harbouring robbers or dacoits.

"*Explanation.*—For the purposes of this section, it is immaterial whether the robbery or dacoity is intended to be committed, or has been committed, within or without British India.

"*Exception.*—This provision does not extend to the case in which the harbour is by the husband or wife of the offender.

"216B In sections 212, 216, and 216A, the word 'harbour' includes the supplying a person with shelter, food, drink, money, clothes, arms, ammunition, or means of conveyance, or the assisting a person in any way to evade apprehension."

Definition of 'harbour' in sections 212, 216, and 216A.

ACT IV OF 1894.

The Amending Act, 1894.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL

Received the G.-G.'s Assent on the 23rd February 1894.

An Act to amend certain* Enactments.*

* Whereas it is expedient that certain formal amendments should be made in the enactments specified in the Second Schedule to this Act,

It is hereby enacted as follows :—

Title, extent, and commencement.

1. (1) This Act may be called the * Amending Act, 1894.

(2) It extends to the whole of the territories administered by the Governor of Bombay in Council ; and

(3) It shall come into force at once.

Enactments in Schedules repealed and amended respectively.

2. (1)—[*Repealed by Act I of* 1903.]

(2) The enactments specified in the Second Schedule shall be modified to the extent, and in the manner, mentioned in the fourth column thereof.

3.—[*Repealed by Act I of* 1903.]

[*Rep. by Act I of* 1903.]

THE SECOND SCHEDULE.

ENACTMENTS AMENDED.

Year.	No.	Subject or title.	Amendment.
		Part I.—Regulation of the Bombay Code.	
1830	XIII.	Jurisdiction of Jagirdars, &c.	In section 3, clause third, *after* open to, *insert* appeal to.
		Part II.—Act of the Governor-General in Council.	
1839	XX.	Levy of Haqqs, &c	In section 3, *for* shall be punishable as for an undue exaction under Regulation XVII of 1827, Section XVI., of the Bombay Code, notwithstanding the offender be not a Revenue Officer of Government, *read* shall, whether he is or not a Revenue Officer of Government, be punishable with imprisonment for a term which may extend to seven years, and shall also be liable to fine not exceeding ten times the amount of the sum so levied.

* In the title, the preamble, and in s. 1, certain words, repealed by Act I of 1903, are omitted.

ACT VIII. OF 1894.

(The Indian Tariff Act, 1894.)

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the G.-G.'s Assent on the 10th March 1894.

An Act to amend the Law relating to Custom-duties, and for other purposes.

Whereas it is expedient to amend the law relating to the duties of customs on goods imported and exported by sea, and to provide for the levy of duties on goods crossing the frontier of certain Foreign European Settlements in India, and of the territories of certain Native Chiefs ; It is hereby enacted as follows :—

Title, extent, and commencement.

1. (1) This Act may be called the Indian Tariff Act, 1894 :

(2) It extends to the whole of British India except Aden and Perim ;*

(3) It shall come into force at once.

Repeal.

2. (1) The Acts mentioned in the first Schedule are repealed to the extent specified therein :

(2) But all notifications published, and rules and orders made, under any of those Acts, and in force immediately before the commencement of this Act, shall, so so far as they are consistent herewith, be deemed to have been respectively published and made under this Act ; and

(3) All references made in the Indian Tariff Act, 1875, and the Indian Tariff Act, 1882, in Acts or Regulations passed before the commencement of this Act, shall be deemed to be made to this Act

(4) Nothing in this Act shall authorize the levy of duties of customs on any article carried from one customs port in British India to another such port, except salt, opium, and spirit.

Duties specified in Schedules to be levied.

3. (1) There shall be levied and collected, in every port to which this Act applies, the duties specified in the second and third Schedules.

(2) The Governor-General in Council may, by notification in the Gazette of India, fix, for the purpose of levying the said duties, tariff values of any articles enumerated, either specifically or

* The word "and" after this repealed by Act 10 of 1914 has been omitted.

under general headings, to the said schedules as chargeable with duty *ad valorem*, and may alter any tariff values for the time being in force.

(3) Different tariff values may be fixed for different classes or descriptions of the same article."*

4. *Repealed by Act 6 of 1921.*

Duties on goods crossing certain frontiers.

5. (1) Duties of customs "at such rates as may be prescribed by or under this Act, or by or under any law for the time being in force relating to customs duties on imports and exports, respective-y, into and from ports shall be levied on goods passing by land out of or into "†—

(*a*) Foreign European Settlements in India ;

(*b*) any territory declared, under the power hereinafter in this section conferred, to be foreign territory.

(2) Subject to the control of the Governor-General in Council, the Governor of Fort Saint George in Council "the Governor of Bombay in Council and the Governor in Council of Fort William in Bengal "‡ may, by notification in the local official Gazette, respectively, declare that the territory of any Native Chief situate within, or bordering on, the territories respectively administered by such Governors, but not subject to the jurisdiction of the Courts and Civil authorities of such territories, shall be deemed, for the purposes of this section, to be foreign territory.

(3) The Governor-General in Council may, by notification in the *Gazette of India*, declare that the territory of any other Native Chief shall be deemed, for the purposes of this section, to be foreign territory.

Amendment of Act XVI. of 1863, section 1.

6§ In Act No. XVI. of 1863, section 1, for the words "calculated at ten," the words "not exceeding five" shall be substituted.

Duty on salt, opium, and spirit when protected by a certificate.

7. (1) Salt, opium, and spirit imported from any port in British India, and protected by the certificate of an officer empowered in that behalf by the Governor-General in Council or the

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* Section 3 has been substituted by Act IV of 1916.

† In s. 5, sub-s. (1), the words quoted have been subtituted for the original ones by Act IX. of 1903, s. 8.

‡ The words within quotations have been substituted by Act X of 1914.

§ This section has been locally repealed in Madras by Madras Act I of 1913, in Punjab by Punjab Act I of 1914, in C. P. by C. P. Act II of 1915, in Bengal by Bengal Act V. of 1909 ; E. B. and Assam by E. B. and A Act of 1910.

Local Government, are chargeable with only the amount, if any, by which the duty leviable thereon under the "second"* Schedule exceeds the duty shown by such certificate to have been already paid in respect thereof.

(2) The amount, if any, paid to the Government as the price of such salt or opium is not duty within the meaning of this section.

(3) Nothing in this section applies to spirit which is exported under bond for excise-duty from one customs port to another customs-port under the provisions of Chapter XIV. of the Sea Customs Act, 1878.

Application of certain provisions as to duties and goods.

8. So far as regards the Presidency of Fort Saint George, the unrepealed provisions of Act No. VI. of 1844, and, so far as regards the Presidency of Bombay, the unrepealed provisions of Act No. XXIX. of 1857, relating to the levy of duties, and to dutiable goods, shall, *mutatis mutandis*, apply to duties levied, and goods liable to duty, under, or by virtue of, section 5, sub-section (1), clause (*b*).

Additional import-duty on bounty-fed articles.

8A.† (1) Where any country, dependency, or colony pays or bestows, directly or indirectly, any bounty or grant upon "the production therein, or"‡ the exportation therefrom, of any article, and the article is chargeable with duty under the provisions of this Act, then, upon the importation of any such article into British India, whether the same is imported directly from the country of production or otherwise, and whether it is imported in the same condition as when exported from the country of production, or has been changed in condition by manufacture or otherwise, the Governor-General in Council may, by notification in the *Gazette of India*, impose an additional duty equal to the net amount of such bounty or grant, however the same be paid or bestowed.

(2) The net amount of any such bounty or grant as aforesaid shall be, from time to time, ascertained, determined, and declared by the Governor-General in Council, and the Governor-General in Council may, by notification in the *Gazette of India*, make rules for the identification of such articles and for the assessment and collection of any additional duty imposed upon the importation thereof under sub-section (1).

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* The word within quatations have been substituted by Act 13 of 1916.

† S. 8A has been inserted by Act XIV. of 1899, s. 2.

‡ In s. 8A, the words quoted have been inserted by Act XII. of 1903, s. 2.

Special import-duty on sugar in certain cases.

8 B.* (1) Where the rate of duty or other taxation imposed in any country, dependency, or colony upon sugar not produced therein exceeds the rate of duty or other taxation imposed upon sugar produced therein by more than the equivalent of six francs per one hundred kilogrammes in the case of refined sugar, or five francs and fifty centimes per one hundred kilogrammes in the case of other sugar, then, upon the importation of any sugar from such country, dependency, or colony into British India, whether the same is imported directly from the country of production or otherwise, and whether it is imported in the same condition as when exported from the country of production, or has been changed in condition by manufacture or otherwise, the Governor-General in Council may, by notification in the *Gazette of India*, impose, in addition to any other duty or taxation imposed under this Act or any other law for the time being in force, a special duty not exceeding one moiety of such excess.

(2) The Governor-General in Council may from time to time, by general or special order, declare, for the purposes of sub-section (1),—

(*a*) what articles or substances containing any saccharine matter shall be deemed to be 'sugar' and what kinds of sugar shall be deemed to be "refinded sugar' or 'other sugar,' respectively; and

(*b*) what sums in the currency of British India shall be deemed to be the equivalent of 'francs' and 'centimes,' respectively.

(3) The amount of the excess referred to in sub-section (1) shall be from time ty time ascertained, dertermined, and declared by the Gcvernor-General in Council, and the Governor-General in Council may, by notification in the *Gazette of India*, make rules for the identification of sugar and for the assessment and collection of any special duty imposed upon the importation thereof under sub-section (1).

Power to cancel notifications.

9. All notifications published under this Act may be cancelled by the authority publishing the same.

When contracts have been entered into, amount of increased or decreased duty to be added or deducted.

10. In the event of any duty of customs or excise on any article being imposed, increased, decreased, or remitted after the making of any contract for the sale of such article without stipulation as to the payment of duty, where duty was not chargeable at the time of the making of the contract or for the sale of such article duty paid where duty was chargeable at that time,—

* S. 8B. has been inserted by Act VIII. of 1902, s. 2.

(*a*) if such imposition or increase so takes effect that the duty or increased duty, "or any part thereof"* is paid, the seller may add so much to the contract price as will be "equivalent to the amount paid in respect of such duty."† or increase of duty, and he shall be entitled to be paid and to sue for and recover such addition, and,

(*b*) if such decrease or remission so takes effect that the decreased duty only or no duty, as the case may be, is paid, the purchaser may deduct so much from the contract-price as will be equivalent to the decrease of duty or remitted duty, and he shall not be liable to pay or be sued for or in respect of such dedution.

Amendment of Act VIII. of 1878, section 23.

11. In the second paragraph of section 23 of the Sea Customs Act, 1878, the words, "with the previous sanction of the Governor-General in Council," shall be inserted after the word "may."

SCHEDULE I.—(ACTS REPEALED).

Number and year.	Title.	Extent of repeal.
	Acts of the Governor-General in Council.	
XI. of 1882 ...	Indian Tariff Act, 1882	So much as has not been repealed.
II. of 1887 ...	An Act to amend the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882.	Section 8.
II. of 1888 ...	An Act to provide for the levy of a customs-duty on Petroleum.	Section 1.
VIII. of 1889 ...	An Act to amend the Sea Customs Act, 1878, and the Indian Tariff Act, 1882.	Sections 3, 4, and 5.
XII. of 1890 ...	An Act to amend the Indian Tariff Act, 1882.	The whole.
I. of 1892 ...	An Act to amend the Indian Tariff Act, 1882.	Ditto.
IX. of 1893 ...	An Act to amend the Indian Tariff Act, 1882, as amended by subsequent Acts.	Ditto.

* The words within quotations have been inserted by Act XIX of 1919.

SCHEDULE II*—IMPORT TARIFF.

PART I.

Articles which are free of duty.

No.	Names of Articles.
	1.—Food, Drink and Tobacco—
1	HOPS.
2	SALT imported into British India and issued, in accordance with rules made with the previous sanction of the Governor-General in Council, for use in any process of manufacture; also salt imported into the port of Calcutta and issued with the sanction of the Government of Bengal to manufactures of glazed stone ware; also salt imported into any port in the provinces of Bengal, Bihar and Orissa and issued, in accordance with rules made with the previous sanction of the Governor-General in Council, for use in curing fish in those provinces.
	(For the general duty on salt, *see* No. 35.)
	II.—Raw materials and produce and articles mainly unmanfactured—
	HIDES AND SKINS, RAW.
3	HIDES AND SKINS, raw or salted.
	METALLIC ORES.
4	METALLIC ORES, all sorts.
	PRECIOUS STONES AND PEARLS.
5	PRECIOUS STONES, unset and imported uncut, and PEARLS, unset.
	SEEDS.
6	OIL-SEEDS imported into British India by sea from the territories of any Princes or Chief in India.
	TEXTILE MATERIALS.
7	COTTON, raw.
8	WOOL, raw, and WOOL-TOPS.
	MISCELLANEOUS.
9	MANURES, all sorts, including animal bones and the following chemical manures:—Basic slag, nitrate of ammonia, nitrate of soda, muriate of potash, sulphate of ammonia, sulphate of potash, kainit salts, nitrate of lime, calcium cyanamide, mineral phosphates and mineral superphosphates.

* Schednle II has been substituted by Act XII of 1922.

SCHEDULE II—IMPORT TARIFF.

PART I—*contd.*

Article which are free of duty.

No.	Names of Articles.
10	PULP OF WOOD, BAGS and other paper-making materials.
	III—Articles wholly or mainly manufactured—
	APPAREL.
11	UNIFORMS AND ACCOUTREMENTS appertaining thereto, imported by a public servants for his personal use.
	ARMS, AMMUNITION AND MILITARY STORES.
12	The following ARMS, AMMUNITION AND MILITARY STORES :—
	(*a*) Articles falling under the 5th, 6th, 8th, 9th or 10th item of No. 42, when they appertain to a firearm falling under the 1st or 3rd item and are fitted into the same case with such firearm.
	(*b*) Arms forming part of the regular equipment of a commissioned or gazetted officer in His Majesty's Service entitled to wear diplomatic, military, naval, Royal Air Force or police uniform.
	(*c*) A revolver and an an automatic pistol and ammunition for such revolver and pistol up to a maximum of 100 rounds per revolver or pistol, (*i*) when accompanying a commissioned officer of His Majesty's regular forces, or of the Indian Auxiliary Force or the Indian Territorial Force or a gazetted police officer, or (*ii*) certified by the commandant of the corps to which such officer belongs, or, in the case of an officer not attached to any corps, by the officer commanding the station or district in which such officer is serving, or, in the case of a police officer, by an Inspector General or Commissioner of Police, to be imported by the officer for the purpose of his equipment.
	(*d*) Swords for presentation as army or volunteer prizes.
	(*e*) Arms, ammunition, and military stores imported with the sanction of the Government of India for the use of any portion of the military forces of a State in India which may be maintained and organized for Imperial Service.
	(*f*) Morris tubes and patent ammunition imported by officers commanding British and Indian regiments of volunteer corps for the instruction of their men.

SCHEDULE II—IMPORT TARIFF.

PART I—*contd.*

Articles which are free of duty.

No.	Names and Articles.
	CHEMICALS, DRUGS AND MEDICINES.
13	ANTI-PLAGUE SERUM.
14	QUININE and other alkaloids of cinchona.
	HARDWARE, IMPLEMENTS AND INSTRUMENTS.
15	The following AGRICULTURAL IMPLEMENTS, namely winnowers, threshers, mowing and reaping machines, binding machines, elevators, seed-crushers, chaff-cutters, root-cutters, ensilage-cutters, horse and bullock gears, ploughs, cultivators, scarifiers, harrows, cold-crushers, seed-drills, hay-tedders, and rakes; also agricultural tractors; also component parts of these implements or tractors, provided that they can be readily fitted into their proper places in the implements or tractors for which they are imported, and that they cannot ordinarily be used for purposes unconnected with agriculture.
16	The following DAIRY APPLIANCES namely, cream separators, milk sterilizing or pasteurizing plant, milk aerating and cooling apparatus, churns, butter dryers, and butter workers; also components parts of these appliances, provided that they can be readily fitted into their proper places in the appliances for which they are imported, and that they cannot ordinarily be used for other than dairy purposes.
17	INSTRUMENTS, APPARATUS and APPLIANCES, imported by a passenger as part of his personal baggage and in actual use by him in the exercise of his profession or calling.
18	WATER-LIFTS, SUGAR-MILLS, OIL-PRESSES, and parts thereof, when constructed so that they can be worked by manual or animal power.
	METALS.
19	CURRENT NICKEL, BRONZE, AND COPPER COIN of the Government of India.
20	GOLD AND SILVER BULLION and coin.
	PAPER.
21	TRADE CATALOGUES AND ADVERTISING CIRCULARS imported by packet, book, or parcel post.

SCHEDULE II—IMPORT TARIFF.

PART I—*contd.*

Articles which are free of duty.

No.	Names of Articles.
	YARNS AND TEXTILE FABRICS.
22	SECOND-HAND OR USED GUNNY BAGS made of jute.
	MISCELLANEOUS.
23	ART, the following works of:—(1) statuary and pictures intended to be put up for the public benefit in a public place, and (2) memorials of a public character intended to be put in a public place, including the materials used, or to be used in their construction, whether worked or not.
24	Books printed, including covers for printed books, maps, charts, and plans, proofs, music and manuscripts.
	IV.—Miscellaneous and unclassified—
25	ANIMALS, living, all sorts.
26	SPECIMENS ILLUSTRATIVE OF NATURAL SCIENCE, and medals and antique coins.

SCHEDULE II—IMPORT TARIFF.

PART II.

Articles which are liable to duty at special rates.

No.	Names of Articles.	Unit or method of assessment.	Rate of duty.
	I.—Food, Drink and Tobacco—		R. A.
	FISH.		
27	FISH, SALTED, wet or dry.	Indian maund of 82⅔ lbs. avoirdupois weight.	Such rate or rates of duty not exceeding one rupee as the Governor General in Council may, by notification in the Gazette of India from time to time prescribe.
	LIQUORS.		
28	ALE, Beer, Porter, Cider and other fermented liquors.	Imperial gallon or 6 quart bottles.	Eight annas.
29	SPIRIT, which has been rendered effectually and permanently unfit for human consumption.	*Ad valorem*	7½ per cent.
30	PERFUMED SPIRITS.	Imperial gallon or 6 quart bottles.	36 0
31	LIQUEURS, Cordials, Mixtures and other preparations containing spirit—		
	(*a*) Entered in such a manner as to indicate that the strength is not to be tested.	Ditto.	30 0
	(*b*) If tested	Imperial gallon or 6 quart bottles of the strength of London proof.	21 14 and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof.
32	All other sorts of SPIRIT	Ditto.	Ditto.

SCHEDULE II—IMPORT TARIFF

PART II—*contd.*

Articles which are liable to duty at special rates.

No.	Names of Articles.	Unit or method of assessment.	Rate of duty.
	LIQUORS—*continued.*		R. A.
33	WINES—		
	Champagne and all other sparkling wines not containing more than 42 per cent. of proof spirit.	Imperial gallon or 6 quart bottles.	9 0
	All other sorts of wines not containing more than 42 per cent. of proof spirit.	Ditto.	4 8
	Provided that all sparkling and still wines containing more than 42 per cent. of proof spirit shall be liable to duty at the rate applicable to "All other sorts of Spirit.		
	SUGAR.		
34	SUGAR, all sorts including molasses and saccharine produce of all sorts, but excluding confectionary (*see* No. 124.)	*Ad valorem.*	25 per cent.
	OTHER FOOD AND DRINK.		
35	SALT, excluding salt exempted under No. 2.	Indian maund of $82\frac{2}{7}$ lbs. avoirdupois weight.	The rate at which excise duty is for the time being leviable on salt manufactured in the place where the import takes place.
	TOBACCO.		
36	TOBACCO, unmanufactured.	Pound.	1 0
37	CIGARS AND CIGARETTES.	*Ad valorem.*	75 per cent.

SCHEDULE II—IMPORT TARIFF.

PART II—*continued.*

Articles which are liable to duty at special rates.

No.	Names of articles.	Unit or method of assessment.	Rate of duty.
			Rs. A.
38	All other sorts of TOBACCO manufactured.	Pound.	24
	II.—Raw Materials and produce and articles mainly unmanufactured—		
	COAL, COKE AND PATENT FUEL,		
39	COAL, COKE AND PATENT FUEL.	Ton ...	0 8
	OILS.		
40	KEROSINE and MOTOR SPIRIT; also any mineral oil other than kerosine and motor spirit which has its flashing point below one hundred decrees of Fahrenheit's thermometer by Abel's close test. NOTE.—Motor spirit is liable to an additional duty of 6 annas per gallon under Act II of 1917 as amended by Act III of 1919.	Imperial gallon...	Two annas and six pies.
41	MINERAL OIL which has its flashing point at or above two hundred degrees of Fahrenheit's thermometer and is such as is not ordinarily used for any other purpose than for the batching of jute or other fibre, or for lubrication, and mineral oil which has its flashing	*Ad valorem* ...	7½ per cent.

SCHEDULE—IMPORT TARIFF.

PART II—*contd.*

Articles which are liable to duty at special rates.

No	Names of Articles.	Unit or method of assessment.	Rate of duty.	
	point at or above one hundred and fifty degrees of Fahrenheit's thermometer, and is such as is not ordinarily used except as fuel or for some sanitary or hygienic purpose.		Rs. A.	
	III.—Articles wholly or mainly manufactured.			
	ARMS, AMMUNITION AND MILITARY STORES.			
42	Subject to the exemptions specified in No, 12—			
	(1) Firearms other than pistols, including gas and air-guns and rifles.	Each ...	15	
	(2) Barrels for the same whether single or double.	„ ...	15	
	(3) Pistols, including automatic pistols and revolvers.	„ ...	15	
	(4) Barrels for the same whether single or double.	„ ...	15	
	(5) Main springs and magazine springs for firearms, including gas-guns and rifles.	„ ..	5	or 30 per cent *advalorem*, whichever is higher.
	(6) Gun stoks and breach blocks.	„ ...	3	
	(7) Revolver-cylinders, for each cartridge they will carry.	„ ...	2	
	(8) Actions (including skeleto n and waster) breech bolts and their heads, cocking pieces, and locks for muzzle loadings arms.	„ ...	1	

SCHEDULE II—IMPORT TARIFF.

PART II—*concld.*

Articles which are liable to duty at special rates.

No.	Names of Articles.	Unit or method of assessment.	Rate of duty.
			R. A.
	(9) Machines for making, loading, or closing cartridges for rifled arms.	*Ad valorem* ...	30 per cent.
	(10) Machines for capping cartridges for rifled arms.	*Ad valorem* ...	30 per cent.
	CHEMICALS, DRUGS AND MEDICINES.		
43	Opium and its alkaloides and their derivatives.	Seer of 80 tolas.	24 0
	YARNS AND TEXTILE FABRIS.		
44	COTTON TWIST AND YARN, and COTTON SEWING OR DARNING THREAD.	*Ad valorem* ...	5 per cent.
45	COTTON PIECE-GOODS ...	*Ad valorem* ...	11 per cent.
	MISCELLANEOUS.		
46	Matches—		
	(1) In boxes containing on the average not more than 100 matches.	Per gross of boxes.	1 8
	(2) In boxes containing on the average more than 100 matches.	For every 25 matches or fraction thereof in each box, per gross of boxes.	0 8

SCHEDULE II—IMPORT TARIFF.

PART III.

Articles which are liable to duty at 2½ per cent, *ad valorem*.

No.	Names of Articles.
	I.—Food, Drink, and Tobacco—
	GRAIN, PULSE AND FLOUR.
47	GRAIN AND PULSE, all sorts, including broken grains and pulse, but excluding flour (*see* No 68).
	PROVISIONS AND OILMAN'S STORES
48	VINEGAR in casks.
	II.—Raw materials and produce and articles mainly unmanufactured—
	WOOD AND TIMBER.
49	FIREWOOD
	III.—Articles wholly or mainly manufactured—
	CHEMICALS, DRUGS AND MEDICINES.
50	COPPERAS, green.
	MACHINERY.
51	MACHINERY, namely, prime-movers and component parts thereof, including boilers and component parts thereof; also including locomotive and portable engines, steam-rollers, fire engines, motor tractors designed for purposes other than agriculture, and other machines in which the prime-mover is not separable from the operative parts. MACHINERY (and component parts thereof), meaning machines or sets of machines to be worked by electric, steam, water, fire or other power not being manual or animal labour, or which, before being brought into use, require to be fixed with reference to other moving parts; and including belting of all materials for driving machinery: Provided that the term does not include tools and implements to be worked by manual or animal labour, and provided also that only such articles shall be admitted as component parts of machinery as are indispensable for the working of the machinery, and are, owing to their shape or to other special quality, not adapted for any other purpose. *Note.*—This entry includes machinery and component parts thereof made of substances other than metal.

SCHEDULE II—IMPORT TARIFF.

PART III—*concld.*

Articles which are liable to duty at 2½ per cent. *ad valorem.*

No.	Names of articles.
	METALS OTHER THAN IRON AND STEEL.
52	LEAD sheets, for tea-chests.
	MISCELLANEOUS.
53	AEROPLANES, aeroplane parts, aeroplane engines and aeroplane engine parts.
54	PRINTING AND LITHOGRAPHING MATERIAL, namely, presses, type, ink, aluminium lithographic plates, brass rules, composing sticks, chases, imposing tables, and lithographic stones, stereo-blocks, wood blocks, half tone blocks, electrotype blocks, roller moulds, roller frames and stocks, roller composition, standing screw and hot press, perforating machines, glod blocking presses, galley presses, proof presses, arming presses, copper plate printing presses, rolling presses, ruling machines, ruling pen making machines, lead and rule cutters, type casting machines, type setting and casting machines, rule bending machines, rule mitreing machines, bronzing machines leads, wooden and metal quoins, shooting sticks and galleys, stereotyping apparatus, metal furniture, paper folding machines, and paging machines, but excluding paper (*see* No. 99.)
55	RACKS for the withering of tea leaf.
56	TEA-CHESTS of metal or wood, whether imported entire or in sections provided that the Collector of Customs is satisfied that they are imported for the purpose of the packing of tea for transport in bulk.
57	FODDER, BRAN AND POLLARDS.

PART IV.

Articles which are liable to duty at 10 per cent. *ad valorem.*

No.	Names of Articles.
	II.—Raw materials and produce and articles mainly unmanufactured—
	METALLIC ORES AND SCRAP IRON OR STEEL FOR REMANUFACTURE.
58	IRON OR STEEL, old.
	III.—Articles wholly or mainly manufactured—

SCHEDULE II—IMPORT TARIFF.—*contd.*

PART IV—*contd.*

Articles which are liable to duty at 10 per cent. *ad valorem.*

No.	Names of Articles.
	HARDWARE IMPLEMENTS AND INSTRUMENTS.
59	TELEGRAPHIC INSTRUMENTS AND APPARATUS, and parts thereof imported by, or under the orders of a Railway Company,
	METALS—IRON AND STEEL.
60	IRON, angle.
	,, bar, rod and channel, including channel for carriages.
	,, pig.
	,, rice bowls
61	IRON OR STEEL, anchors and cables.
	,, ,, beams, joists, pillars, girders screw piles, bridge work and other descriptions of iron or steel, imported exclusively for building purposes, including also ridging, guttering and continuous roofing.
	,, ,, bolts and nuts, including hook-bolts and nuts for roofing.
	,, ,, hoops and strips.
	,, ,, nails, rivets and washers, all sorts.
	,, ,, pipes and tubes and fittings therefor, such as bends, boots, elbows, tees, sockets, flanges, and the like.
	,, ,, rails, chairs, sleepers, bearing and fish-plates, spikes (commonly known as dog-spikes), switches and crossings, other than those described in No. 63, also lever-boxes, clips and tie-bars.
	,, ,, sheets and plates, all sorts excluding discs and circles which are dutiable under No. 97.
	,, ,, wire, including fencing wire, piano-wire and wire-rope, but excluding wire-netting which is dutiable under No. 97.
62	STEEL, angle.
	,, bar, rod and channel, including channel for carriages.

SHEDULE II—IMPORT TARIFF,—*contd.*

PART IV—*concld.*

Articles which are liable to duty at 10 per cent. *ad valorem.*

No.	Names of Articles.
	„ cast, including spring blistered and tub steel.
	„ ingots, blooms, billets and slabs.
	RAILWAY PLANT AND ROLLING-STOCK.
63	RAILWAY MATERIALS for permanent-way and rolling-stock, namely, cylinders, girders, and other material for bridges, rails, sleepers, bearing and fish-plates, fish-bolts, chairs, spikes, crossing, sleeper fastenings, switches, interlocking apparatus, brake gear, couplings and springs, signals, turn-tables, weigh-bridges, engines, tenders, carriages, wagons, traversers, trollies, trucks and component parts thereof; also the following articles when imported by, or under the orders of, a railway company, namely, cranes, water cranes, water tanks, and standards, wire and other materials for fencing. Provided that for the purpose of this entry 'railway' means a line of railway subject to the provisions of the Indian railways Act, 1890, and includes a railway constructed in a State in India and also such tramways, as the Governor-General in Council may, by notification in the Gazette of India, specifically include therein: Provided also that only such articles shall be admitted as component parts of railway materials as are indispensable for the working of railways, and are, owing to their shape or to other special quality, not adapted for any other purpose.
64	SHIP AND OTHER VESSELS for inland and harbour navigation, including steamers, launches, boats and barges imported entire or in sections.

PART V.

Articles which are liable to duty at 15th per cent. *ad valorem.*

No.	Names of Articles.
	I.—Food, Drink and Tobacco—
	FISH.
65	FISH, excluding salted fish (see No. 27).
66	FISHMAWS, including singally any sozille, and sharkfins.

SCHEDULE II—IMPORT TARIFF—*contd.*

PART V—*contd.*

Articles which are liable to duty at 15 per cent. *ad valorem.*

No.	Names of Articles.
	FRUITS AND VEGETABLES.
67	FRUITS AND VEGETABLES, all sorts, fresh, dried, salted or preserved.
	GRAIN, PULSE AND FLOUR.
68	FLOUR.
	PROVISION AND OILMAN'S STORES.
69	PROVISIONS AND OILMAN'S STORES AND GROSERIES, all sorts, excluding vigegar in casks (see No. 48).
	SPICES.
70	SPICES, all sorts.
	TEA.
71	TEA.
	OTHER FOOD AND DRINK.
72	COFFEE.
73	All other sorts of Food and Drink not otherwise specified.
	III.—Raw materials and produce and articles mainly unmanufactured.
	GUMS, RESINS AND LAC.
74	GUMS, RESINS AND LAC, all sorts.
	OILS.
75	All sorts of animal, essential, mineral and vegetable non-essential oils not otherwise specified (see Nos. 40 and 41.)
	SEEDS.
76	SEEDS, all sorts, excluding oil-seeds imported into British India by sea from the territories of any Prince or Chief in India (see No. 6).
	TALLOW, STEARINE AND WAX.
77	TALLOW AND STEARINE, including grease and animal fat, and wax of all sorts not otherwise specified.

SCHEDULE II—IMPORT TARIFF.

PART V—*contd.*

Articles which are liable to duty at 15 per cent. *ad valorem.*

No.	Names of Articles.
	TEXTILE MATERIALS.
78	TEXTILE MATERIALS, the following :
	Silk waste, and raw silk including cocoons, raw flax, hemp, jute and all other unmanufactured textile materials not otherwise specified.
	WOOD AND TIMBER.
79	WOOD AND TIMBER, all sorts, not otherwise specified, including all sorts of ornamental wood,
	MISCELLANEOUS.
80	CANES AND RATTANS.
81	COWRIES and SHELLS.
82	IVORY, unmanufactured.
83	PRECIOUS STONES, unset and imported cut (see No. 5).
84	All other raw materials and produce and articles mainly unmanufactured, not otherwise specified.
	III— Articles wholly or mainly manufactured—
	APPAREL
85	APPAREL including drapery, boots and shoes, and military and other uniforms and accoutrements, but excluding uniforms and accoutrements exempted from duty under No. 11 and gold and silver thread (see Nos. 132 and 133), and articles made of silk (see No. 134).
	ARMS, AMMUNITION AND MILITARY STORES
86	EXPLOSIVES, namely, blasting gunpowder, blasting gelatine, blasting dynamite, blasting robourite, blasting tonite, and all other sorts, including detonators and blasting fuze.
	CARRIAGES AND CARTS.
87	CARRIAGES AND CARTS, including tram cars, motor-omnibuses, motor-lorries, motor-vans, jinrikshas, bath-chairs, perambulators, trucks, wheel barrows, and all other sorts of conveyances not otherwise specified, and such component parts and accessories thereof, as are not also adapted for use as parts or accessories of motor-cars, motor-cycles, motor-scooters, bicycles or tricycles (see No. 127).

SCHEDULE—IMPORT TARIFF.—*contd.*

PART V.—*contd.*

Articles which are liable to duty at 15 per cent. *advalorem.*

No.	Names of Articles.
	CHEMICALS, DRUGS AND MEDICINES.
88	CHEMICALS, DRUGS AND MEDICINES, all sorts, not otherwise specified.
	CUTLERY, HARDWARE, IMPLEMENTS AND INSTRUMENTS.
89	CUTLERY, excluding plated cutlery (see No. 129.
90	HARDWARE, IRONMONGERY AND TOOLS, all sorts, otherwise specified.
91	All other sorts of IMPLEMENTS, INSTRUMENTS, APPARATUS AND APPLIANCES and parts thereof not otherwise specified.
	DYES AND COLOURS.
92	DYEING AND TANNING SUBSTANCES, all sorts, and paints and colours and painters, materialls, all sorts,
	FURNITURE, CABINET WARE AND MANUFACTURES OF WOOD.
93	FURNITURE, CABINETWARE and all other manufactures of wood not otherwise specified.
	GLASSWARE AND EARTHENWARE.
94	GLASS AND GLASSWARE, lacquered ware, earthenware, china and porcelain; all sorts except glass bangles and beads and false pearls (*see* No. 131.)
	HIDES AND SKINS AND LEATHER.
95	HIDES AND SKINS not otherwise specified, LEATHER AND LEATHER MANUFACTURES, all sorts, not otherwise specified.
	MACHINERY.
96	MACHINERY AND COMPONENT PARTS thereof, meaning machines or parts of machines to be worked by manual or animal labour, not otherwise specified (*see* Nos. 15, 16 and 18.)
	METALS—IRON AND STEEL.
97	All sorts of IRON AND STEEL and manufactures thereof, not otherwise specified.

SCHEDULE II—IMPORT TARIFF—*contd.*

PART V.—*contd.*

Articles which are liable to duty at 15 per cent. *ad valorem.*

No.	Names of Articles.
	METALS OTHER THAN IRON AND STEEL.
98	All sorts of METALS OTHER THAN IRON AND STEEL, and manufactures thereof, not otherwise specified,
	PAPER, PASTEBOARD AND STATIONERY.
99	PAPER AND ARTICLES MADE OF PAPER AND PAPER MACHÉ, PASTEBOARD, MILLBOARD, AND CARDBOARD, all sorts, and STATIONERY, including ruled or printed forms and account and manuscript books, drawing and copy books, labels, advertising circulars, sheet or card almanacs and calendars, Christmas, Easter, and other cards, including cards in booklet form, including also wastepaper and old newspapers for packing, but excluding trade catalogues and advertising circulars imported by packet, book, or parcel post (*see* No. 21.)
	YARNS AND TEXTILE FABRICS.
100	YARNS AND TEXTILE FABRICS, that is to say :—
	Cotton thread other than sewing or darning thread, and all other manufactured cotton goods not otherwise specified.
	Flax, twist and yarn, and manufactures of flax.
	Haberdashery and millinery, excluding articles made of silk (*see* No. 134.)
	Hemp manufactures.
	Hosiery, excluding articles made of silk (*see* No. 134.)
	Jute, twist and yarn, and jute manufactures, excluding second hand or used gunny bags (*see* No. 22.)
	Silk yarn, coils and warps and silk thread.
	Woolen yarn, knitting wool, and other manufactures of wool, including felt.
	All other sorts of yarns and textile fabrics, not otherwise specified,
	MISCELLANEOUS.
101	ART, works of excluding those specified in No. 23.
102	BRUSHES AND BROOMS.

SCHEDULE II—IMPORT TARIFF—*contd.*

PART V—*contd.*

Articles which are liable to duty at 15 per cent. *ad valorem.*

No.	Names of Articles.
103	BUILDINGS AND ENGINEERING MATERIALS, including asphalt, bricks, cement, chalk and lime, clay, pipes of earthenwire, titles, and all other sorts of building and engineering materials not otherwise specified.
104	CANDLES.
105	CINEMATOGRAPH FILMS.
106	CORDAGE AND ROPE AND TWINE OF VEGETABLE FIBER.
107	FURNITURE TACLE AND APPAREL, not otherwise described for steam, sailing, rowing and other vessels.
108	MATS AND MATTING.
109	OILCAFES.
110	OILCLOTH AND FLOOR CLOTH.
111	PACKING—ENGINE AND BOILERS—all sorts, excluding packing forming a component part of any article included in Nos. 51 and 63.
112	PERFUMERY, not otherwise specified.
113	PITCH, TAR AND DAMMER.
114	POLISHES AND COMPOSITIONS.
115	RUBBER tyres and othars manufactures of rubber, not otherwise specified (*see* No. 139).
116	SOAP

SCHEDULE II—IMPORT TARIFF—*contd.*

PART V—*concld.*

Articles which are liable to duty at 30 per cent. *ad valorem.*

No.	Names of Articles.
117	STARCH AND FARINA.
118	STONE AND MARBLE, and articles made of stone and marble.
119	TOILET REQUISITES, not otherwise specified.
120	All other articles wholly or mainly manufactured, not otherwise specified.
	IV—Miscellaneous and unclassified.
121	CORAL.
122	UMBRELLAS, INCLUDING PARASOLS AND SUNSHADES, AND FITTINGS THEREFOR.
123	All other articles not otherwise specified, including articles imported by post.

PART VI.

Article which are liable to duty at 30 per cent. *ad valorem.*

No.	Names of Articles.
	I.—Food, Drink and Tobacco—
124	CONFECTIONERY.
	II—Articles mainly manufactured.
	ARMS, AMMUNITION AND MILITARY STORES.
125	GUNPOWDER FOR CANNONS, rifles, guns, pistols and sporting purposes.
126	Subject to the exemptions specified in No. 12 all articles other than those specified in entry No. 42 which are arms or parts of arms within the meaning of the Indian Arms Act, 1878 (excluding springs used for air-guns which are dutiable as hardware under No. 90), all tools used for cleaning or putting together the same, all machines for making, loading, closing or capping cartridges for arms other than rifled arms and all other sorts of ammunition and military stores, and any articles which the Governor-General in Council may, by notification in the Gazette of India, declare to be ammunition or military stores for the purposes of this Act.

SCHEDULE II—IMPORT TARIFF—*contd.*

PART VI—*concld.*

Articles which are liable to duty at 30 per cent. *ad valorem.*

No.	Names and Articles.
	CARRIAGES AND CARTS.
127	MOTOR CARS, motor cycles, motor scooters, bicycles and trycycles and articles adapted for use as parts and accessories thereof; provided that such articles as are ordinarily also used for purposes other than as parts and accessories motor vehicles included in this item or in No, 87 or of bicycles shall be dutiable at the rate of duty specified for such articles.
	CUTLERY, HARDWARE, IMPLEMENTS AND INSTRUMENTS.
128	CLOCKS AND WATCHES AND PARTS THEREOF.
129	ARTICLES PLATED WITH GOLD AND SILVER.
130	MUSICAL INSTRUMENTS.
	GLASSWARE AND EARTHENWARE.
131	GLASS BANGLES and BEADS and false pearls..
	METALS.
132	GOLD PLATE, gold thread and wire, and gold manufacturers, all sorts.
133	SILVER PLATE, silver thread and wire, and silver manufacturers, all sorts.
	YARNS AND TEXTILE FABRICS.
134	SILK PIECE-GOODS, and other manufacturers of silk.
	MISCELLANEOUS.
135	FIRE-WORKS.
136	IVORY, manufactured.
137	JEWELLERY AND JEWELLS.
138	PRINTS, engravings and pictures, including photographs and picture postcards.
139	PNEUMATIC RUBBER TYRES AND TUBES for motor cars, motor lorries, motor cycles, motor scooters, bicycles and tricycles.
140	SMOKERS' REQUISITES, excluding tobacco (Nos. 36 to 38) and matches (No. 46)
141	TOYS, games, playing cards and requisites for games and sports, including bird shot.

SCHEDULE III—EXPORT TARIFF.*

No.	Name and Articles.	Per.	Rate of duty.
	Jute, other than Bimlipatam jute.		
† 1	Raw jute—		R. A.
	(1) Cuttings.	Bale of 400 lbs.	1 4
	(2) All other descriptions.	„ „	4 8
† 2	Jute Manufactures when not in actual use as coverings, receptacles or bindings for other goods—		
	(1) Sacking, (cloth, bags, twist, yarn, rope and twine.)	Ton of 2,240 lbs.	20 0
	(2) Hessians and all other descriptions of jute manufactures not otherwise specified.		32 0
	Raw Hides.		
‡ 3	Raw Hides and skins. ...	*Ad valorem.*	15 per cent. Provided that, subject to such conditions as the Governor-General in Council may by notification in the *Gazette of India* prescribe, a rebate shall be granted to exporter of two-thirds of that duty levied on hides or skins exported to any part of His Majesty's dominions or of the territories of any Indian Prince or Chief under the

* Shedule III has been substituted by Act 10 of 1916.

† Nos. 1 and 2 have beed substituted by Act 6 of 1917.

‡ The words within quotations have been inserted by Act 19 of 1919 and numbers 3 and 4 are renumbered 4 and 5 by the same,

SCHEDULE III—EXPORT TARIFF.

No.	Name of articles.	Per.	Rate of duty.
			R. A.
			suzerainty of His Majesty or of any territories under the protection of His Majesty or in respect of which a mandate of the League of Nations is exercised by the Government of any part of His Majesty's dominions."
	Rice.		
4	Rice unhusked including, rice, flour, but excluding rice bran and rice dust, which are free.	Indian maund of 82$\frac{2}{7}$ lbs. avoirdupois weight.	0 8
	Tea.		
5	Tea.		1 8

ACT NO. IX. OF 1894.

The Prisons Act, 1894.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received His Excellency's Assent on the 22nd March 1894.

An Act to amend the Law relating to Prisons.

Whereas it is expedient to amend the law relating to prisons in British India, and to provide rules for the regulation of such prisons; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent, and commencement.

1. (1) This Act may be called the Prisons Act, 1894;

(2) It extends to the whole of British India, inclusive of* British Baluchistan, the Santal Parganas, and the Pargana of Spiti; and

(3) It shall come into force on the first day of July 1894;

(4) Nothing in this Act shall apply to civil jails in the Presidency of Bombay outside the city of Bombay, and those jails shall continue to be administered under the provisions of sections 9 to 16 (both inclusive) of Bombay Act II. of 1874 as amended by subsequent enactments.

Repeal.

2.† (1) On and after the said first day of July 1894, the enactments mentioned in the Schedule shall be repealed to the extent specified in the fourth column thereof.

(2) But all rules and appointments made, directions given, and orders issued, under any of those enactments, shall, so far as they are consistent with this Act, be deemed to have been respectively made, given, and issued under this Act.

(3) Any enactment or document referring to any of those enactments shall, so far as may be, be construed to refer to this Act, or to the corresponding portion thereof.

Definitions.

3. In this Act—

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* Here the words "Upper Burma" have been repealed by Act XIII. of 1898, Sch. V.

† So much of s. 2 as relates to Act XX of 1886 is repealed by Act XIII. of 1898, Sch. V.

(1) "prison" means any jail or place used permanently or temporarily under the general or special orders of a Local Government, for the detention of prisoners, and includes all lands and buildings appurtenant thereto, but does not include—

(*a*) any place for the confinement of prisoners who are exclusively in the custody of the police;

(*b*) any place specially appointed by the Local Government under section 541 of the Code of Criminal Procedure, 1882;* or

(*c*) any place which has been declared by the Local Government, by general or special order, to be a subsidiary jail:

(2) "criminal prisoner" means any prisoner duly committed to custody under the writ, warrant, or order of any Court or authority exercising criminal jurisdiction, or by order of a Court-martial:

(3) "convicted criminal prisoner" means any criminal prisoner under sentence of a Court or Court-marital, and includes a person detained in prison under the privisions of Chapter VIII.† of the Code of Criminal Procedure, 1882, or under the Prisoners Act, 1871:

(4) "civil prisoner" means any prisoner who is not a criminal prisoner:

(5) "remission system" means the rules for the time being in force regulating the award of marks to, and the consequent shortening of sentences of, prisoners in jails:

6) "history-ticket" means the ticket exhibiting such information as is required in respect of each prisoner by this Act or the rules thereunder:

(7) "Inspector-General" means the Inspector-General of Prisons:

(8) "Medical Subordinate" means an Assistant Surgeon, Apothecary, or qualified Hospital Assistant: and

(9) "prohibited article" means an article the introduction or removal of which into or out of a prison is prohibited by any rule under this Act.

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* This reference to s. 541 of Act X. of 1882 (the old Code) should now be meant to apply to s. 541 of Act V. of 1898 (the Code now in force), where by the former has been entirely repealed.—*See* s. 3 (1) of the latter Act.

† *Now* the corresponding chapter or portion of Act V. of 1898 (the new Code now in operation).—*See* s. 3 (1) of that Act.

CHAPTER II.

MAINTENANCE AND OFFICERS OF PRISONS.

Accommodation for prisoners.

4. The Local Government shall provide, for the prisoners in the territories under such Government accommodation in prisons constructed and regulated in such manner as to comply with the requisitions of this Act in respect of the separation of prisoners.

Inspector General.

5. An Inspector-General shall be appointed for the territories subject to each Local Government, and shall exercise, subject to the orders of the Local Government, the general control and superintendence of all prisons situated in the territories under such Government.

Officers of prisons.

6. For every prison there shall be a Superintendent, a Medical Officer (who may also be the Superintendent), a Medical Subordinate, a Jailer, and such other officers as the Local Government thinks necessary:

Provided that the Governor of Bombay in Council may, with the previous sanction of the Governor General in Council, declare by order in writing that, in any prison specified in the order, the office of Jailer shall be held by the person appointed to be Superintendent.

Temporary accommodation for prisoners.

7. Whenever it appears to the Inspector-General that the number of prisoners in any prison is greater than can conveniently or safely be kept therein, and it is not convenient to transfer the excess number to some other prison,

or whenever, from the outbreak of epidemic disease within any prison, or for any other reason, it is desirable to provide for the temporary shelter and safe custody of any prisoners,

provision shall be made, by such officer and in such manner as the Local Government may direct, for the shelter and safe custody in temporary prisons of so many of the prisoners as cannot be conveniently or safely kept in the prison.

CHAPTER III.

DUTIES OF OFFICERS.

Generally.

Control and duties of officers of prisons.

8. All officers of a prison shall obey the directions of the Superintendent; all officers subordinate to the Jailer shall perform such duties as may be imposed on them by the Jailer with the sanction of the Superintendent, or be prescribed by rules under section 60.

Officers not to have business dealings with prisoners,

9. No officer of a prison shall sell or let, nor shall any person in trust for, or employed by, him sell or let, or derive any benefit from selling or letting, any article to any prisoner, or have any money or other business dealings, directly, or indirectly, with any prisoner.

Officers not to be interested in prison contracts.

10. No officer of a prison shall, nor shall any person in trust for, or employed by, him, have any interest, direct or indirect, in any contract for the supply of the prison; nor shall he derive any benefit, directly or indirectly, from the sale or purchase of any article on behalf of the prison, or belonging to a prisoner.

Superintendent.

Superintendent.

11. (1) Subject to the orders of the Inspector-General, the Superintendent shall manage the prison in all matters relating to discipline, labour, expenditure, punishment, and control.

(2) Subject to such general or special directions as may be given by the Local Government, the Superintendent of a prison, other than a central prison or a prison situated in a presidency-town, shall obey all orders not inconsistent with this Act or any rule thereunder which may be given respecting the prison by the District Magistrate, and shall report to the Inspector-General all such orders and the action taken thereon.

Records to be kept by Superintendent,

12. The Superintendent shall keep, or cause to be kept, the following records:—

(1) A register of prisoners admitted;

(2) a book showing when each prisoner is to be released;

(3) a punishment book for the entry of the punishments inflicted on prisoners for prison-offences;

(4) a visitors' book for the entry of any observations made by the visitors touching any matters connected with the administration of the prison;

(5) a record of the money and other articles taken from prisoners;

and all such other records as may be prescribed by rules under section 59 or section 60.

Medical Officer.

Duties of Medical Officer.

13. Subject to the control of the superintendent, the Medical Officer shall have charge of the sanitary administration of the prison, and shall perform such duties as may be prescribed by rules made by the Local Government under section 60.

Medical Officer to report in certain cases.

14. Whenever the Medical Officer has reason to believe that the mind of a prisoner is, or is likely to be, injuriously affected by the discipline or treatment to which he is subjected, the Medical Officer shall report the case in writing to the Superintendent, together with such observations as he may think proper.

This report, with the orders of the Superintendent thereon, shall forthwith be sent to the Inspector-General for information.

Report on death of prisoner.

15. On the death of any prisoner, the Medical Officer shall forthwith record in a register the following particulars, so far as they can be ascertained, namely :

(1) the day on which the deceased first complained of illness, or was observed to be ill,

(2) the labour, if any, on which he was engaged on that day,

(3) the scale of his diet on that day,

(4) the day on which he was admitted to hospital,

(5) the day on which the Medical Officer was first informed of the illness,

(6) the nature of the disease,

(7) when the deceased was last seen before his death by the Medical Officer or Medical Subordinate,

(8) when the prisoner died, and

(9) (in cases where a post mortem examination is made) an account of the appearances after death,

together with any special remarks that appear to the Medical Officer to be required.

Jailer.

Jailer.

16. (1) The Jailer shall reside in the prison unless the Superintendent permits him in writing to reside elsewhere.

(2) The Jailer shall not, without the Inspector-General's sanction in writing, be concerned in any other employment.

Jailer to give notice of death of prisoner.

17. Upon the death of a prisoner, the Jailer shall give immediate notice thereof to the Superintendent and the Medical Subordinate.

Responsibility of Jailer.

18. The Jailer shall be responsible for the safe custody of the records to be kept under section 12, for the commitment warrants and all other documents confided to his care, and for the money and other articles taken from prisoners.

Jailer to be present at night.

19. The Jailer shall not be absent from the prison for a night without permission in writing from the Superintendent; but, if absent without leave for a night from unavoidable necessity, he shall immediately report the fact and the cause of it to the Superintendent.

Powers of Deputy and Assistant Jailer.

20. Where a Deputy Jailer or Assistant Jailer is appointed to a prison, he shall, subject to the orders of the Superintendent, be competent to perform any of the duties, and be subject to all the responsibilities, of a Jailer under this Act or any rule thereunder.

Subordinate Officers.

Duties of gate-keeper.

21. The officer acting as gate-keeper, or any other officer of the prison, may examine anything carried in or out of the prison, and may stop and search, or cause to be searched, any person suspected of bringing any prohibited article into or out of the prison, or of carrying out any property belonging to the prison, and, if any such article or property be found, shall give immediate notice thereof to the Jailer.

Subordinate officers not to be absent without leave.

22. Officers subordinate to the Jailer shall not be absent from the prison without leave from the Superintendent, or from the Jailer.

Convict officers.

23. Prisoners who have been appointed as officers of prisons shall be deemed to be public servants within the meaning of the Indian Penal Code.*

CHAPTER IV.

ADMISSION, REMOVAL, AND DISCHARGE OF PRISONERS.

Prisoners to be examined on admission.

24. (1) Whenever a prisoner is admitted into prison, he shall be searched, and all weapons and prohibited articles shall be taken from him.

(2) Every criminal prisoner shall also, as soon as possible after admission, be examined under the general or special orders of the Medical Officer, who shall enter, or cause to be entered, in a book to be kept by the Jailer, a record of the state of the prisoner's health, and of any wounds or marks on his person, the class of labour he is fit for if sentenced to rigorous imprisonment, and any observations which the Medical Officer thinks fit to add.

* Act XLV. of 1860.

(3) In the case of female prisoners, the search and examination shall be carried out by the matron under the general or special orders of the Medical Officer.

Effects to prisoners.

25. All money or other articles in respect whereof no order of a competent Court has been made, and which may, with proper authority, be brought into the prison by any criminal prisoner, or sent to the prison for his use, shall be placed in the custody of the Jailer.

Removal and discharge of prisoners.

26. (1) All prisoners, previously to being removed to any other prison, shall be examined by the Medical Officer.

(2) No prisoner shall be removed from one prison to another unless the Medical Officer certifies that the prisoner is free from any illness rendering him unfit for removal.

(3) No prisoner shall be discharged against his will from prison, if labouring under any acute or dangerous distemper, nor until, in the opinion of the Medical Officer, such discharge is safe.

CHAPTER V.

DISCIPLINE OF PRISONERS.

Separation of prisoners.

27. The requistions of this Act with respect to the separation of prisoners are as follow :—

(1) In a prison containing female as well as male prisoners, the females shall be imprisoned in separate buildings or separate parts of the same building in such manner as to prevent their seeing, or conversing or holding any intercourse with, the male prisoners ;

(2) in a prison where male prisoners under the age of eighteen are confined, means shall be provided for separating them altogether from the other prisoners, and for separating those of them who have arrived at the age of puberty from those who have not ;

(3) unconvicted criminal prisoners shall be kept apart from convicted criminal prisoners ; and

(4) civil prisoners shall be kept apart from criminal prisoners.

Association and segregation of prisoners.

28. Subject to the requirements of the last-foregoing section convicted criminal prisoners may be confined, either in association, or individually in cells, or partly in one way and partly in the other.

29. No cell shall be used for solitary confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison; and every prisoner so confined in a cell for more than twenty-four hours, whether as a punishment or otherwise, shall be visited, at least once a day, by the Medical Officer or Medical Subordinate.

Solitary confinement.

30. (1) Every prisoner under sentence of death shall, immediately on his arrival in the prison after sentence, be searched by, or by order of the Jailer, and all articles shall be taken from him which the Jailer deems it dangerous or inexpedient to leave in his possession.

Prisoners under sentence of death.

(2) Every such prisoner shall be confined in a cell apart from all other prisoners, and shall be placed by day and by night under the charge of a guard.

CHAPTER VI.

FOOD, CLOTHING, AND BEDDING OF CIVIL AND UNCONVICTED CRIMINAL PRISONERS.

31. A civil prisoner or an unconvicted criminal prisoner shall be permitted to maintain himself, and to purchase or receive from private sources, at proper hours, food, clothing, bedding, or other necessaries, but subject to examination, and to such rules as may be approved by the Inspector-General.

Maintenance of certain prisoners from private sources,

32. No part of any food, clothing, bedding, or other necessaries belonging to any civil or unconvicted criminal prisoner shall be given, hired, or sold to any other prisoner; and any prisoner transgressing the provisons of this section shall lose the privilege of purchasing food or receiving it from private sources for such time as the Superintendent thinks proper.

Restriction on transfer of food and clothing between certain prisoners.

33. (1) Every civil prisoner and unconvicted criminal prisoner unable to provide himself with sufficient clothing and bedding shall be supplied by the Superintendent with such clothing and bedding as may be necessary.

Supply of clothing and bedding to civil and unconvicted criminal prisoners.

(2) When any civil prisoner has been committed to prison in execution of a decree in favour of a private person, such person or his representative shall, within forty-eight hours after the receipt by him of a demand in writing, pay to the Superintendent the cost of the clothing and bedding so supplied to the prisoner; and, in default of such payment, the prisoner may be released.

CHAPTER VII.

EMPLOYMENT OF PRISONERS.

Employment of civil prisoners.

34. (1) Civil prisoners may, with the Superintendent's permission, work and follow any trade or profession.

(2) Civil prisoners finding their own implements, and not maintained at the expense of the prison, shall be allowed to receive the whole of their earnings; but the earnings of such as are furnished with implements, or are maintained at the expense of the prison, shall be subject to a deduction, to be determined by the Superintendent, for the use of implements and the cost of maintenance.

Employment of criminal prisoners.

35. (1) No criminal prisoner sentenced to labour, or employed on labour at his own desire, shall, except on an emergency, with the sanction in writing of the Superintendent, be kept to labour for more than nine hours in any one day.

(2) The Medical Officer shall, from time to time, examine the labouring prisoners while they are employed, and shall, at least once in every fortnight, cause to be recorded, upon the history-ticket of each prisoner employed on labour, the weight of such prisoner at the time.

(3) When the Medical Officer is of opinion that the health of any prisoner suffers from employment on any kind or class of labour, such prisoner shall not be employed on that labour, but shall be placed on such other kind or class of labour as the Medical Officer may consider suited for him.

Employment of criminal prisoners sentenced to simple imprisonment.

36. Provision shall be made by the Superintendent for the employment (as long as they so desire) of all criminal prisoners sentenced to simple imprisonment; but no prisoner not sentenced to rigorous imprisonment shall be punished for neglect of work excepting by such alteration in the scale of diet as may be established by the rules of the prison in the case of neglect of work by such a prisoner.

CHAPTER VIII.

HEALTH OF PRISONERS.

Sick prisoners.

37. (1) The names of prisoners desiring to see the Medical Subordinate, or appearing out of health in mind or body, shall, without delay, be reported by the officer in immediate charge of such prisoners to the Jailer.

(2) The Jailer shall, without delay, call the attention of the Medical Subordinate to any prisoner desiring to see him, or who is ill, or whose state of mind or body appears to require attention and shall carry into effect all written directions given by the Medical Officer or Medical Subordinate respecting alterations of the discipline or treatment of any such prisoner.

Record of directions of Medical Officers.

38. All directions given by the Medical Officer or Medical Subordinate in relation to any prisoner, with the exception of orders for the supply of medicines or directions relating to such matters as are carried into effect by the Medical Officer himself or under his superintendence, shall be entered day by day in the prisoner's history ticket, or in such other record as the Local Government may by rule direct, and the Jailer shall make an entry in its proper place stating, in respect of each direction, the fact of its having been or not having been complied with, accompanied by such observations, if any, as the Jailer thinks fit to make and the date of the entry.

Hospital.

39. In every prison a hospital or proper place for the reception of sick prisoners shall be provided.

CHAPTER IX.

VISITS TO PRISONERS.

Visits to civil and unconvicted criminal prisoners.

40. Due provision shall be made for the admission, at proper times and under proper restrictions, into every prison, of persons with whom civil or unconvicted criminal prisoners may desire to communicate, care being taken that so far as may be consistent with the interests of justice, prisoners under trial may see their duly qualified legal advisers without the presence of any other person.

Search of visitors.

41. (1) The Jailer may demand the name and address of any visitor to a prisoner, and, when the Jailer has any ground for suspicion, may search any visitor, or cause him to be searched, but the search shall not be made in the presence of any prisoner, or of another visitor.

(2) In case of any such visitor refusing to permit himself to be searched, the Jailer may deny him admission: and the grounds of such proceeding, with the particulars thereof, shall be entered in such record as the Local Government may direct.

CHAPTER X.

OFFENCE IN RELATION TO PRISONS.

Penalty for introduction or removal of prohibited articles into or from prison and communication with prisoners.

42. Whoever, contrary to any rule under section 60, introduces or removes, or attempts, by any means whatever, to introduce or remove, into or from any prison, or supplies or attempts to supply to any prisoner outside the limits of a prison, any prohibited article,

and every officer of a prison who, contrary to any such rule, knowingly suffers any such article to be introduced into, or removed from, any prison, to be possessed by any prisoner, or to be supplied to any prisoner outside the limits of a prison,

and whoever, contrary to any such rule, communicates, or attempts to communicate, with any prisoner,

and whoever abets any offence made punishable by this section,

shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

Power to arrest for offence under section 42.

43. When any person, in the presence of any officer of a prison, commits any offence specified in the foregoing section, and refuses, on demand of such officer, to state his name and residence, or gives a name or residence which such officer knows or has reason to believe to be false, such officer may arrest him, and shall, without unnecessary delay, make him over to a police-officer, and thereupon such police-officer shall proceed as if the offence had been committed in his presence.

Publication of penalties.

44. The Superintendent shall cause to be affixed, in a conspicuous place outside the prison, a notice in English and the Vernacular setting forth the acts prohibited under section 42 and the penalties incurred by their commission.

CHAPTER XI.

PRISON-OFFENCES.

Prison-offences.

45. The following acts are declared to be prison-offences when committed by a prisoner :—

(1) Such wilful disobedience to any regulation of the prison as shall have been declared by rules made under section 59 to be a prison-offence ;

(2) any assult or use of criminal force ;

(3) the use of insulting or theatening language ;

(4) immoral or indecent or disorderly behaviour ;

(5) wilfully disabling himself from labour ;

(6) contumaciously refusing to work ;

(7) filing, cutting, altering, or removing handcuffs, fetters, or bars without due authority;

(8) wilful idleness or negligence at work by any prisoner sentenced to rigorous imprionment ;

(9) wilful mismanagement of work by any prisoner sentenced to rigorous imprisonment ;

(10) wilful damage to prison property;

(11) tampering with or defacing history-tickets, records, or documents ;

(12) receiving, possessing, or transferring any prohibited article ;

(13) feigning illness ;

(14) wilfully bringing a false accusation against any officer or prisoner ;

(15) omitting or refusing to report, as soon as it comes to his knowledge, the occurrence of any fire, any plot or conspiracy, any escape, attempt or preparation to escape, and any attack or preparation for attack upon any prisoner or prison official ; and

(16) conspiring to escape, or to assist in escaping, or to commit any other of the offences aforesaid.

Punishment of such offences.

46. The Superintendent may examine any person touching any such offence, and determine thereupon, and punish such offence by—

(1) a formal warning :

Explanation—A 'formal warning shall mean a warning personally addressed to a prisoner by the Superintendedt, and recorded in the punishment-book, and on the prisoner's history-ticket ;

(2) change of labour to some more irksome or severe form ;

(3) hard labour for a period not exceeding seven days in the case of convicted criminal prisoners not sentenced to rigorous imprisonment ;

(4) such loss of privileges admissible under the remission system for the time being in force as may be prescribed by rules made by the Governor-General in Council ;

(5) the substitution of gunny or other coarse fabric for clothing of other material, not being woolen, for a period which shall not exceed three months;

(6) impositon of handcuffs of such pattern and weight, in such manner, and for such period, as may be prescribed by rules made by the Governor-General in Council;

(7) imposition of fetters of such pattern and weight in such manner, and for such period, as may be prescribed by rules made by the Governor General in Council;

(8) separate confinement for any period not exceeding six months:

Explanation.—Separate confinement means such confinement, with or without labour, as secludes a prisoner from communication with, but not from sight of, other prisoners, and allows him not less than one hour's exercise per diem, and to have his meals in association with one or more other prisoners;

(9) penal diet, that is, restriction of diet in such manner, and subject to such conditions regarding labour, as may be prescribed by the Local Government:

Provided that such restriction of diet shall in no case be applied to a prisoner for more than ninty-six consecutive hours, and shall not be repeated except for a fresh offence, nor until after an interval of one week;

(10) cellular confinement for any period not exceeding fourteen days:

Provided that, after each period of cellular confinement, an interval of not less duration than such period must elapse before the prisoner is again sentenced to cellular or solitary confinement:

Explanation.—Cellular confinement means such confinement, with or without labour, as entirely secludes a prisoner from communication with, but not from sight of, other prisoners;

(11) solitary confinement for any period not exceeding seven days:

Provided that, after each period of solitary confinement, an interval of not less duration than such period must elapse before the prisoner is again sentenced to solitary or cellular confinement:

Explanation.—Solitary confinement means such confinement, with or withont labour, as entirely secludes the prisoner both from sight of, and communication with, other prisoners;

(12) penal diet as defined in clause (9) combined with solitary confinement as defined in clause (11);

(13) whipping, provided that the number of stripes shall not exceed thirty:

Provided that nothing in this section shall render any female or civil prisoner liable to the imposition of any form of handcuffs or fetters, or to whipping.

Plurality of punishments under section 46.

47. Any two of the punishments enumerated in the last-foregoing section may be awarded for any such offence in combination, subject to the following exceptions, namely:—

(1) Formal warning shall not be combined with any other puhishment except loss of privileges under clause (4) of that section;

(2) penal diet shall not be combined with change of labour under clause (2) of that section, nor shall any additional period of penal diet awarded singly be combined with any period of penal diet awarded in combination with solitary confinement;

(3) solitary confinement shall not be combined with cellular confinement, or with separate confinement, nor cellular confinement with separate confinement, so as to prolong the total period of seclusion to which the prisoner shall be liable:

(4) whipping shall not be combined with any other form of punishment except cellular or separate confinement and loss of privileges admissible under the remission system.

Award of punishments under sections 46 and 47.

48. (1) The Superintendent shall have power to award any of the punishments enumerated in the two last-foregoing sections, subject, in the case of separate confinement for a period exceeding one month, to the previous confirmation of the Inspector-General.

(2) No officer subordinate to the Superintendent shall have power to award any punishment whatever.

Punishments to be in accordanc e with foregoing setions.

49. Except by order of a Court of Justice, no punishment, other than the punishments specified in the foregoing sections, shall be inflicted on any prisoner, and no punishment shall be inflicted on any prisoner otherwise than in accordance with the provisions of those sections,

Medical Officer to certify to fitness of prisoner for punishment.

50. (1) No punishment of penal diet, either singly, or in combination, or of whipping, or of change of labour under sectfon 46, clause (2), shall be executed until the prisoner to whom such punishment has been awarded has been examined by the Medical Officer, who, if he considers the prisoner fit to undergo the punishment, shall certify accordingly in the appropriate column of the punishment-book prescribed in section 12.

(2) If he considers the prisoner unfit to undergo the punishment, he shall in like manner record his opinion in writing, and shall state whether the prisoner is absolutely unfit for punishment of the kind awarded, or whether he considers any modification necessary.

(3) In the latter case he shall state what extent of punishment he thinks the prisoner can undergo without injury to his health.

Entries in punishment-book.

51. (1) In the punishment-book prescribed in section 12, there shall be recorded, in respect of every punishment inflicted, the prisoner's name, register number, and the class (whether habitual or not) to which he belongs, the prison-offence of which he was guilty, the date on which such prison-offence was committed, the number of previous prison-offences recorded against the prisoner, and the date of his last prison-offence, the punishment awarded, and the date of infliction.

(2) In the case of every serious prison-offence, the names of the witnesses proving the offence shall be recorded, and, in the case of offences for which whipping is awarded, the Superintendent shall record the substance of the evidence of the witnesses, the defence of the prisoner, and the finding with the reasons therefor.

(3) Against the entries relating to each punishment, the Jailer and Superintendent shall affix their initials as evidence of the correctness of the entries.

Procedure on committal of henious offence.

52. If any prisoner is guilty of any offence against prison-discipline which, by reason of his having frequently committed such offences or otherwise, in the opinion of the Superintendent, is not adequately punishable by the infliction of any punishment which he has power under this Act to award, the Superintendent may forward such prisoner to the Court of the District Magistrate, or of any Magistrate of the first class "or Presidency Magistrate."* having jurisdiction, together with a statement of the circumstances, and such Magistrate shall thereupon inquire into and try the charge so brought against the prisoner, and, upon conviction, may sentence him to imprisonment which may extend to one year, such term to

* The words within quotations have been inserted by Act XIII. of 1910.

be in addition to any term for which such prisoner was undergoing imprisonment when he committed such offence, or may sentence him to any of the punishments enumerated in section 46:

"Provided that any such case may be transferred for inquiry and trial by the District Magistrate of the first class, and by a Chief Presidency Magistrate to any other Presidency Magistrate; and"*

provided also that no person shall be punished twice for the same offence.

Whipping.

53. (1) No punishment of whipping shall be inflicted in instalments, or except in the presence of the Superintendent and Medical Officer or Medical Subordinate.

(2) Whipping shall be inflicted with a light ratan not less than half-an inch in diameter on the buttocks, and, in case prisoners under the age of sixteen, it shall be inflicted, in the way of school discipline, with a lighter ratan.

Offences by prison subordinates.

54. (1) Every Jailer or officer of a prison subordinate to him, who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation or lawful order made by competent authority, or who shall withdraw from the duties of his office without permission, or without having given previous notice in writing of his intention, for the period of two months, or who shall wilfully overstay any leave granted to him, or who shall engage without authority in any employment other than his prison-duty, or who shall be guilty of cowardice, shall be liable, on conviction before a Magistrate, to fine not exceeding two hundred rupees, or to imprisonment for a period not exceeding three months, or to both.

(2) No person shall, under this section, be punished twice for the same offence.

CHAPTER XII.

MISCELLANEOUS.

Extramural custody, control, and employment of prisoners,

55. A prisoner, when being taken to or from any prison in which he may be lawfully confined, or whenever he is working outside, or is otherwise beyond the limits of any such prison in or under the lawful custody or control of a prison officer belonging to such prison, shall be deemed to be in prison, and shall be subject to all the same incidents as if he were actually in prison.

56. Whenever the Superintendent considers it necessary (with reference either to the state of the prison or the character of the prisoners) for the safe custody of any prisoners that they should be confined in irons, he may, subject to such rules and instructions as may be laid down by the Inspector-General with the sanction of the Local Government, so confine them.

Confinement in irons.

57. (1) Prisoners under sentence of transportation may, subject to any rules made under section 60, be confined in fetters for the first three months after admission to prison.

Confinement of prisoners under sentence of transportation in irons.

(2) Should the Superintendent consider it necessary, either for the safe custody of the prisoner himself, or for any other reason, that fetters should be retained on any such prisoner for more than three months, he shall apply to the Inspector-General for sanction to their retention for the period for which he considers their retention necessary, and the Inspector-General may sanction such retention accordingly.

58. No prisoner shall be put in irons or under mechanical restraint by the Jailer of his own authority, except in case of urgent necessity, in which case notice thereof shall be forthwith given to the Superintendent.

Prisoners not to be ironed by Jailer except under necessity.

59. The Governor-General in Council may for any part of British India, and each Local Government, with the previous sanction of the Governor-General in Council, may for the territories under its administration, make rules consistent with this Act—

Power to make rules,

(1) defining the acts which shall constitute prison offences;

(2) determining the classification of prison-offences into serious and minor offences;

(3) fixing the punishments admissible under this Act which shall be awardable for commission of prison-offences or classes thereof;

(4) declaring the circumstances in which acts constituting both a prison-offence and an offence under the Indian Penal Code may or may not be dealt with as a prison-offence;

(5) for the award of marks and the shortening of sentences;

(6) regulating the use of arms against any prisoner or body of prisoners in the case of an outbreak or attempt to escape;

(7) defining the circumstances, and regulating the conditions, under which prisoners in danger of death may be released ;

(8) regulating the transfer, from one part of British India to another, of prisoners whose term of transportation or imprisonment is about to expire ; and,

(9) generally, for carrying into effect the purposes of this Act.

Power of Local Government to make rules.

60. The Local Government may, subject to the control of the Governor-General in Council, make rules consistent with this Act.

(*a*) for the classification of prisons, and description and construction of wards, cells, and other places of detention ;

(*b*) for the regulation by numbers, length or character of sentences or otherwise, of the prisoners to be confined in each class of prisons ;

(*c*) for the government of prisons, and for the appointment, guidance, control, punishment, and dismissal of all officers appointed under this Act ;

(*d*) as to the food, bedding, and clothing of criminal prisoners and of civil prisoners maintained otherwise than at their own cost ;

(*e*) for the employment, instruction, and control of convicts within or without prisons ;

(*f*) for defining articles the introduction or removal of which into or out of prisons without due authority is prohibited ;

(*g*) for classifying and prescribing the forms of labour, and regulating the periods of rest from labour ;

(*h*) for regulating the disposal of the proceeds of the employment of prisoners ;

(*i*) for regulating the confinement in fetters of prisoners sentenced to transportation ;

(*j*) for the classification and the separation of prisoners ;

(*k*) for regulating the confinement of convicted criminal prisoners under section 28 ;

(*l*) for the preparation and maintenace of history-tickets ;

(*m*) for the selection and appointment of prisoner s as officers or prisons ;

(*n*) for rewards for good conduct ;

(*o*) for regulating the transfer of prisoners whose term of transportation or imprisonment is about to expire ;

(*p*) for the treatment, transfer, and disposal of criminal lunatics or recovered criminal lunatics confined in prisons ;

(*q*) for regulating the transmission of appeals and petitions from prisoners and their communications with their freinds :

(*r*) for the appointment and guidance of visiotors of prisons ;

(*s*) for extending any or all of the provisions of this Act, and of the rules thereunder, to subsidary jails or special places of confinement appointed under section 541 of the Code of Criminal Procedure, 1882, and to the officers employed, and the prisoners confined therein and,

(*t*) generally, in regard to the admission, custody, employment, dieting, treatment, and release of prisoners, and for other purposes consistent with this Act.

Exhibiton of copies of rules.

61. Copies of rules, under sections 59 and 60, so far as they affect the government of prisons, shall be exhibited, both in English and in the Vernacular, in some place to which all persons employed within a prison have access.

Exercise of powers of Superintendent and Medical officer.

62. All or any of the powers and duties conferred and imposed by this Act on a Superintendent or Medical Officer may, in his absence, be exercised and performed by such other officer as the Local Government may appoint in this behalf either by name or by his official designation.

THE SCHEDULE.*

ENACTMENTS REPEALED.

(See section 2.)

Year.	No.	Title or short title.	Extent of repeal.
1	2	3	4
		Act of the Governor-General in Council.	
1856	VIII ...	An Act for the better control of the jails within the Presidency of Bombay.	So much as has not been repealed.
1870	XXVI ...	Prisons Act, 1870	So much as has not been repealed.
1874	XV ...	Laws Local Extent Act, 1874 ...	So much of Part (*b*) of the third Schedule as relates to Act VIII. of 1856.
1878	XIV ...	An Act to assimilate certain powers of the Local Governments of the North-Western Provinces and Oudh.	Section 2.
1886	XX* ...	Upper Burma Laws Act, 1886 ...	So much as relates to Act XXVI. of 1870.
1891	XII ...	Repealing and Amending Act, 1891.	So much of the second Schedule as relates to Acts VIII. of 1856 and XXVI. of 1870.
		Acts of the Governor of Fort St. George in Council.	
1869	V ...	Madras Jails Act, 1869 ...	So much as has not been repealed.
1882	VII ...	Madras Jails Act Amendment Act, 1882.	The whole.
1889	II ...	An Act to amend the Madras Jails Act, 1869.	The whole.

* So much of the Schedule as relates to Act XX. of 1886 has been repealed by Act XIII. of 1898.

SCHEDULE.—ENACTMENTS REPEALED.—*contd.*

Year	No.	Title or short title.	Extent of repeal.
1	2	3	4
		Acts of the Governor of Bombay in Council.	
1874	II ...	An Act for the regulation of Jails in the City and presidency of Bombay, and the enforcement of discipline therein.	So much as has not been repealed, except sections 9 to 16 (both inclusive) as amended by Bombay Act II. of 1882.
1882	II ...	An Act to amend Bombay Act II. of 1874.	Section 3.
1883	IV ...	An Act to amend the law concerning the confinement of civil prisioners liable to imprisonment under the Criminal Procedure Code.	The whole.
1887	I ...	An Act to further amend Bombay Act II. of 1874.	The whole.
		Acts of the Lieutenant-Governor of Bengal in Council	
1864	II ...	An Act for the regulation of Jails and the enforcement of discipline therein.	So much as has not been repealed.
1865	V ...	An Act to amend Act II. of 1864, passed by the Lieutenant-Governor of Bengal in Council, and to extend the provisions thereof to the Presidency Jail	So much as has not been replealed.
		Regulations made under the Statute 33 Victoria, Chapter 3.	
1872	III ...	Santhal Paraganas Settlement Regulation.	So much of the Schedule (as amended by Regulation III. of 1886) as relates to Bengal Acts II. of 1864 and V. of 1865.
1874	IX ...	Arakan Hill District Laws Regulations, 1874	So much as relates to Act XXVI. of 1870.
1875	III ...	Assam Prisons Regulations, 1875...	The whole.
1890	I ...	British Baluchistan Laws Regulation, 1890.	So much as relates to Act XXVI. of 1870.

ACT NO. XIII. OF 1894.

The* Amending (Army) Act, 1894.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received His Excellency's Assent on the 12th October 1894.

An Act to amend certain Enactments relating to the Army.

WHEREAS it is expedient to amend certain enactments relating to the Army in manner hereinafter appearing ; It is hereby enacted as follows :—

Title and commencement.

1. (1) This Act may be called the* Amending (Army) Act, 1894 ; and

(2) It shall come into force on such date as the Governor-General in Council may, by notification in the *Gazette of India*, fix in that behalf.

Repeal and amendment of enactments,

2. (1) [*Repealed by Act I. of* 1903.]

(2) The enactments specified in the Second Schedule hereby modified to the extent and in the manner mentioned in the third column thereof.

THE FIRST SCHEDULE :

ENACTMENT REPEALED.

[*Repealed by Act I. of* 1903.]

* Here the words "Repealing and" have been repealed by Act I. of 1903.

THE SECOND SCHEDULE.

ENACTMENT AMENDED.

Number and year.	Title or subject.	Amendments.
1	2	3
	Regulations of the Madras Code.	
VII. of 1808 ...	Power to establish material law.	In the title, in the first place in which the words occur in the preample, in section 2, and in section 4, *for* Governor in Council, *read* Governor-General in Council.
VIII. of 1817 ...	Sepoy Malguzars.	in the title, *for* on the military establishment of the Presidency of Fort St. George, *read* in the Madras Command. In section 9, clause *first for* or in the military establishment under the Presidency of Fort St. George, *read* in the Madras Command.

ACT NO. XV. OF 1894.

The Engineers' Certificates Validation Act, 1894.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received His Excellency's Assent on the 18th October 1894.

An Act to validate certain Certificates granted to Engineers of Steam-ships.

WHEREAS the Steam vessel Survey Amendment Act of 1873 was repealed by the Inland Steam-vessels Act, 1884, which came into force, in the territories administered by the Governor of Bombay in Council, on the first day of December 1885;

And whereas, between the said day and the seventh day of February 1893; certain certificates styled "India Foreign Trade Certificates of Competency" were inadvertently granted in Bombay in pursuance of rules made under the said Steam vessel Survey Amendment Act of 1873, and without regard to the provisions of the Indian Steam-ships Act, 1884;

And whereas it is expedient to validate the said certificates,

It is hereby enacted as follows:

Title and commencement.

1. (1) This Act may be called the Engineers' Certificates Validation Act, 1894;*

(2) It shall come into force at once.

Validation of "Indian Foreign Trade Certificates of Competency" granted in Bombay to engineers of steam-ships.

2. The certificates described as "Indian Foreign Trade Certificates of Competency," which were granted under the authority of the Governor of Bombay in Council between the first day of December 1885 and the seventh day of February 1893 (both inclusive), to certify to the competency of the grantees thereof to act as engineers of steam-ships, shall be deemed to have been granted under the Indian Steam-ships Act, 1884, and shall be recognized as valid for voyages of those classes with reference whereto they were granted: Provided that nothing herein contained shall be deemed to affect such certificates in any other respect.

* The word "and" after this repealed by Act X of 1914 has been omitted.

ACT I. OF 1895.

The Presidency Small Cause Courts Act, 1895.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the Assent of the Governor-General on the 4th January 1895)

*An Act to amend the Presidency Small Cause Courts Act, 1882.**

WHEREAS it is expedient to amend the Presidency Small Cause Courts Act, 1882;* It is hereby enacted as follows :

Title and commencement.

1. (1) This Act may be called the Presidency Small Cadse Courts Act, 1895; and

(2) It shall come into force on the first day of April, 1895.

Amendment of section 6, Act XV., 1882.

2. In section 6 of the Presidency Small Cause Courts Act, 1882,* hereinafter referred to as "the said Act," after the words "Code of Civil Procedure," the following shall be added, namely :—

" and to be a Court subordinate to the High Court within the meaning of section 6 of the Legal Pratitioners Act, 1879.†"

Amendment of section 7, Act XV., 1882.

3. (1) For the proviso to the first paragraph of section 7 of the said Act, the following shall be substituted, namely :—

Vide vol. II. p. 817.

(2) [*Repealed by Act 10 of 1914.*]

4. [*Repealed by Act I. of 1903.*]

Substitution of new section for section 9, Act XV., 1882, and temporary continuance of existing procedure and practice.

5. For section 9 of the said Act, the following shall be substituted, namely :—

Vide vol. II. p. 818.

Addition to section 14, Act XV., 1882.

6. To section 14 of the said Act, the following shall be added, namely :—

Vide vol. II. p. 819.

Addition to section 18, Act XV., 1882.

7. To section 18 of the said Act, the following proviso shall be added immediately before the first Explanation, namely :—

Vide vol. II. p. 821.

* Act XV. of 1882.

† Act XVIII. of 1879.

Additon to section 18, Act XV, 1882.

8. After section 18 of the said Act, the following shall be added, namely :—

Vide vol. II. p. 821.

Addition to section 19, Act XV., 1882.

9 To section 19 of the said Act, the following shall be added, namely :—

Vide vol. II. p. 823.

Amendment of Section 21, Act XV., 1882.

10. In section 22 of the said Act, after the words "or value thereof," the words "and all suits whereof the amount or value of the subject-matter exceeds one thousand rupees" shall be inserted.

Amendment of section 22, Act XV., 1882.

11. In section 22 of the said Act, for the words "two thousand," the words "one thousand" shall be substituted.

12. (*Repealed by Act 10 of 1914.*

Substitution of new Chapter for Chapter VI., Act XV 1882.

13. For Chapter VI. of the said Act, the following shall be substituted, namely :—

"CHAPTER VI.

Vide Vol. II p. 827.

ACT II. OF 1895.

The Burma Boundaries Act Amendment Act, 1895.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the Assent of the Governor-General on the 31st January 1895.*)

*An Act to amend the Burma Boundaries Act, 1880.**

Whereas it is expedient to amend the Burma Boundaries Act, 1880,* with a view to protect all permanent survey marks erected or placed in the course of any survey executed by order of Government; It is hereby enacted as follows:—

Title extent, and commencement.

1. (1) This Act may be called the Burma Boundaries Act Amendment Act, 1895.

(2) It extends to the whole of Burma (inclusive of Upper Burma †); and

(3) It shall come into force at once.

Substitution of new preamble to Act V. of 1880.

2 For the preamble of the said Burma Boundaries Act, 1880,* the following shall be substituted, namely:—

Vide vol. II. p. 452.

Addition of section after section 1 of same Act.

3. The following section shall be added after section 1 of the said Act, namely:

Vide vol. II. p. 452.

Repeal of section 27 of same Act.

4. Section 27 of the said Act shall be repealed.

Substution of new sections for section 28 of same Act.

5. For section 28 of the said Act, the following sections shall be substituted, namely:—

Vide vol. II. p. 459.

Substitution of new section for section 30 of same Act.

6. For section 30 of the said Act, the following section shall be substituted, namely:—

Vide vol. II. p. 460.

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* Act V. of 1880.

† Here the words "*except the Shan States*" have been repealed by Act XIII. of 1898, and therefore omitted.

ACT NO III. OF 1895.*

The Indian Criminal Law Amendment Act, 1895

(Received the Assent of the Governor-General on the 8th February 1895.

An Act to amend the Indian Penal Code,† Act VI. of 1864‡ and the Indian Post-office Act, 1866.§

WHEREAS it is expedient to amend the Indian Penal Code,† Act VI. of 1864,‡ and the Indian Post-office Act, 1866 ;§ It is hereby enacted as follows :—

Indian Penal Code.

Substitution of new section for section 182, Act XLV., 1860,

1. For section 182 of the Indian Penal Code † the following shall be substituted, namely :—

Vide Vol. I p. 428.

Addition of section to Chapter XII., Act XSV., 1860.

2. To Chapter XII. of the said Code, ‖ the following shall be added namely :—

Vide of I p. 456.

Substitution of new section for section 294, Act XLV., 1860.

3. For section 294 of the said Code, ‖ the following shall be substituted namely :—

Vide vol. I p. 463.

Addition of new section after section 477, Act XLV., 1860.

4. After section 477 of the said Code, ‖ the following shall be added, namely :—

Vide vol I p. 516.

[NOTE—*The rest of this Act (III. of* 1895)—*ss.* 5 *and* 6 *(amending the Whipping Act, VI of* 1864), *repealed, respectively, by Acts IV. of* 1909, *and V. of* 1900, *and s.* 7 *(amending the Indian Post-Office Act, XIV. of* 1866), *repealed by Act VI. of* 1898—*has been omitted.*]

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* This title was given by the Indian Short Titles Act (XIV of 1897),

† Act XLV of 1860. ‡ The Whipping Act.

§ Act XIV of 1866.

‖ The Indian Penal Code (Act XLV of 1860.)

ACT IV. OF 1895.

The Dekkhan Agriculturists' Relief Act, 1895.

(*Received the Assent of the Governor-General on the 15th February 1895.*)

An Act to amend the Dekkhan Agriculturists' Relief Acts, 1879 to 1886.

WHEREAS it is expedient to amend, in manner hereinafter appearing, the Dekkhan Agriculturists Relief Acts, 1879 to 1886; It is hereby enacted as follows :—

Title and commencement.

1. (1) This Act may be called the Dekkhan Agriculturists Relief Act, 1895; and it and the Dekkhan Agriculturists' Relief Acts, 1879 to 1886, may be cited collectively as the Dekkhan Agriculturists' Relief Acts, 1879 to 1895.

(2) This Act shall come into force on the first day of May, 1895.

Definitions.

2. In this Act unless there is something repugnant in the subject or context,—

"section" means a section, and "Chapter" a Chapter, of the Dekkhan Agriculturists' Relief Act, 1879.

Repeal.

3. Sections 8, 9, 14, 15, 19, and 73 are hereby repealed.

Addition to section 1.

4. To section 1, the following shall be added after the words "Presidency of Bombay," namely :—

"or to any part or parts of any other such districts.

Substitution of new section for section 2.

5. For section 2, the following section shall be substituted, namely :—

Construction.

"2. In construing this Act, unless there is something repugnant in the subject or context, the following rules shall be observed, namely :—

Vide vol. II. pp. 387-388.

Amendment of section.

6. In section 7, before the word "unnecessary" the word "clearly" shall be added ; and, at the end of the same section, the following shall be inserted namely :—

Vide vol II p. 390.

Addition of new section after section 13.

7. After section 13, the following section shall be added, namely :—

Vide vol p. II. 394.

Addition of section after section 15A

8. After section 15A, the following section shall be added, namely :—

Vide vol p. II. 395.

Addition to section 15B.

9. To section 15B, the following shall be added, namely :

Vide vol p. II. 396.

Amendment of section 22.

10. In section 22, the words, "other than his standing crops," shall be omitted, and in the same section, after the word "subsists," the following words shall be inserted, namely :—

" For the purposes of any such attachment or sale as aforesaid, standing crops shall be deemed to be movable property."

Amendment of section 36.

11. In section 36, after the words, "or misconduct of the Village-munsif," and betore the words "and pass," the following words shall be added, namely :—

"or on the ground that the Village-munsif has exercised a jurisdiction not vested in him by law."

Substitution of new section for section 44.

12. For section 44, the following section shall be substituted, namely :—

Amendment of section 51.

13. In section 51, clause (*b*), before the word "transfer," the following words shall be added, namely :—

"transfer from the Court of one Subordinate Judge to another any suit or any agreement pending before a Subordinate Judge under section 44 of this Act ; or.

Substitution of new section for section 52.

14. For section 52, the following section shall be substituted, namely —

Vide Vol. II p. 408.

Substitution of new section for section 61.

15. For section 61, the following section shall be substituted, namely :—

Vide Vol. II p. 413.

Insertion of section 71 in the Act.

16. In Chapter XI., the following section shall be inserted, namely :—

Vide Vol. II p. 416.

Insertion of section 71A in the Act.

17. After section 71, the following section shall be inserted, namely :—

Vide Vol. II p, 416.

Amendment of section 72.

18. In section 72, after the word "agriculturist," where that word first occurs, the words, "in any of the districts of Puna, Satara, Sholapur, and Ahmadnagar,"

and, in the same section, after the same word where that word afterwards occurs, the words, "in any of the districts aforesaid,"

shall be added.

ACT NO. VII OF 1895:*

The Punjab Laws Act Amendment Act, 1895.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the Assent of the Governor-General on the 1st. March 1895.

An Act to amend certain sections of the Code of Civil Procedure† and the Punjab Laws Act, 1872.‡

WHEREAS it is expedient to amend certain sections of the Code of Civil Procedure† and the Punjab Laws Act, 1872‡; It is hereby enacted as follows :—

Code of Civil Procedure.†

1, 2. [*Repealed by Act V. of* 1908.]

Punjab Laws Act, 1872.‡

3. [*Repealed by Punjab Act II. of* 1905.]

Substitution of new section or section 51, Act IV., 1872.

4. For section 51 of the same Act, § the following section shall be substituted, namely :—

[Vide Vol. I. page 1104.]

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* This short title is given by the Indian Short Titles Act (XIV. of 1897.)

† Act XIV. of 1882.

‡ Act IV. of 1872.

§ The Punjab Laws Act (IV. of 1872).

ACT VIII. OF 1895.

The Police Act (1861) Amendment Act, 1895.*

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the Assent of the Governor-General on the 1st. March* 1895.)

An Act to amend Act V. of 1861 (*an Act for the Regulation of Police.*)

WHEREAS it is expedient to amend Act V. of 1861 (*an Act for the Regulation of Police*); It is hereby enacted as follows:—

Addition to interpretation-clause, section 1, Act V. 1861.

1. In section 1 of the said Act, the following shall be inserted between the interpretations of the words "general police district" and the word "property," namely:—

"The words 'District Superintendent' and 'District Superintendent of Police' shall include any Assistant District Superintendent or other person appointed by general or special order of the Local Government to perform all or any of the duties of a District Superintendent of Police under this Act in any district."

Amendment of section 7, Act V., 1861, respecting minor punishments.

2. In section 7 of the said Act, in lieu of the words beginning "or fine any police officer" down to the end of the section, the following shall be substituted, namely:—

[Vide Vol. I. page 535.]

Amendment of section 8, Act V., 1861, respecting certificates and suspension.

3. For the second paragraph of section 8 of the said Act, beginning with the words "Such certificate shall cease to have effect" and ending with the words "officer empowered to receive the same," the following shall be substituted, namely:—

[Vide Vol. I. pages 535—36.]

Substitution of new section for section 15, Act V., 1861.

4. For section 15 of the said Act, the following shall be substituted, namely:—

Addition of new section after section 15, Act V., 1861.

5. After section 15 of the said Act, the following shall be inserted, namely:—

[Vide Vol. I. p. 538.]

New section substituted for section 16, Act V., 1861.

6 For section 16 of the said Act, the following shall be substituted, namely:—

[Vide Vol. I. p. 539.]

* This short title was given by Act XIV. of 1897 (the Indian Short Titles Act.)

Addition to section 26, Act V., 1861.

7. To section 26 of the said Act, the following shall be added, namely :—

"(2) The provisions of section 525 of the Code of Criminal Procedure 1882,* shall be applicable, to property referred to in this section."

Substitution of new section for section 27, Act V., 1861.

8. For section 27 of the said Act, the following shall be substituted namely :—

[Vide Vol. I. p. 543.]

Addition to section 29, Act V., 1861, respecting overstay of leave.

9. In section 29 of the said Act, after the words "for the period of two months," the following shall be added, namely :—

"or who, being absent on leave, shall fail, without reasonable cause, to report himself for duty on the expiration of such leave."

Substitution of new section for section 30, Act V, 1861.

10. For section 30 of the said Act, the following shall be substituted, namely :

[Vide Vol. I. p. 545.]

Addition of new section after section 30, Act V., 1861.

11. After section 30 of the said Act, the following section shall be inserted, namely :—

[Vide Vol. I. p. 545.]

Amendment of sections 32 and 33, Act V., 1861.

12. In section 32 of the said Act, for the word "two," where it first occurs, the word "three," and in section 33 of the said Act, for the word "three," the word "four," shall be respectively substituted.

Amendment of section 34, Act V., 1861.

13. In section 34 of the said Act, after the words "or in any," the words "open place or" shall be inserted, and, for the expression, "residents and passengers," the expression "residents or passengers" shall be substituted.

Substitution of new section for sections 37, 38, 39, and 40, Act V., 1861.

14. For sections 37, 38, 39, and 40 of the said Act, the following section shall be substituted, namely :—

[Vide Vol. I. p. 547.]

Substitution of new section for section 46, Act V. 1861.

15. For section 46 of the said Act, the following shall be substituted, namely :—

[Vide Vol. I. p. 550.]

Saving of orders heretofore issued under section 46, Act V., 1861.

16. All orders heretofore issued by the Governor-General in Council or the Local Government under section 46 of the said Act shall, as far as may be, be deemed to have been issued under the new section substitutedfor the same by the last-foregoing section.

* Act X. of 1882.

ACT X. OF 1895.

The Indian Railway Companies Act, 1895.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the Assent of the Governor-General on the 7th March 1895.*)

An Act to provide for the Payment by Railway Companies registered under the Indian Companies Act, 1882, of Interest out of Capital during Construction.*

Whereas it is expedient to provide for the payment by Railway Companies registered under the Indian Companies Act, 1882,* of interest out of capital during construction; It is hereby enacted as follows:—

Title, extend and commencement.

1. (1) This Act may be called the Indian Railway Companies Act, 1895;

(2) It extends to the whole of British India;†

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) "railway" means a railway as defined in section 3, clause (4), of the Indian Railways Act, 1890‡:

(2) "the railway" means the railway in relation to the construction of which interest out of capital is permitted to be paid as hereinafter provided: and

(3) "Railway Company" means a Company registered under the Indian Companies Act, 1882,* and formed for the purpose of making and working, or making or working, a railway in India, whether alone or in conjunction with other purposes.

Payment of interest out of capital.

3. A Railway Company may pay interest on its paid-up share capital out of capital, for the period, and subject to the conditions and restrictions, in this section mentioned, and may charge the same to capital as part of the cost of construction of the railway:—

(1) Such interest shall be paid only for such period as shall be determined by the Governor-General in Council; and such period shall in no case extend beyond the close of the half-year next after the half-year during which the railway shall be actually completed and opened for traffic.

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* Act VI. of 1882.

† Certain word after this repeated by Act 10 of 1914 has been omitted.

‡ Act IX. of 1890.

(2) No such payment shall be made unless the same is authorized by the Company's memorandum of association, or by a special resolution of the Company.

(3) No such payment, whether authorized by the Company's memorandum of association or by special resolution as aforesaid, shall be made without the previous sanction of the Governor-General in Council.

(4) The amount so paid out of capital by way of interest, in respect of any period, shall in no case exceed a sum which shall, together with the net earnings of the railway during such period, make up the rate of four per cent. per annum.

(5) No such payment of interest shall be made until such Railway Company has satisfied the Governor-General in Council that two-thirds at least of its share capital, in respect whereof interest is to be so paid, has been actually issued and accepted and is held by shareholders who, or whose representatives, are legally liable for the same.

(6) No such interest shall accrue in favour of any shareholder for any time during which any call on any of his shares is in arrear.

(7) The payment of such interest shall not operate as a reduction of the amount paid up on the shares in respect of which it is paid.

Provisions of section 3 applicable to additional share-capital for extensions

4. A railway in course of construction, and intended to be made or worked by a Railway Company in addition to or by way of extension of any railway owned or worked by such Company shall be deemed to be the railway of such Company for the purposes of this Act, and all the provisions of the last-preceding section shall apply to such railway, and to the share-capital issued for the purpose of its construction.

Notice in prospectus and other documents

5. When a Railway Company has power to pay interest under this Act, notice to that effect shall be given in every prospectus, advertisement, or other document inviting subscriptions for shares therein, and in every certificate of such shares.

Accounts.

6. When any interest has been paid by a Railway Company under this Act, the annual or other accounts of such Company shall show the amount on which, and the rate at which, interest has been so paid.

Construction of borrowing powers.

7. If, by any memorandum of association, articles of association, or other document, any power of borrowing money is conferred on a Railway Company, or on its Directors, with or without the sanction of any meeting, and if such power of borrowing is limited to an amount bearing any proportion to the capital of such Company, the amount of capital applied or to be applied in payment of interest under this Act shall, for the purpose of ascertaining the extent of such power of borrowing, be deducted from the capital of such Company.

ACT NO. XI. OF 1895.

The Pegu and Tenasserim Validation Act, 1895.

(*Received the Assent of the Governor-General on the 7th March* 1895.

An Act to remove certain Doubts as to the Validity of certain Proceedings and Acts of certain Officers of the Pegu and Tenasserim Divisions in Lower Burma, and to prevent their being raised in the future.

WHEREAS doubts exist as to the validity of certain proceedings and acts heretofore held or done by certain officers of the Pegu and Tenasserim Divisions, respectively, in Lower Burma, on the ground that such proceedings and acts were not held or done within the sessions division, district, sub-divison, township registration district or sub district to which the officer holding the proceeding or doing the act was appointed ;

And whereas it is expedient to remove such doubts, and to prevent their being raised in the future ;

It is hereby enacted as follows :—

Validating certain proceedings and acts of certain officers in the Pegu and Tenasserim Divisions of Lower Burma.

1. All proceedings and acts heretofore held or done, or which may hereafter be held or done,—

(*a*) by the Commissioner or Sessions Judge of the Pegu Division, and by the Deputy Commissioner and other Magistrates or officers of the Hanthawaddy District within the precincts of their respective courts and offices in the Rangoon Town District, and

(*b*) by the Commissioner or Sessions Judge of the Tenasserim Division, and by the Deputy Commissioner and other Magistrates or officers of the Amherst District within the precincts of their respective courts and officers in the Molumein Town District and the Molumein Town Sub-Division of the Amherst District,

shall be deemed to have been held or done within the sessions division, district, sub division township, registration district or sub-district to which the officer holding the proceeding or doing the act was or shall have been appointed, and the court or office in which a proceeding or act has been or shall be held or done by any such officer, shall be deemed to have been or to be within the sessions division, district, sub-division, township, registration district or sub district in which the officer exercised or shall exercise jurisdiction.

ACT No. XV. OF 1895.

The Crown Grants Act, 1895.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the Assent of the Governor-General on the 10th October 1895.*

An Act to explain the Transfer of Property Act, 1882, so far as relates to Grants from the Crown, and to remove certain doubts as to the Powers of the Crown in relation to such Grants.*

WHEREAS doubts have arisen as to the extent and operation of the Transfer of Property Act, 1882,* and as to the power of the Crown to impose limitations and restrictions upon grants and other transfers of land made by it or under its authority, and it is expedient to remove such doubts; It is hereby enacted as follows:—

Title extent and commencement.

1. (1) This Act may be called the Crown Grants Act, 1895:

(2) It extends to the whole of British India;†

(3) It shall come into force at once.

Transfer of Property Act 1882, not to apply to Crown grants.

2. Nothing in the Transfer of Property Act, 1882,* contained shall apply, or be deemed ever to have applied, to any grant or other transfer of land, or of any interest therein, heretofore made, or hereafter to be made, by or on behalf of Her Majesty the Queen-Empress, her heirs, or successors, or by or on behalf of the Secretary of State for India in Council to, or in favour of, any person whomsoever; but every such grant and transfer shall be construed and take effect as if the said Act had not been passed.

Crown grants to take effect according to their enor.

3. All provisions, restrictions, conditions, and limitations ever contained in any such grant or transfer as aforesaid shall be valid, and take effect according to their tenor, any rule of law, statue, or enactment of the Legislature to the contrary notwithstanding.

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* Act IV, of 1882.

† Certain word after this repealed by Act 10 of 1914 has been omitted.

ACT NO. XVI OF 1895.*

The Amending Act, 1895.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the Assent of the Governor General on the 10th October* 1895)

An Act to amend certain Enactments.

WHEREAS it is expedient that certain formal amendments should be made in the enactments specified in the schedule to this Act; It is hereby enacted as follows :—

Title, extent, and commencement.

1. (1) This Act may be called the Amending Act, 1895.

(2) It extends to the whole of the territories administered by the Governor of Bombay in Council; and

(3) It shall come into force at once.

Enactments amended.

2. The enactments specified in the schedule shall be modified to the extent and in the manner mentioned in the fourth column thereof.

THE SCHEDULE :

ENACTMENTS AMENDED.

(*See section* 2.)

1	2	3	4
Year.	No.	Subject or title	Amendment.
		Part I.—Acts of the Governor of Bombay in Council.	
1863	II.	Exemptions from land-revenue.	In section 5, clause *First*, first proviso, *for* or *after* nazrana, *read* on. In section 11, clause *Third*, *for* collectorate, *read* district.
,,	V.	Bombay Gas Company.	In section 7 *for the words and figures* under Act XIV. of 1856, *read* in Municipalities under the law for the time being in force.

* Act XVI. of 1895 has been transformed in its present shape under Act I. of 1903, whereby certain words, the first paragraph of the preamble, sub-s. (1) of s. 2, s. 3, the first schedule, and the portion of the second schedule (the only present schedule) relating to Bom. Act IV. of 1882, as originally embodied in the former Act, have been repealed, and therefore herein omitted.

1	2	3	4
Year.	No.	Subject or title.	Amendment.
Part I.—Acts of the Governor of Bombay in Council—(continued).			
1863	VI.	Public Conveyances (Bombay Town, Suburbs, and Harbour).	In section 18, *for* laws, *read* law.
„	VII.	Exemptions from land-revenue.	In section 18, clause *Second*, and section 19, clause *Fifth*, *for* the Stamp Act, *read* the Court-fees Act, 1870.
1867	VI.	Sanitary Regulation, Bombay City.	In section 4, *for* the appended schedule, *read* Schedule A. In section 8, *between the words* may *and* require, *insert* by an order in writing in the form given in Schedule B.
1869	III.	Bombay Local Funds Act, 1869.	In section 7, *after* defined in, *insert* the. In section 7, clause I, *after* laid down in, *insert* the. In section 8, *after* occupants of land under, *insert* the.
1873	VI.	Bombay District Municipal Act.	In section 53, clause 1, *for* quarry, *read* quay.
1874	III.	Bombay Hereditary Offices Act.	In the definition of "officiator" in section 4, *after* provisions *insert* of this Act. In section 10, *after* the date, *insert* of this Act. In section 73, clause 2, *after* provisions, *insert* of this Act.*
*	*	* *	* * *
1877	1.	Bombay Vaccination Act, 1877.	In section 3, *after* purposes, *insert* of this Act. In section 28, *for* in the manner prescribed by Act XIII. of 1856 (*for regulating the Police of the towns of Calcutta, Madras, and Bombay*) and Act XLVIII of 1860 (*to amend Act XIII of 1856*) or any other Act for the time being in force regulating the Police of the City of Bombay, *read* in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts. In Schedule D, *for* ten rupees, *read* fifty rupees.
1879	IV.	Karachi Vaccination Act, 1879.	In section 20, *for* to, *where the word occurs before*, fine *rent* with. In Schedule D, *for* ten rupees, *read* fifty rupees.

* Certain words after this repealed by Act 38 of 1920, have been omitted.

THE SCHEDULE—(*concluded*).
ENACTMENTS AMENDED—(*concld*).

1	2	3	4
Year.	No.	Subject or title.	Amendment.
Part I.—Acts of the Governor of Bombay in Council—(concluded).			
1879	V.	Bombay Land-revenue Code, 1879.	In section 61, *for* an incomplete portion *read* a portion. In section 99, clause (*b*), *for* their, *the first time that word occurs*, *read* the. In the second paragraph of section 104, *before* revised, *insert* original or. In section 211, *for the word* and *where it precedes the words* Assistant Superintendent of Survey, *read* an.
1882	VII.	Landing and Wharfage Fees.	In section 2, *for the words* It shall extend—(*a*) to the Ports of Karachi and Aden; (*b*) to any other ports, *read* it shall extend to any ports.
1883	I.	Bombay Highway Act, 1883.	In section 5, *for* municipalities, *read* municipality.
1884	II.	Bombay District Municipal Act Amendment Act, 1884.	In section 4, clause (3), *before* coming *and before* and the like, *insert* of this Act.
1886	III.	Bombay General Clauses Act, 1886.	In column 4 of Schedule B, *opposite* Act VII. of 1867, section 44, *after* of Police, *insert* (where the words first occur).
1888	III.	City of Bombay Municipal Act, 1888.	In section 35, sub-section (2), *for* appointment, *read* appointments. In section 471, *for* 418, read 428.
„	V.	Aden Port Trust Act, 1888.	In section 19, in clause (*c*) of the proviso, *for the words* day aforesaid, *read* 31st March 1889, *and for the words and figure* date notified by the Governor in Council under section 9, *read* 1st April 1889. In section 20, in clause (*b*) of the proviso, *for the words and figure* date notified by the Governor in Council under section 9, *read* 1st April 1889.

Part II.—Regulations of the Bombay Code.

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1827	II.	Pleaders	In section 51, *for* dismission, *read* dismissal.
1830	VII.	Southern Maratha Country.	In the preamble, *for the words and figures* Regulations XXIX. and XXX., *read* Regulation XXIX. In section 2, *for the words and figures*, Regulations XXIX. of 1827 and XXX. of 1827, *read* Regulation XXIX. of 1827, *and for the words* the following sections, *read* section 5.

ACT NO. XX OF 1895.

Ex-King Thebaw's Act, 1895.

(*Received the Assent of the Governor-General on the 19th October 1895.*)

An Act to incapacitate ex-King Thebaw from binding himself by Contract so as to give rise to any enforceable Pecuniary Obligation, and to provide for an Inquiry into his Present State of Indebtedness.

WHEREAS it is expedient to render Thebaw, formerly King of Burma, and now a State prisoner at Ratnagiri in the Presidency of Bombay (hereinafter called *ex*-king Thebaw), henceforth incapable of binding himself by contract so as to give rise to any enforceable pecuniary obligation ;

And whereas divers pecuniary claims have been brought against *ex*-King Thebaw and the validity and amounts of the said claims or some of them are contested on his behalf ;

And whereas *ex*-King Thebaw is possessed of certain moveable property, and it is expedient that the same should be made available for the payment of the said claimants to the extent and in the manner hereinafter appearing.

It is hereby enacted as follows :—

Title, extent, and commencement.

1. (1) This Act may be called *ex*-King Thebaw's Act, 1895.

(2) It extends to all persons and places for whom and for which the Governor-General in Council has power to make laws ; and

(3) It shall come into force at once.

Ex-King Thebaw to be henceforth incapable of contracting.

2. *Ex*-King Thebaw shall henceforth be incapable of entering into any contract so as to give rise to any pecuniary obligation on his part.

Power to appoint Committee.

3. (1) The Governor-General in Council may nominate and appoint such person or persons as he may think fit to be a Commissioner or Commissioners for the purposes hereinafter mentioned.

(2) The person or persons so nominated and appointed (hereinafter called "the Committee") shall continue to act as such during the pleasure of the Governor-General in Council, and shall hold his or their sitings at such place or places and time or times as may seem to him or them fit.

Notice to claimants.

4. The Committee shall publish thrice in the *Gazette of India* in English and in the *Bombay Government Gazette* in English and in such other mode and languages as may seem to it fit, a notice inviting all persons having claims against *ex*tKing Thebaw or his property to notify the same in writing to the Committee within six months from the date of the earliest of such publications.

Presentation of claims.

5. (1) Every person notifying any claim in accordance with the said notice shall, along with his claim, present full particulars thereof.

(2) Every document relied upon as the foundation of, or as evidence in support of, any such claim shall be delivered to the Committee along with such claim.

(3) If any such document be an entry in any book, the claimant shall produce the book before the Committee, together with a copy of the entry on which he relies. The Committee shall mark the book for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant.

(4) If any document in the possession or under the control of any claimant is not delivered or produced by him to the Committee along with the claim, the Committee may refuse to receive such document in evidence on the claimant's behalf at the enquiry into the claim.

Consideration of claims.

6. (1) The Committee shall consider all claims (if any) presented under section 5 and, shall make due and full inquiry in respect thereof, and shall certify the result of such inquiry as hereinafter mentioned.

(2) Every inquiry under this Act shall be conducted, as far as may conveniently be, as though it were a suit duly instituted in a Court of competent jurisdiction for the recovery of the debt claimed, and the Committee were the Judge of such Court.

(3) All the provisions of the Code of Civil Procedure* applicable to such a suit shall, as far as may conveniently be, apply to every such inquiry, and the Committee shall have all the powers and authority of a Judge of a Civil Court in respect thereof.

(4) Every inquiry conducted by the Committee with reference to any claim referred under this Act, or to any matter connected with any such claim, shall be deemed a judicial proceeding within the meaning of the Indian Penal Code,† and

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* The reference to Act XIV. of 1882 should now be construed to have been made to Act V. of 1908 (the new Civil Procedure Code), to the corresponding provisions thereof so far as they are applicable at this particular instance.—*See* s. 158 of the latter Act.

† Act XLV. of 1860.

every statement made by any person examined by or before the Committee with reference to such inquiry, whether upon oath or otherwise, shall be deemed to be evidence within the meaning of the same Code.

Consideration of claims and award.

7. (1) The Committee shall, as the result of such inquiry, or by agreement with each claimant, determine the amount which in its opinion after consideration of all the circumstances ought, in fairness and justice, to be awarded to each claimant.

(2) In coming to such determination, the Committee shall not be bound by any previous agreement or judicial proceeding.

(3) The Committee shall, in each case, certify the amount of the award determined under this section to the Governor-General in Council.

(4) No appeal against any such certificate or the amount of the award thereby certified shall lie to any Court or other authority whatsoever :

Provided that the Governor-General in Council may, for reasons to be stated in the order, refer back any award to the Committee for re-consideration in respect of any paticular question or questions.

Bar of suits.

8. No creditor of *ex*-King Thebaw who has presented a claim to the Committee under this Act and supported it by evidence before the Committee, shall be capable of instituting or maintaining any suit or other proceeding against *ex*-King Thebaw or his property in respect of the debt which was the subject of such claim, except in accordance with the proviso in that behalf hereinafter contained.

Satisfaction of claim.

9. (1) The Governor-General in Council may, at any time within six months from the date of any such certificate as aforesaid, pay or tender to the claimant the amount so certified, and thereupon all claims of the claimant against *ex*-King Thebaw or his property in respect of the debt referred to in such certificate shall be satisfied and extinguished :

Provided that the Govenor-General in Council may, by notification in the *Gazette of India*, extend the said term of six months to such date as may be found necessary to enable the Committee to make a final and complete award on all the claims presented to it.

(2) If the Governor-General in Council shall pay or tender to any claimant the amount of any such award as aforesaid, the property of *ex*-King Thebaw shall thereupon, to the extent in value of the sum so paid, vest in the Secretary of State for India in Council on behalf of Her Majesty, Her heirs, and successors.

Procedure where amount of awards is likely to exceed value of moveable property.

10. (1) If the total amount of the awards so certified as aforesaid appears to the Governor-General in Council to be likely to exceed the value of the whole of the said moveable property of *ex*-King Thebaw, the Governor-General in Council may cause the said property to be valued in such manner as he may think fit, and thereupon the whole of the said property shall vest in the Secretary of State for India in Council on behalf of Her Majesty, Her heirs, and successors.

(2) If the Governor-General in Council causes the provisions of sub section (1) to be put in operation, and the amount of such valuation as aforesaid, after deducting the expenses thereof, equals or exceeds the total amount of such awards as aforesaid, he shall pay to the several claimants the amounts awarded to them respectively, and shall pay the surplus (if any) to *ex*-King Thebaw or his assigns.

(3) If the amount of such valuation as aforesaid, after deducting the expenses thereof, falls short of the total amount of such awards as aforesaid, the Governor-General in Council shall distribute the amount of the said valuation among the claimants rateably in proportion to the awards obtained by them respectively, and thereupon all claims of all such claimants against *ex* King Thebaw or his property in respect of all such debts as aforesaid shall be satisfied and extinguished.

Saving of Secretary of State in Council.

11. Nothing herein contained shall be construed to render the Secretary of State for India in Council or the Governor-General in Council liable to pay the amount awarded to any such claimant, or any debt heretofore contracted by, or on behalf of, *ex*-King Thebaw, or liable in respect of any claim which may be made by any person to be reimbursed for supplying him with necessaries:

Provided that, if the Governor-General in Council shall decline to cause the provisions of section 10 to be put in operation, any creditor of *ex*-King Thebaw who has obtained such an award as aforesaid, and to whom the amount of such award has not been paid or tendered within six months after the date of his certificate, or on or before such later date as may have been appointed under section 9, sub-section (1), may institute and maintain such suit or other proceeding as he may be advised against *ex*-King Thebaw and his property for the recovery of the amount awarded to him, or otherwise for the purpose of enforcing the performance of the award, but not for any other purpose connected with such claim.

Bar of suit for acts done *bonafide* under this Act.

12. No suit or other proceeding shall be maintained against any person in respect of anything done by him in good faith under this Act.

ACT NO. II. OF 1896:

The Cotton Duties Act, 1896.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received His Excellency's Assent on the 3rd February 1896.

An Act to provide for the Imposition and Levy of certain Duties on Cotton Goods.

WHEREAS it is expedient to repeal the Cotton Duties Act, 1894,* and to impose certain duties on cotton goods ; It is hereby enacted as follows :—

Preliminary.

Title, extent, and commencement.

1. (1) This Act may be called "The Cotton Duties Act, 1896 ;"

(2) It extends to the whole of British India ; *

(3) It shall come into force at once.

Repeal.

2. (1) The Cotton Duties Act, 1894,† is hereby repealed.

(2) But all the provisions in respect of drawback contaided in sections 17 to 24 of that Act shall be deemed to be in force in respect of all duty paid thereunder, and all sums recoverable, liabilities incurred, officers appointed or authorized, warehouses licensed, and rules and directions made under that Act shall, so far as may be, be deemed respectively to be recoverable, and to have been incurred, appointed or authorized, licensed, and made under this Act.

Definitions.

3. In this Act, unless there be something repugnant in the subject or context,—

(1) "the Principal Act" means the Sea Customs Act, 1878. ‡

(2) "Chief Customs Authority" means, in the Presidency of Fort St. George, and the territories respectively under the administration of the Lieutenant-Governors of Bengal and the North-Western Provinces and the Chief Commissioner of Oudh, the Board of Revenue; in the Presidency of Bombay outside Sindh, the Commissioner of Customs ; in Sindh, the Commissioner; in the Punjab and Burma, the Financial Commissioner; and elsewhere the Local Government or such officer as the Local Government may, by notification in the official Gazette, appoint in this behalf by name or in virtue of his office :

* Certain word after this repealed by Act X of 1914. has been omitted.

† Act XVII. of 1894. ‡ Act VIII. of 1878

(3) "Collector" means—

(*a*) at Calcutta, Bombay, Madras, Rangoon, and Karachi, the Collector of Customs, and,

(*b*) in any other place, the Collecror or Deputy Commissioner of the District or such other officer as the Local Government may appoint in this behalf, and includes.

(*c*) every officer for the time being duly authorized by the Local Government to perform all or any of the duties of a Collector under this Act :

(4) "cotton yarn" or "yarn" means yarn wholly or partly composed of cotton fibres:

(5) "cotton goods" or "goods" includes all tissues and other articles (except yarn and thread), woven, knitted, or otherwise manufactured, wholly or partly, from cotton yarn :

(6) "mill" means any building or place where cotton goods are woven, knitted, or otherwise manufactured by machinery moved otherwise than by manual labour, and includes every part of such building or place :

(7) "warehouse" means a place licensed for the storage of goods under this Act, and includes every public or private warehouse duly appointed or licensed under section 15 or 16 of the Principal Act, or under section 2 of the Inland Bonded Warehouses Act, 1887 :*

(8) "customs port," "foreign port," "vessel," and "master" have respectively the meanings defined for them in the Principal Act.

Performance of duties of Customs-officers by subordinate officers.

4. The officers subordinate to a Collector shall, unless the Local Government shall otherwise so direct, for the purposes of this Act, perform the duties imposed, and exercise the powers conferred, upon officers of Customs under the Principal Act.

PART I.

EXCISE.

Application of Principal Act.

Modifications to be made in Principal Act as applied to this Part.

5. In the application of the Principal Act or any particular section or sections thereof to this Part, the following modifications shall be made therein, namely :—

(*a*) "the owner of goods" shall include the managing agent or other principal officer of a mill ;

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* Act XXI. of 1887, which has been repealed by Act VIII. of 1896. The reference should now be read as if it were made to Act VIII. of 1896.—*See* Act VIII. of 1896, s. 3 (2), *infra*.

(*b*) for "the bill-of-entry" or "shipping bill," shall be substituted "the return required by this Act;

(*c*) every reference to a warehouse or warehousing shall be construed as referring to a "warehouse" as hereinbefore defined.

Duty.

Imposition of duty on cotton goods produced in British Indian mills.

6. There shall be levied and collected at every mill in British India, upon all cotton goods produced in such mill, a duty at the rate of $3\frac{1}{2}$ per centum of the value of such goods.

Explanation.—Goods are said to be produced within the meaning of this section when they are issued out of the premises of the mill. But, in the case of any mill in which the goods are chiefly or largely made up and sold otherwise than as piece-goods, the Governor-General in Council may direct that goods shall be reckoned as produced when they are issued out of the weaving section or sections of the mill.

Power to Governor-General in Council to fix tariff values of such goods.

7. (1) The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, fix, for the purpose of levying the said duties, tariff values of all such goods as aforesaid, or of any particular description or descriptions thereof, and alter any tariff values for the time being in force.

(2) Such tariff value shall, for the purposes of this Act, be deemed to be the "real value" of the goods to which it applies, but, save as aforesaid, all goods shall be assessed under this Act at their real value.

(3) For the purposes of this Act the real value shall be deemed to be—

(*a*) the wholesale cash price, less trade discount, for which goods of the like kind and quality are sold or are capable of being sold at the time and place of production, without any abatement or deduction whatever, except of the amount of the duties payable on the production thereof;

(*b*) where such price is not ascertainable, the cost at which goods of the like kind and quality could be delivered at such place, without any abatement or deduction, except as aforesaid.

Delivery of monthly returns of goods produced by millowners.

8. (1) The owner of every mill shall prepare and deliver, or cause to be prepared and delivered, to the Collector each month a return of all the cotton goods produced at his mill during the preceding month; and shall subscribe a declaration of the truth of such return at the foot thereof.

(2) Unless otherwise prescribed by any rules under this Act, every such return shall state for each description of goods the quantity produced during the period to which the return relates, and the real value of such goods.

(3) Every such return shall also contain such further information and be in such form and be subject to such conditions as to verification and otherwise as may be prescribed by any rules under this Act.

(4) Each return shall be delivered to the Collector or posted to his address within three working days, and at most within seven days, of the period to which it relates*

Explanation.—" Working day " in this sub-section means every day except a public holiday as defined in section 25 of the Negotiable Instruments Act, 1881.†

Assesment of duty and notice requiring payment.

9. (1) The Collector shall assess the duties payable in respect of the period to which the return relates, and, unless the amount thereof is immediately tendered, shall cause a notice, in such from as may be prescribed by any rules under this Act, to be served on the owner requiring him to make payment of the amount assessed within ten days of the date of service of the said notice.

(2) A notice under sub-section (1) may be served on the owner of a mill by delivering or tendering to him or his agent at his ordinary place of business a copy of the notice, or, if this cannot be conveniently done, by fixing a copy of the notice on one of the outer doors of the mill.

Application of certain sections of principal Act to assessment and recovery of duty under this Act.

10. Sections 31 to 34, 37 and 39 to 41, all inclusive, of the Principal Act, shall apply to the assessment and recovery of the duties imposed by this Act:

Provided that the rate of duty and the tariff valuation applicable to any goods which have not been warehoused as hereinafter provided shall be those in force at the time when the goods were produced, and not when the return was delivered as provided by the said section 37.

Recovery of unpaid duty.

11. (1) If any duty payable under this Act is not paid within the time fixed by any such notice as aforesaid for the payment thereof, the Collector may, in lieu thereof, recover any sum not exceeding double the amount of duty so unpaid, which he shall, in his discretion, think it reasonable to require.

* Certain words after this repealed by Act 10 of 1914 have been omitted.

† Act XXVI. of 1881.

(2) All sums recoverable under sub-section (1) shall be recovered in the manner provided in Act II. of 1886, section 30, sub-sections (*1*), (2), and (*3*), with respect to the sums therein referred to.

Warehousing.

Licensing of warehouses for storage goods and fees for same.

12. (*1*) The "Collector"* may from time to time license any room or place as a warehouse for the storage of cotton goods, and, for the purposes of this Act, every such room or place shall be deemed to be a warehouse, and to have been duly licensed under the Principal Act.

(2) There shall be payable in respect of every such warehouse such and the like licensing fees and other payments as may for the time being be payable in respect of a private warehouse licensed under the Principal Act:

Provided that the "Collector"* may remit the whole or any part of such fees or other payments in respect of any particular warehouse.

Permission to deposit goods in warehouse.

13. (1) The owner of any mill may apply for leave to deposit in a warehouse any goods in respect of which duty has become leviable under section 6, but has not yet been assessed under section 9

(2) Such application shall be in writing signed by the applicant, and shall be in such from as may be prescribed by the "Collector."*

Application to goods so deposited of provisions of Chapter XI. of Pricipal Act.

14. All the provisions of Chapter XI. of the Principal Act, so far as the same are applicable to imported goods of a similar description, shall apply to all goods in respect of which an application has been made under section 13.

Exemption from assessment of goods so deposited.

15. When any goods have been deposited in a warehouse, the quantity and particulars thereof shall be specified as so deposited in the return made under section 8 for the period in which the goods were produced, or in a separate return for that same period, and the said goods shall be deducted in the assessment and collection of duty.

Power to Collector to inspect mills and take copies of records and accounts.

16. (1) The Collector or any officer duly appointed by "the chief custom authority† in that behalf shall have free access at all reasonable times during working hours to any mill, and, subject

* The word within quotations have been substituted by Act IV of 1914.

to any order of "the chief custom authority * in this behalf, to any part of any mill.

(2) Any such officer may at any time, with or without notice to the owner, examine the working records, sale records, and accounts of any mill, and take copies of, or extracts from, all or any of the said records or accounts, for the purpose of testing the accuracy of any return, or of informing himself as to any particulars regarding which information is required for the purposes of this Act or any rules thereunder.

(3) Any mill owner may object to submitting to any officer under the rank of a Collector any record or account containing the description or formulæ of any trade process:

but, if he objects to the inspection of any record or account by such an officer on the ground of its containing such description or formulæ, he must submit his objection in writing to the officer for transmission to the Collector, and the officer may then and there seal up the record or account pending the orders of the Collector.

Information acquired to be deemed official secrets within meaning of Act XV., 1889.

17. (1) All such copies and extracts and all other information acquired by any such officer on the inspection of any mill or warehouse shall be regarded as strictly confidential, and shall be deemed to be official secrets.

(2) If any such officer shall disclose to any person other than a superior officer any such official secret as aforesaid without the previous consent in writing of the Chief Customs Authority, he shall be guilty of a breach of official trust, and shall, upon conviction thereof, be punishable in the manner provided by section 4 of the Indian Official Secrets Act, 1889.†

(3) The restriction imposed by section 5 of the last-mentioned Act shall not apply to a prosecution for a breach of an official trust under this Act.

Export and Drawback.

Grant of certificate when dutiable goods are to be exported to foreign port.

18. If any dutiable goods are exported by sea to any foreign port before the return in respect of them has been delivered to the Collector under section 8, the owner of the mill in which they were produced may apply in writing to the Customs Collector at the port of shipment, who, on being satisfied that such goods have actually been shipped for export, shall issue a certificate stating the quantity and particulars of such goods, and that they have actually been so shipped.

* The words within quotations have been substituted by Act IV. of 1914.

† Act XVII. of 1894

When certificate granted, goods to be exempt from duty.

19. When any certificate has been applied for under section 18, the quantity and particulars of the goods mentioned in the application shall be specified as so shipped in the return made under section 8 for any period not later than that in which they were shipped, and, if the Collector is satisfied that the said goods have been so shipped, and that the conditions (if any) imposed by rules under this Act have been complied with, the said goods shall be deducted in the assessment and collection of duty.

Repayment of duty in case of certain cotton goods exported to foreign ports.

20. (1) When any dutiable goods are exported by sea from any customs port to any foreign port, the exporter may apply to the Customs Collector at the port of shipment for the repayment as drawback of any duty which may have been paid under this Act in respect of such goods.

(2) In every application made under sub-section (1), the applicant must state the description or descriptions of the goods in respect of which drawback is claimed, the mill at which the goods were produced, and, as nearly as possible, the dates on which they were produced, and such further particulars, if any, as may be prescribed.

When such refunds may be granted.

21. (1) The drawback shall be allowed by the Collector if it is shown to his satisfaction that the goods in respect of which drawback is applied for have paid duty within twelve months of the date on which they are shipped for export, and that the conditions (if any) imposed by rules under this Act have been complied with.

(2) Drawback shall not cease to be admissible merely by reason of the goods in respect of which it is applied for having been bleached, dyed, coloured, or printed after having been produced within the meaning of section 6.

Power to prohibit repayment of duty in case of exportation to certain ports.

22. (1) The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, prohibit the payment of drawback on the exportation of cotton goods to any specified foreign ports.

(2) Any notification already made under section 22 of the Cotton Duties Act, 1894,* shall be deemed to have been made under this section.

No repayment of duty to be granted in certain cases.

23. Notwithstanding anything herein contained, no drawback shall be allowed in respect of any cotton goods on which duty has been paid—

* Act XVII. of 1894.

(*a*) when the goods are of less value than the amount of drawback claimed, or

(*b*) when the claim is for drawback amounting to less than five rupees in respect of any single shipment.

Application of sections 51 and 52 of Principal Act to claims under this Act.

24. Sections 51 and 52 of the Principal Act shall apply to every claim for drawback under this Act.

Offences and Penalties.

Punishments for offences.

25. The offences mentioned in the first column of the following schedule shall be punishable to the extent mentioned in the second column thereof with reference to such offences respectively :—

1. Contravening any rule made under this Act.	Penalty not exceeding five hundred rupees.
2. Concealing or attempting to conceal, or knowingly permitting or procuring to be concealed, any goods liable to duty under this Act with intent to evade payment of the duty or any part thereof.	Such goods shall be liable to confiscation, and every person convicted of the offence shall be liable to a penalty not exceeding three times value of the goods.
3. Omitting to make any return required by section 8, or refusing to sign or complete the same.	Penalty not exceeding one thousand rupees.
4. Making and delivering any such return containing any statement not true to the best of the information and belief of the person making the same.	The penalty provided in the Indian Penal Code,* section 199, for making a false statement in a declaration.
5. Altering or falsifying any record or book of account kept in the mill with the intention of defrauding the revenue.	The Penalty provided in the Indian Penal Code,* section 465, for the Commission of forgery.
6, Omitting, without reasonable cause, to keep samples as provide in section 28.	A penalty for each offence not exceeding two hundred rupees.
7. Omitting, to keep such proper records and books of account as may be prescribed by any rule under this Act.	Penalty not exceeding five hundred rupees and a further penalty of twenty rupees for every day after the date of the conviction during which the offence is continued,

8. Omitting to make and deliver any return which by any rule under this Act ought to have been made and delivered.	Penalty not exceeding one hundred rupees.
9. Intentionally obstructing any Collector or other officer in the exercise of any powers given under this Act.	Imprisonment for a term not exceeding six months, or fine not exceeding one thousand rupees, or both.
10. If any goods in respect of which a certificate has been obtained under section 18, or any goods on the entry of which for export draw-back has been paid, are not duly exported or are unshipped or relanded at any customs port, not having been duly relanded or discharged under the provisions of the Principal Act.	Such goods, together with any vessel used in the unshipping or relanding them, shall be liable to confiscation, and the master of the vessel from which such goods are so unshipped or relanded, and any person by whom or by whose orders or means such goods are so unshipped or relanded, or who aids or is concerned in such unshiping or relanding, shall be liable to penalty not exceeding three times the value of such goods, or not exceeding one thousand rupees.
11. If any goods are entered for draw-back which are of less value than the draw-back claimed.	Such goods shall be liable to confiscation.
12. If any goods are found concealed in any place, box, or closed receptacle in any mill, and are not duly accounted for to the satisfaction of the Collector.	Such goods shall be liable to consfication.
13. If any goods are found in any mill in excess of the quantity entered in the return, or not corresponding with the statement therein contained.	Such goods shall be liable to confiscation or to be charged with such increased duty as the Chief Customs Authority may direct.
14. If, when any cotton goods are passed by bale or by package, any comission or misdescription thereof tending to injure the revenue be discovered.	The person guilty of such omission or misdescription shall be liable to a penalty not exceeding ten times the amount of duty which might have been lost to the

	Government by such omission or misdescription, unless it be proved to the satisfaction of the Collector or other officer that the variance was accidental.
15. If any Collector or officer subordinate to a Collector does any act or is guilty of any omission in contravention of this Act, or of any rule or order made thereunder; or, with intent to cause injury or annoyance to any person, vexatiously and unnecessarily makes use of any power conferred upon him under this Act.	Such Collector or officer shall be liable on conviction to a fine not exceeding five hundred rupees.
16. The offences described in the Principal Act, section 167, Schedule Nos. 41—33, both inclusive, in references to warehousing of dutiable goods.	The Penalties prescribed in the same Schedule in respect of such offences respectively.

Magistrates having jurisdiction.

26. All offences against this Act may be tried summarily by a District or Presidency Magistrate or Magistrate of the First Class.

Application of section 168 of Principal Act cases of confiscation under this Act.

27. Section 168 of the Principal Act shall apply to all cases of confiscation of goods under this Act.

Miscellaneous.

Samples of certain goods to be taken by mill-owners at time of manufacture and to be available for inspection.

28. (1) The owner of every mill shall, in the case of any goods other than those for which tariff values have been fixed under section 7, take a sample or samples of such goods, at the time of manufacturing the same, and shall preserve such samples for reference for at last six months after the said goods are produced.

(2) Such samples shall be at all times available for inspection by the Collector, or by any officer appointed under section 16; and an examination thereof shall, if the goods themselves cannot conveniently be examined, be deemed to be an examination of the goods within the meaning of section 31 of the Principal Act.

(3) The "Local Government"* may define by rule what shall in any special case be a sufficient sample for the purposes of this section.

Power to Collector to take samples.

29. (1) The Collector or any officer appointed under section 16 may at any time take samples of any goods for examination or for ascertaining the value thereof, or for any other necessary purpose.

(2) The owner may, when required to deliver any sample to an officer appointed under section 16, seal up such sample in a cover addressed to the Collector ; and in such case the said officer shall deliver such cover intact to the Collector.

(3) Every sample shall, if practicable, be restored to the owner, or, at his option, sold by the Collector, and the proceeds accounted for to the owner.

Records and acccunts to be kept by mill owners.

30. The owner of every mill shall keep such records and books of account as may be prescribed by any rules under this Act.

Mill-owners to make periodical returns of cotton yarn spun by machinery.

31. The owner of every mill or place where cotton yarn is spun by machinery moved otherwise than by manual labour shall make periodical returns to the Collector of the quantity and description of all such yarns, in such form, with such particulars, and at such intervals as may be prescribed by any rule under this Act.

Application of certain provisions of Principal Act to proceedings under this Act.

32. All the provisions of Chapter XVII. of the Principal Act, except sections 169, 170, 177, 182, 184, 185, 187, 190, 191, and 193, shall apply to all proceedings under this Act.

Power to Local Government to reverse or modify orders under this Act.

33. The Local Government may, on the application of any person aggrieved by any decision or order passed under this Act, reverse or modify such decision or order.

Certain provisions of Principal Act to be incorporated in this Act.

34. The Provisions of sections 198, 201, 204, 205, and 206 of the Principal Act shall be deemed to be incorporated in this Act.

Application of section 10, Act VIII., 1894- to duties under this Act.

35. The provisions of section 10 of the Indian Tariff Ac 1894,† shall apply to duties on cotton goods imposed under this Act.

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* The words within quotations have been substituted by Act 38 of 1920.

† Act VIII of 1894.

Power of Governor-General in Council to make rules.

36. (1) The Governor-General in Council may from time to time make rules under this Act—

(*a*) prescribing the form of any return required by or under this Act and the particulars to be contained therein respectively, and the manner in which the same is to be verified, and all such other conditions in respect thereof as may be necessary;

(*b*) requiring returns of yarns spun;

(*c*) prescribing the form of the notice to be issued by the Collector under section 9;

(*d*) regulating the inspection of mills, and the powers and duties of Collectors and other officers in respect thereof;

(*e*) regulating the provision of warehouses under this Act, and the deposit and discharge of goods therein and therefrom, and the powers and duties of the Collector in respect thereof;

(*f*) prescribing the records and books of account to be kept by owners of mills under this Act;

(*g*) prescribing the conditions under which alone exemption from duty and repayment as drawback shall be allowed under sections 19 and 21; and,

(*h*) generally, for carrying into effect the provisions of this Act.

(2) The application of any such rule may be confined to any place or places specified therein.

PART II.

INLAND CUSTOMS DUTIES.

Levy of duties on cotton goods passing into British India from foreign territory.

37. (1) Duties of customs shall be levied at the rates for the time being prescribed in the Indian Tariff Act, 1894, * upon cotton goods passing into British India out of any territory declared, under the power hereinafter in this section conferred, to be foreign territory.

(2) The Governor-General in Council may, by notification in the *Gazette of India*, declare that any territory situated within, or bordering on, but not forming part of, British India, shall be deemed, for the purposes of this section, to be foreign territory.

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* Act VIII. of 1894.

(3) The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, prohibit or restrict the bringing of cotton goods into British India from any such foreign territory, or prescribe the routes by which alone they may be brought.

(4) The provisions of section 19A of the Principal Act shall apply to all goods brought or attempted to be brought into British India in contravention of any such notification.

Application of provisions of principal Act as to drawback to goods taxed under this Part.

38. The provisions of the Principal Act as to drawback on export shall apply to all goods upon which duty has been paid under this Part.

PART III.

TRANSITORY PROVISIONS.

Drawback in respect of yarns in mills produced, purchased, or imported before the 23rd January 1896.

39. If any mill-owner has in his mill, at the commencement of this Act, any yarns which, before the twenty-third day of January 1896,—

(*a*) were produced at his mill within the meaning of clause (*b*) of the Explanation to section 5 of the Cotton Duties Act, 1894,* or

(*b*) were obtained by purchase or on account from another mill-owner, after having been produced by the latter, within the meaning of clause (*c*) of the said Explanation, or

(*c*) were imported and customs duty paid thereon,

and have not, before the commencement of this Act, formed part of any goods produced within the meaning of this Act, he shall be entitled to receive, by way of deduction from the amount of duty payable in respect of any goods produced out of such yarns at any time within three months after the passing of this Act, an amount not exceeding the duty which he may show to the satisfaction of the Collector to have been paid upon such yarns under the operation of the Cotton Duties Act, 1894,* or the Indian Tariff Act, 1894.†

Provided that the said yarns shall not have been used solely for borders.

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* Act XVII. of 1894.

† Act VIII. of 1894.

40. (1) Any mill-owner who intends to claim drawback under section 29 shall within a week after the passing of this Act, deliver to the Collector a full statement showing,—

Mode of making claims for drawback under section 39.

with respect to clauses (*a*) and (*b*) of the said section, the quantity and count of yarn, and, as far as possible, the monthly returns in which they were included;

with respect to clause (*c*) of the said section, the quantity and count of yarn and the date and particulars of the payment of import duty thereon.

(2) Such statement shall be subscribed and verified by the mill-owner, and the Collector may, by inspection or otherwise, satisfy himself of its correctness.

(3) No deduction shall be allowed under section 39 unless the yarns in respect of which deduction is claimed have been included in the statement prepared under this section.

41. (1) No duty shall be levied under this Act on any goods which, at the commencement of this Act, are upon the premises of any mill and ready for issue therefrom, either without undergoing any further process, or after being made up into bales or packets:

Provision with respect to goods in stock.

Provided that a list of such goods be made up and deposited with the Collector within seven days from the commencement of this Act.

(2) The returns of the production of such goods prepared under section 8 of this Act shall be separate from those of other goods.

42. The return of yarn prescribed by section 7 of the Cotton Duties Act, 1894,* which would, but for the repeal of the said Act, become due for delivery to the Collector on or before the fifteenth day of February, 1896, shall be prepared and delivered as if the said Act were still in force; but no duty shall be assessed or collected in respect of any yarn produced on or after the twenty third day of January 1896.

Return of yarn as under section 7, Act XVII., 1894, to be delivered in February 1899, but no duty leviable on yarn produced on or after the 23rd January 1896.

* Act XVII of 1894.

ACT NO. VI. OF 1896

The Indian Penal Code Amendment Act, 1896.*

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received His Excellency's Assent on the 27th February 1896.

An Act to amend the Indian Penal Code.†

WHEREAS it is expedient to amend the Indian Penal Code ;† It is hereby enacted as follows :—

Substitution of new paragraph for paragraph 2 of section 230 of Code.

1. (1) For the second paragraph of section 230 of the said Code,† the following shall be substituted, namely : –

[**V***ide vol I p. 449.*]

(2) To the *Illustrations* appended to the said section, the following shall be added, namely :

[*Vide Vol 1. p. 449.*]

ACT NO. VIII. OF 1896

The Inland Bonded Warehouse Act, 1896.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Revised his Excellency's Assent on the 5th March 1896.

An Act to provide for the Establishment of Bonded Warehouses at at places other than Customs-ports and to afford Facilities for the bonding of salt in such Warehouses.

WHEREAS it is expedient to provide for the establishment of bonded warehouses at places other than customs-ports, and to afford facilities for the bonding of salt in such warehouses ; It is hereby enacted as follows :

Title, construction, and commencement.

1. (1) This Act may be called "The Inland Bonded Warehouses Act, 1896."

(2) It shall be read with, and taken as part of, the Sea Customs Act, 1878 ;‡

§(3) It shall come into force at once.

Extent.

2. Sections 5 to 7, both inclusive, of this Act shall extend only to such parts of British India as the Governor-General in Council may from time to time. by notification in the *Gazette of India*, direct in this behalf.

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* To be so cited.—*See* the Indian Short Titles Act (XIV of 1897), s, 2.

† Act XLV of 1860. ‡ Act VII. of 1878.

§ The word "and" before this repealed by Act 10 of 1914 has been omitted.

Inland Bonded Warehouse.

Repeal.

3. (1) The Inland Bonded Warehouses Act, 1887,* is hereby repealed.

(2) The reference to that Act in section 3, clause (7), of the Cotton Duties Act, 1896,† shall be read as if it were made to this Act.

Inland bonded warehouses and law applicable thereto.

4. (1) Notwithstanding anything contained in the Sea Customs Act, 1878,‡ the Chief Customs Authority may from time to time, with the previous sanction of the Local Government, appoint a public or license a private warehouse at any place which is not a warehousing port, and may, with the like sanction, cancel such appointment or license.

(2) In reference to such a place and a warehouse appointed or licensed thereat, the provisions of the said Act with respect to the levy of customs-duties on goods brought in bond from one customs-port to another, and with respect to warehousing, shall be construed as if the place were a customs-port and a warehousing port, and the warehouse a public or a private warehouse, as the case may be, appointed or licensed thereat under that Act.

(3) All rules applicable to such warehouses and to the weighment and removal thereto of salt, and in force at the commencement of this Act, shall remain so applicable until they shall be duly superseded or altered.

(4) Every warehouse appointed or licensed under the provisions of the Inland Bonded Warehouses Act, 1887,* shall be deemed to have been appointed or licensed under this Act.

Conveyance of salt to inland bonded warehouses under bonds.

5. Notwithstanding anything contained in the Sea Customs Act, 1878,‡ or in section 4 of this Act, the Chief Customs Authority may permit salt removed from ship board or from a warehouse appointed or licensed under the Sea Customs Act, 1878,‡ to be conveyed, under a bond securing the subsequent payment of the duty leviable in respect of the salt so removed, and in accordance with such rules as may be prescribed in this behalf by the Local Government, to a warehouse appointed or licensed for that purpose by the Chief Customs Authority.

Form of bond.

6. Every bond executed in accordance with the provisions of the lastpreceding section shall be in the form hereto annexed, or when such form is inapplicable or insufficient, in such other form as is from time to time prescribed by the Chief Customs Authority :

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* Act XXI. of 1887. † Act II of 1896,
‡ Act VIII. of 1878.

Provided that the time allowed by such bond for the payment of the duty leviable on the salt included therein shall not exceed the time within which it may reasonably be expected that the whole of such salt shall have passed into consumption, and shall in no case exceed six months:

Provided, also, that the Chief Customs Authority may at any time require the duty to be paid to the extent to which the salt may have been delivered from the warehouse.

Power to make rules.

7. The Local Government may* make rules, consistent with the provisions of this Act, to regulate—

(1) the appointment or licensing of warehouses under section 5;

(2) the inspection by Government Officers of such warehouses;

(3) the safe custody of salt in transit under the provisions of the said section;

(4) the removal of salt from a warehouse appointed or licensed under the said section;

(5) the nature of the security to be required from a person executing a bond in accordance with the provisions of the said section and the time and place of payment of the sum recoverable under such bond; and

(6) generally such other matters as may be deemed necessary to secure the safety of the public revenue.

Saving.

8. Nothing in section 5 or section 6 shall prevent the removal of salt in any manner in which it may for the time being be lawfully removeable under section 4.

FORM OF BOND.

(*See section 6.*)

No. 189 .

We, A. B.,

now of

; and C. D.,

of the same place, are jointly and severally bound to Her Majesty's Secretary of State for India in Council in the sum of Government rupees to be paid to the said Secretary of State in Council, for which payment we jointly and severally bind ourselves and our legal cepresentatives.

(Date.)

(Signed.)

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* Cestain words after this repe aled by Act IV of 1914 have been omitted.

The above-bounden , having applied to the officer in charge of the Custom-house at for and obtained permission to lodge in a warehouse appointed or licensed under the Inland Bonded Warehouses Act, 1896, and situated at for a period of months the following goods, that is to say, maunds of salt imported by sea from board of the ship and entered in the Custom-house books as No. of the Register of goods imported by sea ;

The condition of this bond is that

If the said or their legal representatives shall observe all the rules prescribed under the said Inland Bonded Warehouses Act, 1896, to be observed by the owners of goods warehoused and persons obtaining permission to warehouse goods under the provisions thereof ;

And if the said or their legal representatives shall pay to the officer in charge of the Custom-house at the port of or to the Collector of , all dues, including customs-duties or other lawful charges, which shall be demandable on the said salt, or on account of penalties incurred in respect thereto, within from the date of this bond, together with interest on every such sum at the rate of six per cent. per annum from the date of demand thereof being made in writing by the said officer in charge of the Custom-house ;

And if, within the term so fixed or such further period (if any) as may be granted by the Chief Customs Authority for the payment thereof, the full amount of all customs-duties and other lawful charges, panalties and interest demandable as aforesaid shall have been first paid on the whole of the said salt ;

This obligation shall be void.

Otherwise, and on breach or failure in the performance of any part of this condition, the same shall be in force.

(Date.)

(Signed.)

ACT IX OF 1896.

The Indian Railways Act (1890) Amendment Act, 1896.*

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received His Excellency's Assent on the 5th March 1896.
An Act to amend the Indian Railways Act, 1890.†

Whereas it is expedient to amend the Indian Railways Act, 1890;† It is hereby enacted as follows :—

Amendment of section 7, Act IX, 1890.

1. In section 7, sub-section (1), clause (*a*), of the said Act, after the word " roads," in the second place in which it occurs, the words " lines of railway " shall be added.

Amendment of section 10, sub-section (2), Act IX., 1890.

2. In section 10 sub-section (2), of the said Act, for the latter part of the sub section, after the words " so far as may be," the following shall be substituted, namely:—

" with the provisions of sections 11 to 15, both inclusive, sections 18 to 34, both inclusive, and sections 53 and 54 of the Land Acquisition Act, 1894,‡ and the provisions of sections 51 and 52 of that Act, shall apply to the award of compensation."

Amendment of section 59, sub-section (3), Act IX., 1890.

3. In section 59, sub section (3), of the said Act, for "sub-section (1)" "sub-section (2)" shall be substituted.

Amendment of section 73, sub section (1); Act IX.; 1890.

4. In section 73, sub-section (1), of the said Act, before the word " camels," the word " mules," and, before the word " sheep," the word " donkeys," shall be added.

5. [*Repealed by Act* 10 *of* 1914.]

Amendment of section 114, Act IX., 1890.

6. In section 114 of the said Act, for the words " the return half," the words " and half," and for the words " the return journey," the words " the journey," shall be substituted.

Amendment of section 136, sub-section (1); Act IX.; 1890.

7. In section 136, sub-section (1), of the said Act, after the word " Court," the words, " or of any local authority or person having by law power to attach or distrain property, or, otherwise to cause property to be taken in execution," shall be added.

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* To be so cited.—*See* the Indian Short Titles Act (XIV. of 1897), s. 2.

† Act IX. of 1890.

‡ Act I. of 1894.

ACT No. XI. OF 1896.

The Legal Practitioners Act, 1896.*

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received His Excellency's Assent on the 13th March 1896.
An Act to amend the Legal Practitioners Act 1896 †

WHEREAS it is expedient to amend the Legal Practitioners Act, 1879; † it is hereby enacted as follows:—

Addition to Section 3, Act XVIII., 1879.

1. To section 3 of the said Act, the following shall be added, namely:—

"'Tout' means a person who procures the employment in any legal business of any legal practitioner in consideration of any remuneration moving from such practitioner, or proposes to a legal practitioner to procure his employment in any legal business in consideration of such remuneration."

"Tout."

Substitution of new section for section 13, Act XVIII., 1879.

2. For section 13 of the said Act, the following shall be substituted, namely::—

Vide Vol II p. 426.

Substitution of new section for section 22, Act XVIII, 1879.

3. For section 22 of the said Act, the following shall be substituted, namely:—

Vide Vol II. p. 434.

Substitution of new section for section 36, Act XVIII., 1879.

4. For section 36 of the said Act, the following shall be substituted, namely:—

Vide Vol II. p. 439.

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* To be so cited.—*See* the Indian Short Titles Act (XIV. of 1897), s. 2.
† Act XVIII. of 1879.

ACT No. XVII. OF 1896:

Amending Punjab Land-revenue Act, 1887.*

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received His Excellency's Assent on the 1st October 1896.
An Act to amend the Punjab Land-Revenue Act, 1887.

WHEREAS it is expedient to amend the Punjab Land-revenue Act, 1887;* It is hereby enacted as follows :—

Amendment of section 28, Act XVII., 1887.

1. For sub-section 28 of the said Act, the following shall be substituted, namely:—

Vide Supra p. 325.

Substitution of new section for section 29 Act XVII., 1887.

2. For section 29 of the said Act, the following shall be substituted, namely :—

Vide Supra p. 325.

Repeal of sub-section (2), section 145, Act XVII., 1887.

3. Sub-section (2) of section 145 of the said Act is repealed.

ACT NO. XX OF 1896:

The Sindh Incumbered Estates Act, 1896.

An Act to amend the Law providing for the Relief of Jagirdars and Zamindars in Sindh.

Received His Excelleny's Assent on the 16th October 1896.

WHEREAS it is expedient to amend the law providing for the relief of jagirdars and zamindars in Sindh ; It is hereby enacted as follows :

CHAPTER I.

PRELIMINARY

Title and commencement.

1. (1) This Act may be called "The Sindh Incumbered Estates Act, 1896," and

(2) It shall come into force at once.

Definitions.

2. In this Act—

(1) "jagir land" includes also a share held hereditarily of the revenues of a Government village, but does not include *siri* or *manul* or garden grants ;

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* Act XVII. of 1887.

(2) "jagirdar" means a person who or whose ancestor was found in possession of jagir land in Sindh on the seventeenth day of February 1843, and to whom the said land or a portion of the same, or other land in lieu thereof, has been continued by the British Government "as a jagir ;"*

(3) "zamindar" means a person holding lands in Sindh on the aggregate of which he or his ancestor has been assessed by the Government, on account of land-revenue for any one of the five revenue years next before the "making of an application under section 3 by or in respect of or on behalf of such person,"* a sum not less than three hundred rupees ; and a person holding lands in Sindh which, having been comprised in the jagir lands' of a jagirdar, and having ceased to be jagir lands, are assessed by the Government on account of land-revenue at a sum not less than three hundred rupees per year, and, where a joint family or any other body of co-owners hold lands of either of those descriptions, each member of that family or body who would be entitled to demand a partition of the lands ; and

(4) "Commissioner" means the Commissioner in Sindh.

CHAPTER II.

Application for the benefit of this Act.

3. (1) At any time after the commencement of this Act any jagirdar or zamindar, or any person who would be sole heir or one of the heirs to such jagirdar or zamindar if he then died intestate, may apply in writing to the Commissioner stating that such jagirdar or zamindar is subject to debts or liabilities other than debts due, or liabilities incurred, to Government, or that his immoveable property is charged with debts or liabilities other than as aforesaid, and requesting that the provisions of this Act be applied to his case.

(2) When any jagirdar, zamindar, or other person entitled to make an application under this section is a minor, or of unsound mind, or an idiot, such application may be made on his behalf by the guardian or other legal curator of his person, or by the legally constituted administrator or manager of his estate.

Order to inquire.

4. (1) When any such application is made by or on behalf of a jagirdar, or the person who would be his sole heir if he then died, the Commissioner shall direct an inquiry, to be made by such officer as he thinks fit, into the nature and amount of such debts and liabilities, and the sufficiency of the debtor's property, whether moveable or immoveable, to discharge the same.

* In s. 2 cls (2) and (3), the words quoted have been substituted for the original words by Act II. of 1906, s. 2.

(2) When such an application is made in any other case, it shall be in the discretion of the Commissioner, subject to any general rules which may from time to time be made by the Governor of Bombay in Council in this behalf, either to reject such application, or to direct an inquiry to be made as aforesaid.

Interim order of protection.

5 (1)* When the Commissioner has directed an inquiry under section 4, he may, if he thinks fit, further direct that, until he dismisses the application or appoints an officer under section 7, sub-section (2), clause (*c*),—

(*a*) all proceedings then pending in any Civil or Revenue Court or Office in British India in respect of any of the debts and liabilities to which the debtor is subject, or which are charged on the whole or any part of his immoveable property, shall be stayed, and the operation of all processes, executions, and attachments then in force for, or in respect of, such debts and liabilities, shall be suspended ; and

(*b*) no fresh proceedings, processes, executions, or attachments shall be instituted in, or issued by, any Civil Court or Revenue Court or Office in British India in respect of such debts and liabilities.

"(2)* Every direction given under sub-section (1) shall be deemed to afford protection to sureties of the debtor, as well as to the debtor himself, unless, in any case, a surety has, by his bond, expressly accepted liability thereunder in the event of an order being made in respect of the debtor's property under section 7, sub section (2), clause (*c*)."

Verified statement to be submitted.

6. (1) When an inquiry has been directed under section 4, the applicant shall, within a period to be fixed by the Commissioner, submit, to the officer appointed to make such inquiry, a statement duly verified by the said applicant, or by some other competent person, in the manner required by law for the verification of plaints, and containing, so far as may be practicable, such details as to the debts and liabilities, and as to the sufficiency of the debtor's property, whether moveable or immoveable, to meet the same, as the Commissioner, or the said officer subject to his control, may require.

(2) If any such statement contains any averment which the person making the verification knows or believes to be false, or

* S. 5, as originally enacted, has been re-numbered 5 (1), the sub-section (2) quoted next following having been added thereto by Act II. of 1906, s. 3.

does not know or believe to be true, such person shall be deemed to have intentionally given false evidence within the meaning of the Indian Penal Code.*

Report of inquiry and proceedings thereon.

7. (1) The officer so appointed, after making inquiry, shall submit a report of the proceedings to the Commissioner.

(2) On receipt of such report, the Commissioner may—

(*a*) direct a further inquiry ; or

(*b*) dismiss the application ; or,

(*c*) by order published in the Sindh Official Gazette, appoint an officer (hereinafter called the manager) to manage the immoveable property of the debtor, and to arrange for the liquidation of his debts in manner hereinafter provided.

CHAPTER III.

OF THE ORDER OF MANAGEMENT.

Order of management.

8. (1) An order made under section 7, sub-section (2), clause (*c*) (hereinafter called "the order of management"), shall extend to all immoveable property, including any interest in joint immoveable property, of or to which the debtor is, on the date of its publication, possessed or enitled in his own right, or which he is entitled to redeem, or which may be acquired by or devolve on him during the continuance of the management, and to all debts and liabilities to which he is subject, or which are charged on the whole or any part of his immoveable property on the said date, and to the amount of any loan which may be received by the manager in the manner hereinafter provided.

(2) The management shall be deemed to commence from the date on which the order is published.

Effect of order of management.

9. On the publication of the order of management, the following consequences shall ensue :—

(1) All proceedings tben pending in any Civil Court or Revenue Court or Office in British India in respect to the debts and liabilities mentioned in section 8 shall be stayed ; and the operation of all processes, executions, and attachments then in force for, or in respect of, such debts and liabilities shall be suspended :

(2) So long as the management continues, no fresh proceedings, processes, executions, or attachments shall be instituted in or issued by any Civil Court or Revenue Court or Office in British India in respect of such debts and liabilities :

* Act XLV. of 1860.

(2a)* Clauses (1) and (2) shall be deemed to afford protection to sureties of the debtor, as well as to the debtor himself, unless in any case a surety has, by his bond, expressly accepted liability thereunder in the event of an order being made in respect of the debtor's property under section 7, sub-section (2), clause (c).

(3) So long as the management continues, the debtor shall be be incompetent—

(a) to enter into any contract involving him in pecuniary liability ; or

(b) to mortgage, charge, lease, or alienate the property under management or any part thereof ; or

(c) to grant valid receipts for the rents and profits arising or accruing therefrom :

Provided that nothing contained in this clause shall be deemed to preclude the manager from letting, and the debtor from taking, the whole or any part of such property on such terms consistent with this Act as may be agreed upon between the parties.

(4) So long as the management continues, no person other than the manager shall be competent to mortgage, charge, lease, or alienate such property or any part thereof.

Powers of manager.

10. The manager shall, during the management of the property, have all powers which the owner thereof might, as such, have legally exercised, and shall receive and recover all rents, "profits, and other sums"† due in respect of the property under management, and, for the purpose of recovering such rents, "profits, and sums"† shall have, in addition to any powers possessed by a jagirdar or zamindar, as the case may be, all the powers possessed by a Collector under the law for the time being in force for the recovery of land-revenue due to Government "including the power conferred by section 176 of the Bombay Land Revenue Code, 1879 ;†

Provided that he shall not, before the liquidation-scheme hereinafter mentioned has been sanctioned, demise the property under management, or any part thereof, for any term exceeding two years, to take effect in possession.

Payments to be made by manager, and order thereof.

11. (1) From the sums received or recovered under section 10, the manager shall pay—

first the costs of the management, including the costs of necessary repairs

* In s. 9, cl. (2a) has been inserted by Act II. of 1906, s. 4.

† In s. 10, the words quoted have been added by Act II. of 1906, s. 5,

secondly, the Government revenue and all debts and liabilities for the time being due or incurred to Government in respect of the property under management ;

thirdly, the rent (if any) due to the jagirdar or other superior holder in respect of the said property ;

fourthly, such periodical allowances as the Commissioner may from time to time fix for the maintenance of debtor and his family ;

fifthly, the cost of such improvements of the said property as he thinks necessary, and are approved by the Commissioner.

(2) The residue shall be retained by the manager for the liquidation, in manner hereinafter provided of the debts and liabilities mentioned in section 8 other than those so due or after the liquidation of such debts and liabilities, of any loan received by the manager under this Act.

CHAPTER IV.

PROOF OF DEBTS AND SCHEME FOR LIQUIDATION.

Notice to claimants against debtor.

12 On the publication of the order of management, the manager shall publish in the Sindh Official Gazette a notice in English and Sindhi, calling upon all persons having claims against the debtor, or the property under management, to notify the same in writing to such manager within six months from the date of the publication, and shall also cause copies of such notice to be exhibited at the mukhtiarkars' kachahris in the district in which the said property lies, and at such other places as he thinks fit.

Claimant to present full particulars and documents.

13. (1) Every such claimant shall, along with his claim, present full particulars thereof.

(2) Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the manager along with the claim.

(3) If the document is an entry in any book, the claimant shall produce the book to the manager together with a copy of the entry on which he relies. The manager shall mark the book for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant.

(4) If any document in the possession or under the control of the claimant is not delivered or produced by him to the manager

along with the claim, the manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case.

Claim not duly notified to be barred.

14. Every such claim (other than claims of the Government) not notified to the manager within the time and in the manner required by such notice shall, except as provided in section 19, clause (*d*), be deemed, for all purposes and on all occasions, whether during the continuance of the management or afterwards to have been duly discharged :

Provided that, when proof is made to the manager that the claimant was unable to comply with the provisions of section 12, the manager may receive such claim within the further period of six months from the expiration of the original period of six months.

Determination of debts and liabilities.

15. The manager shall inquire into the history and merits of every claim received under sections 12 and 14, and shall, in accordance with the rules to be made under this Act, determine the amount of the debts and liabilities (if any) justly due to the several claimants.

Power to rank debts and to fix interest.

16. If such amount cannot be paid at once, the manager shall then proceed to rank such debts and liabilities according to the order in which they shall be paid, and to fix the interest (if any) to be paid thereon, respectively, from the date of the final decision thereon to the date of the payment and discharge thereof.

"Liquidation-scheme.

17. (1) When the total amount of the debts and liabilities (including those due and incurred to Government) has been finally determined, the manager shall prepare and submit to the Commissioner a schedule of such debts and liabilities and a scheme, (hereinafter called the liquidation-scheme) showing the mode in which it is proposed to pay and discharge the same—whether from the income of the property under management, or with the aid of funds raised under the powers hereinafter conferred, or partly in one of such ways and partly in the other.

(2) Every liquidation-scheme shall further provide for the continuance of the payments to be made by the manager under section 11, and for the repayment of the money (if any) which the manager proposes to borrow under this Act ; and may provide for the improvement of the property under management, either from the said income, or with the aid of the funds raised as aforesaid, or partly in one of such ways and partly in the other.

Proceedings of Commissioner on submission of liquidation-scheme.

18. The Commissioner may—

(*a*) as often as he thinks fit, send back such scheme to the manager for revision, and direct him to make such further inquiry as may be requisite for the proper preparation of the scheme, or

(*b*) sanction any liquidation-scheme or any revised liquidation-scheme submitted to him, either as it stands, or subject to such modifications, as he may deem expedient.

Power to relinquish management.

19. (1) At any time before he has sanctioned a liquidation-scheme under section 18, the Commissioner may, by an order published in the Sindh Official Gazette, direct that on a date fixed by such order, the management shall be relinquished.

(2) On the date so fixed—

(*a*) the management shall terminate ;

(*b*) the owner of the property under management shall be restored to the possession thereof subject to any leases granted under section 10 ;

(*c*) any residue of the rents and profits of the said property retained under section 11, sub-section (2), shall be paid to him ; and

(*d*) the proceedings, processes, executions, and attachments stayed and suspended under section 9, and the debts and liabilities barred by section 14, shall revive.

(3) In calculating the periods of limitation applicable to suits to recover and enforce debts and liabilities revived under this section, the time during which the management has coutinued shall be excluded.

CHAPTER V.

OF THE PROCEEDINGS SUBSEQUENT TO SANCTION OF THE LIQUIDATION-SCHEME.

Effects of sanctioning scheme.

20. When the Commissioner sanctions the liquidation-scheme, he shall notify the fact of such sanction at such places and in such manner as the Local Government may from time to time by rule direct ; and thereupon—

(1) all proceedings, processes, executions, and attachments stayed or suspended under section 9 shall be for ever barred, and

(2) every debt or liability due or owing to any person, which was proveable before the manager, shall be extinguished; and such person shall be entitled to receive under the liquidation-scheme the amount (if any) finally awarded to him under Chapter IV. in respect of such debt or liability.

Power to remove mortgagee in possession.

21. (1) If the property under management or any part thereof is in the possession of a mortgagee or conditional vendee, the manager, at any time after the liquidation-scheme has been sanctioned as aforesaid, may, by an order in writing, require such incumbrancer to deliver up possession of the same to him at the end of the then current revenue-year

(2) If such incumbrancer refuses or neglects to obey such order, the manager may, without resorting to a Civil Court, enter upon the property, and summarily evict therefrom the said incumbrancer and any other person obstructing or resisting on his behalf.

(3) Nothing in this section shall be held to affect the right of any incumbrancer to receive, under the liquidation-scheme, the amount (if any) awarded to him under Chapter IV.

Power to remove mortgagee in possession.

22. (1)* If the property under management or any part thereof is in the possession of any person claiming to hold under a lease, the manager, with the sanction of the Commissioner, may enquire into the sufficiency of the consideration for which the lease was granted; and, if such consideration appears to him insufficient, may by written order, at any time after the liquidation-scheme has beed sanctioned as aforesaid, either set aside the lease or require the person so in possession to pay such consideration for the said lease as the manager thinks fit; and, in default of such payment, the lease shall be cancelled.

"(2) Whenever the manager sets aside or cancels a lease under sub-section (1), he shall, by written order, award to the lessee such compensation, if any, as may appear to the manager to be equitable in the circumstances; and, subject to the provisions of Chapter VI. no compensation in excess of the amount so awarded shall be recoverable by the lessee in a Civil Court or otherwise.

"(3) Any compensation awarded by the manager under sub-section (2) shall be deemed to be a debt mentioned in section 8, and shall rank in priority to all other debts and liabilities other than debts or liabilities due or incurred to Government.

"(4) If any lessee whose lease has been so set aside or cancelled refuses or neglects to give up possession when required to do

* Certain words therein having been repealed, the original s. 22 has been renumbered 22 (1), and cls. (2), (3), and (4) quoted next following have been inserted, by Act II. of 1906, s 6.

so by the manager, the manager may, without resorting to a Civil Court, enter upon the property, and summarily evict therefrom the said lessee and any other person obstructing or resisting on his behalf."

Power to lease.

23. Subject to the rules made under section 33, the manager, after the liquidation scheme has been sanctioned as aforesaid, shall have power to demise all or any part of the property under management for any term of years not exceeding twenty years absolute, to take, effect in possession in consideration of the payment to him of any fine, or without fine, and reserving such rents, and under such conditions, as may be agreed upon.

Power to raise money by mortgage or sale.

24. At any time after the liquidation-scheme has been sanctioned as aforesaid, the manager, with the previous assent of the Commissioner, shall have power to raise any money which may be required for carrying out such scheme—

(*a*) by demising by way of mortgage the whole or any part of the property under management for a term not exceeding twenty years from the publication of the order of management ; or

(*b*) by selling, by public auction or by private contract, and upon such terms as the manager thinks fit, such portion of the said property as may appear expedient; or

(*c*) by borrowing money at such rate of interest as appears reasonable to the Local Government.

Separation of part of jagir lands subject to lapse.

25. When jagir land under management is held on this condition—that, on the happening of a certain event, a share of the land shall lapse, but that it shall be in the discretion of the person then entitled as jagirdar to divide off and relinquish in respect of the lapse such part of the land, being a fair equivalent of the share, as he thinks fit—the manager may, if he deems it convenient for the better exercise of the powers conferred by sections 23 and 24, at any time after such consultation with persons interested as he thinks necessary, allot by written order, for relinquishment on the happening of the event, such part of the land as he thinks fit ; and thereupon that part, and no other, shall, on the happening of the event, be relinquished.

Manager's receipt to be a discharge.

26. The manager's receipt for any moneys, rents, or profits raised or received by him under this Act shall discharge the person paying the same therefrom, and from being concerned to see to the application thereof.

Termination of management.

27. (1) When the debts and liabilities mentioned in the liquidation scheme and the amount of any loan received under section 24, clause (*c*), together with the interest (if any) due thereon, have been paid and discharged, the manager shall publish in the Sindh Official Gazette a notice fixing a date for the termination of the management.

(2) On the date so fixed, the management shall terminate, and the owner shall be restored to the possession and enjoyment of property under management, or of such part thereof as has not been sold by the manager under the power conferred by section 24, but subject to the leases and mortgages (if any) granted and made by the manager under the powers conferred by sections 10, 23, and 24

Death of debtor during management.

28 If the debtor dies after the publication of the order of management, and before the management has been terminated in either of the modes hereinbefore provided,—

(1) the management shall continue and proceed in all respects as if such debtor were still living;

(2) any person succeeding to the whole or any portion of the property under management shall, while such management continues, be subject in respect of such property to the disabilities imposed by section 9, clause (3), sub-clauses (*b*) and (*c*); and

(3) no Civil Court or Revenue Court or Office in British India shall, during the continuance of the management for or in respect of any debt or liability incurred by any such person, whether before or after his said succession.

Mortgages, &c., made by restored jagirdar valid only for his life.

29. When a jagirdar or zamindar has been restored under section 27, sub section (2), to the possession of any property, no mortgage, charge, lease, or alienation of such property, or of any part thereof, made or granted by such jagirdar or zamindar, shall be valid as to any time beyond his natural life.

Power to revise liquidation-scheme.

30. Notwithstanding anything contained in this Act, the Commissioner may, at any time after he has, whether before or after the commencement of this Act, sanctioned the liquidation-scheme, revise and modify the same, but not so as to affect the right of any person to receive in full, before the termination of the management, the amount finally awarded to him under Chapter I V.

CHAPTER VI.

OF APPEAL AND REVISION.

Appeal

31. (1) An appeal against any decision or order under sections 14, 15, 16, and 22, and imposing a fine or imprisonment in exercise of the powers conferred by section 37, shall lie to the Commissioner, if preferred within six weeks from the date of such decision or order.

(2) There shall be no appeal against the decision of the Commissioner on such appeal.

Power to call for proceedings, and pass order thereon.

32. The Commissioner may, of his own motion, or on the application of any person concerned, call for the proceedings in any case under this Act, and pass such order thereon consistent with the provisions of this Act as he thinks fit.

CHAPTER VII.

MISCELLANEOUS.

Power to make rules.

33. (1) The Commissioner, with the previous sanction of the Governor of Bombay in Council, may, from time to time, make rules consistent with this Act—

(*a*) to regulate the security to be required from subordinate officers under this Act;

(*b*) to regulate the procedure in all cases under this Act;

(*c*) for the guidance of officers enquiring into and determining on claims under Chapter IV., and in particular as to the allowance of interest (if any) on each of the principal debts and liabilities so determined, from the date on which it was incurred down to the date of the determination, and on the aggregate amount of such debts and liabilities from the date of the determination down to the date of payment, and as to the order of paying debts and liabilities and repaying any loan received hereunder;

(*d*) for investing any moneys received or raised by the manager under this Act in any Government securities of British India, and for the sale of such securities; and

(*e*) generally to carry out the provisions of this Act.

(2) Such rules shall be published in the Sindh Official Gazette, and shall thereupon have the force of law.

Power to appoint new manager.

34. Whenever the Commissioner thinks fit, he may suspend or remove any manager, and may appoint any officer in the stead of any manager appointed under this Act ; and thereupon the management then vested under this Act in the former manager shall become vested in the new manager and the new manager shall have the same powers as if he had been originally appointed.

Manager to be public servants.

35. Every manager under this Act shall be deemed a public servant within the meaning of the Indian Penal Code.

Investigation to be deemed a judicial proceeding.

36. Every investigation conducted by the manager with reference to any claim preferred before him under this Act, or to any such claim, shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code.*

Power to summon witnesses and compel production of documents.

37. For the purpose of this Act, the manager may summon and enforce the attendance of witnesses, and compel them to give evidence, and compel the production of documents, by the same means, and, as far as possible, in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure,†

Bar of suits.

38. No suit or other proceeding shall be maintained against any person in respect of any thing done by him *bond fide* pursuant to this Act.

Saving of jurisdiction of Courts in Sindh in respect of certain suits.

39. Nothing in this Act precludes the Courts in Sindh having jurisdiction in suits relating to the succession to any immovable property brought under the operation of this Act from entertaining and disposing of such suits ; but to all such suits the manager of such property shall be made a party,

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* Act XLV. of 1860.

† Now Act V of 1908.

ACT NO. I. OF 1897.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 14th February 1897.

The Public Servant (Inquires) Act (1850) *Amendment Act*, 1897.*

WHEREAS it is expedient to amend Act XXXVII. of 1850 (*for regulating Inquiries into the behaviour of Public Servants*); It is hereby enacted as follows:—

Title of Act XXXVII., 1850.

1. The said Act XXXVII. of 1850 may be called the Public Servants (Inquires) Act 1850.

Amendment of preamble to Act XXVII., 1850.,

2. In the preamble to the said Act, after the word "removeable," the words "from their appointments" shall be inserted, and for the words "the East India Company" the word "India" shall be substituted.

Amendment of section 2, Act XXXVII, 1850.

3. In section 2 of the said Act, for the words "the East India Company, not removeable from his office without the sanction of the same Government," the words "the Government, not removeable from his appointment without the sanction of the Government" shall be substituted.

Substitution ofnew sectioc for seetion 23, Act XXXVII., 1850.

4. For section 23 of the said Act the following section shall be substituted, namely :—

Powers of Government under this Act by whom exercisable,

"23. The powers of the Government under this Act may in all cases be exercised by the Governor-General in Council, and when the person accused can be removed from his appointment by the Local Government, those powers may be also exercised by the Local Govenment."

* This Short title has been given by Act 14 of 1897.

ACT NO. III. OF 1897.

The Epidemic Diseases Act.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.
Received the assent of the Governor-General on the 4th February 1897.

An Act to provide for the better prevention of the spread of Dangerous Epidemic Disease.

WHEREAS it is expedient to provide for the better prevention of the spread of dangerous enidemic disease; It is hereby enacted as follows:—

Short title, extent, and commencement.

1. (1) This Act may be called the Epidemic Diseases Act, 1897.

(2) It extends to the whole of British India (inclusive of Upper Burma, British Baluchistan, the Santal Parganas, and the Pargana of Spiti);*

(3) It shall come into force at once.

Power to take special measures and prescribe regulations as to dangerous epidemic disease.

2. (1) When at any time the Governor-General in Council is satisfied that India or any part thereof is visited by, or threatened with, an outbreak of any dangerous epidemic disease, the Governor-General in Council, if he thinks that the ordinary provisions of the law for the time being in force are insufficient for the purpose, may take, or require or empower any person to take, such measures, and, by public notice, prescribe such temporary regulations to be observed by the public or by any person or class of persons as he shall deem necessary to prevent the outbreak of such disease or the spread thereof, and may determine in what manner and by whom any expenses incurred (including compensation, if any) shall be defrayed.

(2) In particular and without prejudice to the generality of the foregoing provisions, the Governor-General in Council may take measures and prescribe regulations for—

(*a*) the inspection of any ship or vessel leaving, or arriving at, any port in British India, and such detention thereof, or of any person intending to sail therein, or arriving thereby, as may be necessary; and

(*b*) the inspection of persons travelling by railway or otherwise, and the segregation in hospital, temporary accommodation, or otherwise, of persons suspected by the inspecting officer of being infected with any such disease †

* The word after this repealed by Act 10 of 1914, has been omitted.

† Subsection (3) has been repealed by Act 39 of 1920.

2A.* When any Local Government is satisfied that the Province or any part thereof is visited by, or threatened with an out break of any dangerous epidemic disease, and that the ordinary provisions of the law of the time being in force are insufficient to prevent the out break of such disease or the spread thereof, such Local Government may exercise all or any of the powers conferred by this Act on the Governor General in Council.

Concurrent powers of Local Government.

3. Any person disobeying any regulation or order made under this Act shall be deemed to have committed an offence punishable under section 188 of the Indian Penal Code.†

Penalty.

4. No suit or other legal proceedlng shall lie against any person for anything done or in good faith intended to be done under this Act.

Ptotection to persons acting under Act.

ACT NO. IV OF 1897.

The Indian Fisheries Act.

Received the assent of the Governor-General on the 4th February 1897.

An Act to provide for certain matters relating to Fisheries in British India.

WHEREAS it is expedient to provide for certain matters relating to fisheries in British India; It is hereby enacted as follows:—

Title, extent, and commencement.

1. (1) This Act may be called the Indian Fisheries Act, 1897.

(2) It extends to the whole of British India, except Burma;‡.

(3) It shall come into force at once.

Act to be read as supplemental to other Fisheries Laws.

2. Subject to the provisions of sections 8 and 10 of the General Clauses Act, 1887,§ this Act shall be read as supplemental to any other enactment for the time being in force relating to fisheries in any part of British India, except Burma.

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context,—

(1) "fish" includes shell-fish;

(2) "fixed engine" means any net, cage, trap or other contrivance for taking fish, fixed in the soil, or made stationary in any orher way; and

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* Section 2A has been added by Act 38 of 1920.

† Act XLV. of 1860.

‡ The word "and" after this repealed by Act 10 of 1914 has been omitted.

§ Act I. of 1887.

(3) "private water" means water which is the exclusive property of any person, or in which any person has for the time being an exclusive right of fishery, whether as owner, lessee, or in any other capacity.

Explanation.—Water shall not cease to be "private water" within the meaning of this definition by reason only that other persons may have by custom a right of fishery therein.

Destruction of fish by explosives in inland waters and on coasts.

4. (1) If any person uses any dynamite or other explosive substance in any water with intent thereby to catch or destroy any of the fish that may be therein, he shall be punishable with imprisonment for a term which may extend to two months, or with fine which may extend to two hundred rupees.

(2) In sub-section 1 the word "water" includes the sea within a distance of one marine league of the sea-coast; and an offence committed under that sub-section in such sea may be tried, punished, and in all respects dealt with as if it had been committed on the land abutting on such coast.

Destruction of fish by poisoning of waters.

5. (1) If any person puts any poison, lime, or noxious material into any water with intent thereby to catch or destroy any fish, he shall be puuishable with imprisonment for a term which may extend to two hundred rupees.

(2) The Local Government may, by notification in the official Gazette, suspend the operation of this section in any specified area, and may, in like manner, modify or cancel any such notification.

Protection of fish in selected waters by rules of Local Government.

6. (1) The Local Government may make rules for the purposes hereinafter in this section mentioned, and may, by a notification in the official Gazette, apply all or any of such rules to such waters, not being private waters, as the Local Government may specify in the said notification.

(2) The Local Government may also, by a like notification, apply such rules or any of them to any private water, with the consent in writing of the owner thereof and of all persons having for the time being any exclusive right of fishery therein.

(3) Such rules may prohibit or regulate all or any of the following matters, that is to say.

(*a*) the erection and use to fixed engines;

(*b*) the construction of weirs; and

(*c*) the dimension and kind of the nets to be used, and the modes of using them.

(4) Such rules may also prohibit all fishing in any specified water for a period not exceeding two years.

(5) In making any rule under this section the Local Government may—

(*a*) direct that a breach of it shall be punishable with fine which may extend to one hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to ten rupees for every day after the date of the first conviction during which the breach is proved to have been persisted in ; and

(*b*) provide for—

(i) the seizure, forfeiture, and removal of fixed engines erected or used, or nets used, in contravention of the rule and

(ii) the forfeiture of any fish taken by means of any such fixed engine or net.

(6) The power to make rules under this section is subject to the condition that they shall be made after previous publication.

Arrest without warrant for offences under this Act.

7. (1) Any police-officer, or other person specially empowered by the Local Government in this behalf, either by name or as holding any office, for the time being, may, without an order from a Magistrate, and without warrant, arrest any person committing in his view any offence punishable under section 4 or 5, or under any rule under section 6—

(*a*) if the name and address of the person are unknown to him, and

(*b*) if the person declines to give his name and address, or if there is reason to doubt the accuracy of the name and address if given.

(2) A person arrested under this section may be detained until his name and address have been correctly ascertained :

Provided that no person so arrested shall be detained longer than may be necessary for bringing him before a Magistrate, except under the order of a Magistrate for his detention.

ACT NO. V OF 1897.

THE REPEALING AND AMENDING ACT.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 25th February 1897.

*An Act to *amend and facilitate the citation of certain *enactments.*

† Whereas it is expedient that certain formal amendments should be made in the enactments specified in the second schedule to this Act;

And whereas it is also expedient to facilitate the citation of the enactments specified in the third schedule to this Act;

It is hereby enacted as follows —

Title aud commencement.

1. (1) This Act may be called the * Amending Act, 1897;†

(2) It shall come into force at once.

2. (1) [Repealed by Act I of 1903.]

(2) The enactments specified in the second schedule shall be modified to the extent and in the manner mentioned in the fourth column thereof.

3. [Repealed by Act I of 1903.]

Citation of certain enactments.

4. Each of the enactments described in the first three columns of the third schedule may, without prejudice to any other mode of citation, be cited for all purposes by the short title mentioned in that behalf in the fourth column thereof.

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* Certain words after this repealed by Act I of 1903 have been omitted.

† The words before this repealed by Act 1 of 1903 have been omitted

† Certain word after this repealed by Aet 10 of 1914 has been omitted.

THE FIRST SCHEDULE

(Repealed by Act I of 1903.)

THE SECOND SCHEDULE.

1	2	3	4
Year.	No.	Short title or subject	Amendment.
		*Part I.—Act of the Governor-General in Council.**	
		Part II.—Acts of the Lieutenant Governor of Bengal in Council.	
1884†	III.	Bengal Municipal Act 1884.	In section 37-J. (inserted by Bengal Act IV. of 1894, section 23), *for* the Loans Act, 1879, *read* the Local Authorities Loan Act, 1879. In section 219 (as amended by Bengal Act IV. of 1894, section 64), *for* or two hundred and ten two hundred and ten A *read* 210 or 210A.
1887	II.	Vaccination (amending Bengal Act V. of 1880).	To section 3 *add*:— "The Schedule hereto annexed shall be annexed as The First Schedule to the Bengal Vaccination Act, 1880."
		†*Part III.—Regulations made under the Government of India Act*, 1870 (33 *Vict.*, *c.* 1).	
1883	I.	Sylhet and Cachar Rural Police Regulation, 1883.	In section 18, clause 10th *for* the Indian Forest Act, 1878, *read* the Assam Forest Regulation, 1891.

* The entries repealed by Act 6 of 1901 have been omitted.

† Certain words before this repealed by Ben. Act 5 of 1909 ; E B. and A Act I of 1910 and Act 10 of 1914 have been omitted.

THE SECOND SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Short title or subject.	Amendment.
		Part III.—Regulations made under the Government of India Act, 1870 (33 Vict., c. 3)—contd.	
1886	I.	Assam Land and Revenue Regulation, 1886.	To section 1 *add* :— (3) The Chief Commissioner may in like manner amend, vary or rescind any notification issued under sub-section (2).
		Part IV.—Regulations of the Bengal Code.	
1806	XI.	Passage of Troops.	In section 4, clause third, *for* Governor-General in Council, *in each place in which those words occur, read* local Government.
1812	XI.	Removal of Foreign Immigrants.	In section 5, clause second, *for* to the Nizamat Adalat, who will recommend to the Governor-General in Council such abbreviation of the prescribed punishment as they may judge proper, *read* to the Local Government, and the Local Government shall pass such orders thereon as it may think fit. *For* Governor-General in Council, *where-ever those words occur, read* Local Government.
1823	VII.	Loans to covenanted officers.	In section 3, *for the words from* All Judges *to* powers of such Collector, *read* All Commissioners, District and Sessions Judges, Deputy Commissioners and Assistant Commissioners being members of the Indian Civil Service. In section 6, and also in section 8, *for* Governor-General in Council *read* Local Government. In section 8, *for* Government *read* the Local Government.

THE THIRD SCHEDULE.

1	2	3	4
Year.	No	Subject.	Short title.
Part I,—Local Acts of the Governor General in Council in force in Assam.			
1850	XXV.	For the forfeiture to Government of deposits made on incomplete sales of land under Regulation VIII., 1819.	The Forfeited Deposits Act, 1850.
„	XXXIII	For amending the forms necessary for the sale of patni tenures in Bengal.	The sale of Patni Tenures Act, 1850.
1853	VI.	Rlating to summary suits for arrears of rent, to sales of patni talups and other saleable tenures, and to sales of land in satisfaction of summary decrees for rent.	The Rent Recovery Act, 1853.
„	XIX.	To amend the law of evidence in the Civil Courts of the East India Company in the Bengal Presidency.	The Recusant Witnesses Act, 1853.
1856	XII.	To amend the law respecting the employment of Amins by the Civil Court in the Presidency of Fort William.	The Civil Courts Amins Act, 1856.
1867	III.	To provide for the punishment of public gambling and the keeping of common gaming-houses in the North-Western Provinces of the Presidency of Fort William, and in the Punjab, Oudh, the Central Provinces and British Burma.	The Public Gambling Act, 1867.
1871	XIX.	To provide for the appointment of Sessions Judges in Bengal and the North-Western Provinces.	The Bengal Sessions Courts Act, 1871.

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year	No.	Subject.	Short title.
Part I.—Local Acts of the Governor-General in Council in force in Assam—contd.			
1874	VIII.	To provide for the exercise of the powers hitherto exercised by the Lieutenant-Governor and Board of Revenue of Bengal in the territories forming the Chief Commissionership of Assam.	The Assam Chief Commissionership Act, 1874.
,, ...	XII.	To provide for the exercise, in Sylhet, of the powers of the Lieutenant-Governor and Board of Revenue in Bengal.	The Sylhet Act, 1874.
1886	III.	To amend the Northern India Ferries Act, 1878.	The Northern India Ferries Act Amendment Act, 1878.
1892	IV.	To amend the Bengal Court of Wards Act, 1879 [Act IX.(B. C.) of 1879].	The Court of Wards Act (Bengal Amendment Act, 1892.
Part II.—Regulation made under the Government of India Act, 1870 (33 Vict., c. 3.)			
1884	III.	To empower the extension of the Assam Frontier Tracts Regulation, 1880, to certain tracts in Assam, and to declare that Act X. of 1872 (the Code of Criminal Procedure) shall be deemed never to have come into force in the Garo Hills District, the Naga Hills District and the Khasi and Jaintia Hills District.	The Assam Frontier Tracts Regulation, 1884.

THE THIRD SCHEDULE—*contd.*

1	2	12	4
Year.	No.	Subject.	Short title.
		Part III.—Regulations of the Bengal Code in force in Assam.	
1793	I.	For enacting into a Regulation certain Articles of a Proclamation bearing date the 22nd March, 1793.	The Bengal permanent Settlement Regulation, 1793.
,,	II.	For abolishing the Courts of Mal Adalat or Revenue Courts, and transferring the trial of the suits which were cognizable in those Courts to the Courts of Dewani Adalat; and prescribing Rules for the conduct of the Board of Revenue and the Collectors.	The Bengal Land-Revenue Regulation, 1793.
,,	VIII.	For re-enacting, with modifications and amendments, the rules for the Decennial Settlement of the public revenue payable from the lands of the zamindars, independent taluqdars and other actual proprietors of land, in Bengal, Bihar and Orissa, passed for those provinces respectively on the 18th September, 1789; the 25th November, 1789; and the 10th February 1790, and subsequent dates.	The Bengal Decennial Settlemen-Regulation, 1793.
,,	XI.	For removing certain restrictions to the operation of the Hindu and Muhammadan laws and regard to the inheritance of landed property subject to the payment of revenue to Government.	The Bengal Inheritance Regulation 1793.

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
Part III.—Regulations of the Bengal Code in force in Assam—contd.			
1793	XXXVIII.	For re-enacting, with modifications, such part of the rule passed on the 27th June, 1787, as prohibits Covenanted Civil Servants of the Company employed in the administration of justice on the collection of the public revenue lending money to zamindars, independent taluqdars or other actual proprietors of land, or dependent taluqdars or farmers of land holding farms immediately of Government, or the under-farmers or raiyats of the several descriptions of proprietors and farmers of land above mentioned, or their respective sureties.	The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1793.
1799	V.	To limit the interference of the Zila Court of Diwani Adalat in the execution of wills and administration to the estates of persons dying intestate.	The Bengal Wills and Intestacy Regulation, 1799.
1800	X.	For preventing the division of landed estates in the Jangal Mahals of the Zila of Midnapore and other Districts.*	The Bengal Inheritance Regulation, 1800.

* Certain words after their repealed by Act 4 of 1922 have been omitted.

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
1806	XI.	For facilitating the progress of detachments of troops through the Company's territories for affording any requisite assistance to persons travelling through those territories.	The Bengal Troops Transport and Travellers Assistance Regulation, 1806.
1812	XI.	To empower the Governor-General in Council to order the removal of emigrants from foreign countries, and their descendants, from any place in the vicinity of the frontier of the State from which they may have emigrated; and, in certain cases, to place and detain any such persons in safe custody; and likewise to provide for the trial of emigrants and their descendants who may excite disturbances in the countries from which they may have emigrated and of persons aiding them in the prosecution of such attempts.	The Bengal Foreign Immigrants Regulation, 1812.
1818	III.	For the confinement of State Prisoners.	The Bengal State Prisoners Regulation, 1818.
1819	VIII.	To declare the validity of certain tenures, and to define the relative rights of zamindars and patni taluqdars; also to establish a process for the sale of such taluqs in satisfaction of the zamindar's demand of rent.	The Bengal Patni Taluqs Regulation, 1819.

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
Part III.—Regulations of the Bengal Code in force in Assam—concld.			
1820	I.	For providing that all sales of certain taluqs made answerable by sale for arrears by the zamindar's rent shall be conducted in the mode provided by Regulation VIII., 1819, for the sales therein described.	The Bengal Patni Taluqs Regulation, 1820.
1823	VII.	For prohibiting loans by Covenanted Civil Servants from persons subject to their official authority and influence.	The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1823
1825	VI.	For rendering more effectual the rules in force relative to supplies and preparations for troops proceeding through the British territories.	The Bengal Troops Transport Regulation, 1825.
,,	XI.	For declaring the rules to be observed in determining claims to lands gained by alluvion or by dereliction of a river or the sea	The Bengal Alluvion and Diluvion Regulation, 1825.
1827	III.	For modifying and amending the rules in force relative to the law officers and ministerial native officers of the Courts of Judicature, who may be guilty of corruption or extortion.	The Bengal Corruption and Extortion Regulation, 1827.
,,	V.	For modifying the rules at present in force for the management of estates under attachments by orders of the Courts of Justice in certain cases.	The Bengal Attached Estates Management Regulation, 1827.

THE THIRD SCHEDULE —*concld.*

1	2	3	4
Year.	No.	Subject.	Short title.
Part III.—Regulations of the Bengal Code in force in Assam—concld.			
1829	XVII	For declaring the practice of Sati or of burning or burying alive the widows of Hindus illegal and punishable by the Criminal Courts.	The Bengal Sati Regulation, 1829.

ACT NO. VI. OF 1897.

The Negotiable Instruments Act Amendment Act.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 4th March 1897.

An Act to amend the Negotiable Instruments Act, 1881.

WHEREAS it is expedient to amend the Negotiable Instruments Act, 1881; It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Negotiable Instruments Act Amendment Act, 1897; *

(2) It shall come into into force at once.

Amendment of section 27, Act XXVI. of 1881.

2. To section 72 of the said Act the following words shall be prefixed, namely, namely, "Subject to the provisions of section 84.

Substitution of new section for section 84, Act XXVI. of 1881.

3. For section 84 of the said Act the following section shall be substiuted, namely:—

[vide. vol. II. p. 645]

* The word "and" after this repealed by Act 10 of 1914 has been omitted.

ACT NO. VIII. OF 1897.

The Reformatory Schools Act, 1897.

PASSED BY THE GOVERNOR GENERAL.

Received the assent of the Governor-General on the 11th March 1897.

An Act to amend the law relating to Reformatory Schools and to make further provision for dealing with youthful offenders.

WHEREAS it is expedient to amend the law relating to Reformatory Schools and to make further provision for dealing with youthful offenders; It is hereby enacted as follows:—

I.—Preliminary.

Title, commencement, and extent.

1. (1) This Act may be called the Reformatory Schools Act, 1897; *

(2) It shall come into force at once.

(3) This section and section 2 shall extend to the whole of British India. The other sections shall extend in the first instance to the whole of British India except the territories for the time being administered by the Lieutenant-Governor of the Punjab and the Chief Commissioner of Coorg, but either of the said Local Governments may at any time, by notification in the local official Gazette, extend these sections to their territories from such day as may be fixed in any such notification.

Repeal of Act V, of 1876.

2. (1) The Reformtory Schools Act, 1876, is hereby repealed.

(2) But all proceedings taken, orders passed, officers appointed or authorised, and rules made under the said Act, shall, as far as may be, be deemed to have been respectively passed, appointed or authorised, and made under this Act.

(3) Any enactment or document referring to the said Act shall, as for as may be, be construed to refer to this Act, or to the corresponding portion thereof.

Section 399 of Act X of 1882 repeled on date fixed by a notification under section 1, sub-section 3.

3. From the date fixed by any notification issued under section 1, sub-section 3, section 399 of the Code of Criminal Procedure,' 1882, shall be repealed in the province to which the notification relates.

Definitions.

4. In this Act, unless there is anything repugnat in the subject or context,—

* The word "and" after this repealed by Act 10 of 1914 has been omitted.

(*a*) "youthful offender" means any boy who has been convicted of any offence punishable with transportation or imprisonment, and who, at the time of such conviction, was under the age of fifteen years ;

(*b*) "Inspector-General" includes any officer appointed by the Local Government to perform all or any of the duties imposed by this Act on the Inspector-General ; and

(*c*) "District Magistrate" shall include a Chief Presidency Magistrate.

II.—Reformatory Schools.

Power to establish and discontinue Reformatory Schools.

5. * The Local Government may—

(*a*) establish and maintain Reformatory Schools at such places as it may think fit ;

(*b*) use as Reformatory Schools schools kept by persons willing to act in conformity with such rules, consistent with this Act, as the Local Government may prescribe in this behalf ;

(*c*) direct that at any school so established or used shall cease to exist as a Reformatory School or to be used as such.

Requisities of schools.

6. Every school so established or used must provide—

(*a*) sufficient means of separating the inmates at night ;

(*b*) proper sanitary arrangements, water-supply, food, clothing, and bedding for the youthful offenders detained therein ;

(*c*) the means of giving such youthful offenders industrial training ;

(*d*) an infirmary or proper place for the reception of such youthful offenders when sick.

Inspection of Reformatory Schools.

7. (1) Every school intended to be established or used as a Reformatory School shall, before being used as such, be inspected by the Inspector-General, and if he finds that the requirements of section 6 have been complied with, and that, in his opinion, such school is fitted for the reception of such youthful offenders as may be sent there under this Act, he shall certify to that effect, and such certificate shall be published in the local official Gazette, together with an order of the Local Government establishing the school as a Reformatory School, or directing that it shall

* Certain words before this repealed by Act 4 of 1914 have been omitted.

be used as such, and the school shall thereupon be deemed to be a Reformatory School.

(2) Every such school shall, from time to time, and at least once in every year, be visited by the said Inspector-General, who shall send to the Local Government a report on the condition of the school in such from as the Local Government may prescribe.

Power of Courts to direct youthful offenders to be sent to Reformatory Schools.

8. (1) Whenever any youthful offender is sentenced to transportation or imprisonment, and is, in the judgment of the Court by which he is sentenced, a proper person to be an inmate of a Reformatory School, the Court may, subject to any rules made by the Local Government, direct that, instead of undergoing his sentence, he shall be sent to such a school, and be there detained for a period which shall be not less than three or more than seven years.

(2) The powers so conferred on the Court by this section shall be exercised only by (*a*) the High Court, (*b*) a Court of Session. (*c*) a District Magistrate, and (*d*) any Magistrate specially empowered by the Local Government in this behalf, and may be exercised by such Courts whether the case comes before them originally or on appeal.

(3) The Local Government may make rules for—

(*a*) defining what youthful offenders should be sent to Reformatory Schools, having regard to the nature of their offences or other considerations, and

(*b*) regulating the periods for which youthful offenders may be sent to such schools according to their ages or other considerations.

Procedure where Magistrate is not empowered to pass an order under section 8.

9. (1) When any Magistrate not empowered to pass an order under the last foregoing section is of opinion that a youthful offender convicted by him is a proper person to be an inmate of a Reformatory School, he may, without passing sentence, record such opinion, and submit his proceedings, and forward the youthful offender to the District Magistrate to whom he is subordinate.

(2) The Magistrate to whom the proceedings are so submitted may make such further inquiry (if any) as he may think fit, and pass such sentence and order for the detention in a Reformatory School of the youthful offender, or otherwise, as he might have passed if such youthful offender had been originally tried by him.

Power of Magistrate to direct boys under sixteen sentenced to imprisonment to be sent to Reformatory School.

10. The officer in charge of a prison in which a youthful offender is confined, in execution of a sentence of imprisonment, may bring him, if he has not then attained the age of fifteen years, before the District Magistrate within whose jurisdiction such prison is situate; and such

Magistrate may, if such youthful offender appears to be a proper person to be an inmate of a Reformatory School, direct that, instead of undergoing the residue of his sentence, he shall be sent to a Reformatory School, and there detained for a period which shall be subject to the same limitations as are prescribed by or under section 8, with reference to the period of detention thereby authorised.

Preliminary enquiry and finding as to age of youthful offender.

11. (1) Before directing any youthful offender to be sent to a Reformatory School under section 8, Section 9, or section 10 the Court or Magistrate shall inquire into the question of his age, 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 an order under section 8 before submitting his proceedings and forwarding the youthful offender to the District Magistrate as required by section 9, subsection 1.

Government to determine Reformatory School to which such offenders shall be sent.

12. Every youthful offender directed by a Court or Magistrate to be sent to a Reformatory School shall be sent to such Reformatory School as the Local Government may by general or special order appoint for the reception of youthful offenders so dealt with by such Court or Magistrate:

Provided that, if accommodation in a Reformatory School is not immediately available for such youthful offender, he may be detained in the juvenile ward or such other suitable part of a prison as the Local Government may direct—

(*a*) until he can be sent to a Reformatory School, or

(*b*) until the term of his original sentence expires.

whichever event may first happen. Should the term of his original sentence first expire, he shall thereupon be released, but, should he be sent to a Reformatory School, then the period of detention previously undergone shall be treated as detention in a Reformatory School.

Persons found to be over eighteen years not to be detained in Reformatory Schools.

13. (1) If at any time after a youthful offender has been sent to a Reformatory School it appears to the Committee of Visitors or Board of Management, as the case may be, that the age of such youthful offender has been understated in the order for detention, and that he will attain the age of eighteen years before the expiration of the period for which he has been ordered to be detained, they shall report the case for the orders of the Local Government.

(2) No person shall be detained in a Reformatory School after he has been found by the Local Government to have attained the age of eighteen years.

Discharge or removal by order of Government.

14. The Local Government may at any time order any youthful offender—

(*a*) to be discharged from a Reformatory School;

(*b*) to be removed from one Reformatory School to another such school situate within the territories subject to such Government: Provided that the whole period of his detention in a Reformatory School shall no be increased by such removal.

Power to Governor-General in Council to direct use of Reformatories in one province for reception of youthful offenders from another.

15. (1) The Governor-General in Council may by general or special order direct that any Reformatory School situated in one province shall be available for the reception of youthful offenders directed to be sent to any Reformatory School by any Court or Magistrate in any other province.

(2) Any such order may also provide for the removal of the youthful offender, and the cost of his maintenance, and may give any such further directions as may be necessary.

Certain orders not subject to appeal or revision.

16. Nothing contained in the Code of Criminal Procedure 1882, shall be construed to authorise any Court or Magistrate to alter or reverse in appeal or revision any order passed with respect to the age of a youthful offender or the substitution of an order for detention in a Reformatory School for transportation or imprisonment.

III.—Management of Reformatory Schools.

Appointment of Superintendent and Committee of Visitors or Board of Management.

17. (1) For the control and management of every Reformatory School, the Local Government shall appoint either (*a*) a Superintendent and a Committee of visitors, or (*b*) a Board a Management.

(2) Every Committee and every Board so appointed must consist of not less than five persons, of whom two at least shall be Natives of India.

(3) The Local Government may suspend or remove any Superintendent or any Member of a Committee or Board so appointed.

Superintendent may license youthful offenders to employers of labour.

18. (1) Every Superintendent so appointed may with the sanction of the Committee, by license under his hand permit any youthful offender sent to a Reformatory School, who has attained the age of fourteen years, to live under the

charge of any trustworthy and respectable person named in the license, or any officer of Government or of a Municipality, being an employer of labour, and willing to receive and take charge of him, on the condition that the employer shall keep such youthful offender employed at some trade, occupation, or calling.

(2) The license shall be in force for three months and no longer, but may, at any time and from time to time until the expiration of the period for which the youthful offender has been directed to be detained, be renewed for three months at a time.

Cancellation of license.

19. The license shall be cancelled at the desire of the employer named in the license.

Determination of license.

20. If during the term of the license the employer named therein dies, or ceases from business or to employ labour, or the period for which the youthful offender has been directed to be detained in the Reformatory School expires, the license shall thereupon cease and determine.

Cancellation of license in case of ill-treatment.

21. If it appears to the Superintendent that the employer has ill-treated the youthful offender, or has not adequately provided for his lodging and maintenance, the Superintendent may cancel the license.

Superintendent to be deemed guardian of youthful offenders.

22. (1) The Superintendent of a Reformatory School shall be deemed to be the guardian of every youthful offender detained in such school, within the meaning of Act No. XIX, of 1850 (*concerning the binding of apprentices*),

Powers to apprentice youthful offender.

(2) If it appears to the Superintendent that any youthful offender licensed under section 18 has behaved well during one or more period of his license, the Superintendent may, with the sanction of the Committee, apprentice him under the provisions of the said Act, and on such apprenticement the right to detain such youthful offender in a Reformatory School shall cease, and the unexpired term (if any) of his sentence shall be cancelled.

Duties of Committee of Visitors.

23. (1) Every Committee of Visitors appointed under section 17 for a Reformatory School shall, at least once in every month,—

(*a*) visit the school to hear complaints and see that the requirements of section 6 have been complied with, and that the management of the school is proper in all respects;

(*b*) examine the punishment-book;

(*c*) bring any special cases to the notice of the Inspector-General; and

(*d*) see that no person is illegally detained in the school.

(2) If any member of a Committee of Visitors so appointed fails or neglects, during a period of six consecutive months, to visit the school and assist in the discharge of the duties aforesaid, he shall cease to be a member of such Committee.

Powers of Board of Management.

24. If, in exercise of the power conferred by section 17, the Local Government appoints a Board of Management for any Reformatory School, such Board shall have the powers and perform the functions of the Superintendent under sections 18 to 22, both inclusive; and the license mentioned in section 18 may be under the hand of their chairman; and they shall be deemed to be the guardians of the youthful offenders detained in such school.

Power to appoint Trustees other Managers of a school to be a Board of Management.

25. The Local Government may declare any body of Trustees or Managers of a School, who are willing to act in conformity with the rules referred to in section 5, clause *b*, to be a Board of Management under this Act, and thereupon such body or Managers shall have all the powers and perform all the functions of such Board of Management.

Power of Board to make rules.

26. (1) With the previous sanction of the Local Government, every Board of management of a Reformatory School may from time to time make rules consistent with this Act—

(*i*) to prescribe the articles which are to be deemed to be "prohibited articles"; and

(*ii*) to regulate—

(*a*) the conduct of business of the Board;

(*b*) the management of the school;

(*c*) the education and industrial training of youthful offenders;

(*d*) visits to, and communication with, youthful offenders;

(*e*) the terms and conditions under which any articles declared by the Board to be "prohibited articles" may be introduced into or removed out of the school;

(*f*) the manner in which such articles are to be removed when introduced without due authority;

(*g*) the conditions and limitations under which such articles may be supplied outside the school to any youthful offender under order of detention therein;

(*h*) the conditions on which the possession by any such youthful offender of such articles may be sanctioned

(*i*) the penalties to be imposed for the supply or possession of such articles when supplied or possessed without due authority;

(*j*) the punishment of offences committed by youthful offenders; and

(*k*) the granting of licenses for the employment of youthful offenders.

(2) In the absence of a Board of Management the Local Government may make rules consistent with this Act to regulate for any Reformatory School the matters mentioned in any clause of sub-section 1, other than clause *ii* (*a*), and also the mode in which the Committee of Visitors shall conduct their business.

IV.—Offences in relation to Reformatory Schools.

Penalty for introduction or removal or supply of prohibited articles and communication with youthful offenders.

27. Whoever, contrary to any rule made under section 26, introduces or removes or or attempts by any means whatever to introduce or remove into or from any Reformatory School, or supplies or attempts to supply outside the limits of any Reformatory School to any youthful offender under order of detention therein, any prohibited article.

and every officer or person in charge of a Reformatory School who, contrary to any such rule, knowingly suffers any such article to be introduced into or removed from any Reformatory School, or to be possessed by any youthful offender detained therein, or to be supplied to any such youthful offender outside its limits,

and whoever, contrary to any such rule, communicates or attempts to communicate with any such youthful offender,

and whoever abets any offence made punishable under this section.

shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

Penalty for abetting escape of youthful offender.

28. Whoever abets an escape, or an attempt to escape, on the part of a youthful offender from a Reformatory School, or from the employer of such youthful offender, shall be punishable with imprisonment for a term which may extend to six months, or with fine not exceeding two hundred rupees, or with both.

Arrest to escaped youthful offender.

29. A police-officer may without orders from a Magistrate and without a warrant, arrest any youthful offender sent to a Reformatory School under this Act, who has escaped from such school or from his employer, and take him back to such school or to his employer,

V.—Miscellaneous.

30. [*Repealed by Act 3 of 1900*].

31. (1) Notwithstanding anything contained in this Act or any other enactment for the time being in force, any Court may, if it shall think fit, instead of sentencing any youthful offender to transportation or imprisonment or directing him to be detained in a Reformatory School, order him to be—

Power to deal in other ways with youthful offenders, including girls.

(*a*) discharged after due admonition, or

(*b*) delivered to his parent or to his guardian or nearest adult relative on such parent, guardian, or relative executing a bond, with or without sureties, as the Court may require, to be responsible for the good behaviour of the youthful offender for any period not exceeding twelve months.

(2) For the purposes of this section the term "youthful offender" shall include a girl.

(3) The powers conferred on the Court by this section shall be exercised only by Courts empowered by or under section 8.

(4) When any youthful offender is convicted by a Court not empowered to act under this section, and the Court is of opinon that the powers conferred by this section should be exercised in respect of such youthful offender, it may record such opinion, and submit the proceedings and forward the youthful offender to the District Magistrate to whom such Court is subordinate

(5) The District Magistrate to whom the proceedings are so submitted may thereupon make such order or pass such sentence as he might have made or passed if the case had originally been tried by him.

32. When a youthful offender during his period of detention in a Reformatory School is again convicted by a Criminal Court, the sentence of such Court shall commence at once, notwithstanding anything to the contrary in section 397 of the Code of Criminal Procedure, 1882, but the Court shall forthwith report the matter to the Local Government, which shall have power to deal with the matter in any way in which it thinks fit.

Procedure when youthful offender under detention in a Reformatory School is again convicted and sentenced.

ACT NO IX. OF 1897.

THE PROVIDENT FUNDS ACT, 1897.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 11th March 1897.

An Act to amend the law relating to Government and other Provident Funds.

WHEREAS it is expedient to amend the law relating to Government and other Provident Funds: It is hereby enacted as follows :—

Title, extent, and commencement.

1. (1) This Act may be called the Provident Funds Act, 1897.

(2) It extends to the whole of British India, including* British Baluchistan ;†

(3) It shall come into force at once.

Definitions.

2. In this Act—

(1) "Provident Fund" means a fund in which the subscriptions or deposits of any class or classes of employees are received and held on their individual accounts, and includes any contributions credited in respect of, and any interest accuring on, such subscriptions or deposits under the rules of the Fund :

(2) 'Government Provident Fund means a Provident Fund constituted by the authority of the Government for any class or classes of its employees or for teachers in educational institutions"‡

(3) "Railway Provident Fund" means a Provident Fund constituted by the authority of the Government of India or of any company which administers a railway or tramway in British India, either under a special Act of Parliament or under contract with the Secretary of State in Council or the Government of India, for any class or classes of the employees on, or in connection with, such railway or tramway : and

(4) "compulsory deposit" means a subscription or deposit which is not repayable on the demand, or at the option, of the subscriber or depositor and includes any contribution which may have been credited in respect of, and any interest or increment which may have accrued on, such subscription or deposit under the rules of the Fund.

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* Certain words after this repealed by Act 13 of 1898. have been omitted.

† The word "and" after this repealed by Act 10 of 1914. has been omitted.

‡ The words within quotations have been substituted by Act 14 of 1919.

Payment from Government or Railway Provident Fund on death of subscriber or depositor.

3. (1) When a subscriber to, or depositor in, any Government or Railway Provident Fund dies, and the sum standing to his credit in the books of the Fund does not exceed two thousand rupees, the officer or person whose duty it is to make payment of such sum may pay it as follows :—

(*a*) he may pay it to any person entitled to receive it according to the rules of the Fund or, in the absence of any rule of the Fund to the contrary, to any person nominated in writing by the deceased subscriber or depositor to receive it;

(*b*) in any case not hereinbefore provided for, he may pay it to any person appearing to him to be entitled to receive it.

(2) The provisions of sub-section 1 shall apply to any such sum which, at the commencement of this Act, stands to the credit of any subscriber or depositor already deceased.

(3) Nothing in this section shall affect the validity of the rules of any Fund in so far as such rules may provide for the disposal of sums exceeding two thousand rupees.

Protection to deposits and other sums in certain cases.

4.* (1) Compulsory deposits in any Government or Railway Provident Fund shall not be liable to any attachment under any decree or order of a Court of Justice in respect of any debt or liability incurred by a subscriber to, or depositor in, any such Fund, and neither the Official Assignee nor a Receiver appointed under Chapter XX. of the Code of Civil Procedure, shall be entitled to, or have any claim on, any such compulsory deposit.

(2) Any sum standing to the credit of any subscriber to or depositor in, any such Fund at the time of his decease and payable under the rules of the Fund or under this Act to the widow or the children, or partly to the widow and partly to the children, of the subscriber or depositor, or to such person as may be authorized by law to receive payment on her or their behalf, shall vest in the widow or the children, or partly in the widow and partly in the children, as the case may be, free from any debt or other liability incurred by the deceased, or incurred by the widow or by the children, or by any one or more of them, before the death or such subscriber or depositor.

(3) Nothing in sub-section (2) shall apply in the case of any such subscriber or depositor as aforesaid dying before the thirteenth day of March 1903.

* New section 4 has been substituted by Act 4 of 1913.

Protection for anything done in good faith under this Act.

5. No suit or other legal proceeding shall lie against any person in respect of anything done or in good faith intended to be done in pursuance of the provisions of this Act.

Power to extend Act to other Provident Funds.

6. "The Local Government"* may, in "its"* discretion, by notification in the official Gazette, extend the provisions of this Act to any Provident Fund established for the benefit of its employees by any local authority within the meaning of the Local Authorities Loan Act, 1879.

Saving as to estates of soldier.

7. Nothing in section 3 shall apply to money belonging to the estate of any European officer, non-commissioned officer, or soldier dying in Her Majesty's service in India, or of any European who at the time of his death was a deserter from such service.

ACT NO. X. OF 1897.†

The General Clauses Act, 1897.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received His Excellency's assent on the 11th March 1897.

An Act to consolidate and extend the General Clauses Acts, 1868 ‡ and 1887.‡

Whereas it is expedient to consolidate and extend the General Clauses Acts, 1868 ;‡ and 1887 ;‡ It is hereby enacted as follows:—

Preliminary.

Short title and commencement.

1. (1) This Act may be called the General Clauses Act, 1897 ;§

(2) It shall come into force at once.

2. [*Repealed by Act I. of* 1903.]

General Definitions.

Definitions.

3. In this Act, and in all Acts of the Governor-General in Council and Regulations made after the commencement of this Act, unless there is anything repugnant in the subject or context,—

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* The words within quotations have been substituted by Act 38 of 1920.

† For Statement of Objects and Reasons, see *Gazette of India*, 1897, Pt. V., p. 38; for Report of the Select Committee, see *ibid*, p. 77; and for Proceedings in Council, see *ibid*, Pt. VI. pp. 35, 40, 56, and 76.

Act X. of 1897 has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act (XIII. of 1898.)—See the Fifth Schedule.

‡ Acts I. of 1868 and 1. of 1887, respectively.

§ The word "and" has been repealed by Act X. of 1914.

"Abet." (1) "abet," with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code :

"Act." (2)* "act," used with reference to an offence or a civil wrong, shall include a series of acts, and words which refer to acts done extend also to illegal omissions :

"Affidavit." (3)† "affidavit" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing :

Assam Act. "(3 *a*)‡ 'Assam Act' shall mean an Act made by the Chief Commissioner of Assam in Council, under the Indian Councils Acts ; 1861 to 1909" "or the Government of India Act, 1915." §

"Barrister". (4)‖ "barrister" shall mean a barrister of Enland or Ireland, or a member of the Faculty of Advocates in Scotland :

Bengal Act. (5)¶ "Bengal Act" shall mean, in the case of Acts passed prior to the 1st April, 1912, an Act made by the Lieutenant Governor of Bengal in Council under the Indian Councils Act, 1861, or the Indian Councils Acts 1861 to 1909 and in the case of Acts passed after that date an Act made by the Governor of the Presidency of Fort William in Bengal in Council under the Indian Councils Acts, 1861 to 1909, "or the Government of India Act, 1915." §.

Bihar and Orissa Act. "(5*a*)** "Bihar and Orissa Act" shall mean an Act made by the Lieutenant Governor of Behar and Orissa in Council, under the Indian Councils Acts, 1861 to 1909" "or the Government of India Act, 1915." §.

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* Compare the Indian Penal Code (Act XLV. of 1860) and the Madras General Clauses Act (Mad. Act III of 1891.)

† Compare the definitions of "Oath" and "Swear" in sub-ss. (36) and (55), respectively, *infra*. As to affidavits in civil proceedings, see Ch. XVI. of the Code of Civil Procedure (Act V. of 1908) ; as to criminal proceedings, see Code of Criminal Procedure (Act V. of 1898.)

‡ Section 3A has been added by Act 10 of 1914.

§ The words within quotations have been added by Act 24 of 1917.

‖ Compare the Indian High Courts Act, 1861, (24 & 25 Vict., c. 104), s. 19.

¶ Section 5 has been substituted by Act 10 of 1914.

** The section 5A of has been added by Act 10 of 1914.

"Bombay Act." (6) "Bombay Act" shall mean an Act made by the Governor of Bombay in Council under "the Indian Councils Act, 1861, or" the Indian Councils Acts, 1861* and 1892* or the Indian CouncilsActs 1861 to 1909"† or the Government of India Act, 1915," ‡.

"British India." (7)§ "British India" shall mean all territories and places within Her Majesty's dominions which are for the time being governed by Her Majesty through the Governor-General of India or through any Governor or other officer subordinate to the Governor-General of India:

"British possession." (8)‖ "British possession" shall mean any part of Her Majesty's dominions, exclusive of the United Kingdom, and, where parts of those dominions are under both a central and a local legislature, all parts under the central legislature shall, for the purposes of this definition, be deemed to be one British possession:

"Burma Act." (8 *a*)¶ "Burma Act" shall mean an Act made by the Lieutenant-Governor of Burma in Council under the Indian Councils Acts, 1861 and 1892" "or the Indian Councils Acts, 1861 to 1909"† "or the Government of India Act, 1915" ‡.

"Central Provinces Act." (8*b*)** "Central Provinces Act" shall mean an Act made by the Chief Commissioner of the Central Provinces in Council under the Indian Councils Acts, 1861 to 1909,† "or the Government of India Act, 1915."‡

"Chapter." (9) "Chapter" shall mean a Chapter of the Act or Regulation in which the word occurs:

"Collector." (10)†† "Collector" shall mean, in a Presidency-town, the Collector of Calcutta, Madras, or Bombay, as the case may be, and elsewhere the chief officer in charge of the revenue administration of a district:

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* Stats 24 & 25 Vict, c. 14, respectively. The words quoted have been inserted by Act I. of 1903.

† The words within quotations have been added by Act 10 of 1914.

‡ The words within quotations have been added by Act 24 of 1917.

§ Compare the Interpretation Act, 1889 (52 & 55 Vict., c 63), s. 18 (4). For definition of "India" see *infra*, sub-s. (27).

‖ Compare the Interpretation Act, 1889 (52 & 53 Vict, c. 63), s. 18 (2).

¶ Clause (8*a*) has been added by Act I. of 1903.

** Added by Act X. of 1914.

†† Compare the Bombay General Clauses Act (Bom. Act III. of 1886), s. 3 (12), and the N. W. P. and Oudh General Clauses Act (N. W. P. and Oudh Act I. of 1887), s. 2 (12).

"Colony."

(11)* "Colony" shall mean any part of Her Majesty's dominions, exclusive of the British Islands and of British India, and, where parts of those dominons are under both a central and a local legislature, all parts under the central legislature shall, for the purposes of this definition, be deemed to be one colony :

"Commencement."

(12) "commencement,"† used with reference to an Act or Regulation, shall mean the day on which the Act or Regulation comes into force :

"Commissioner."

(13)‡ "Commissioner" shall mean the chief officer in charge of the revenue administration of a division :

"Consular officer."

(14)§ "consular officer" shall include consul-general, consul, vice-consul, consular agent, pro-consul, and any person for the time being authorized to perform the duties of consul-general, consul, vice-consul, or consular agent :

"District Judge."

(15)|| "District Judge" shall mean the Judge of a principal Civil Court of original Jurisdiction, but shall not include a High Court in the exercise of its ordinary or extraordinary original civil jurisdiction :

"Document."

(16)¶ "document" shall include any matter written, expressed, or described upon any substance by means of letters, figures, or marks or by more than one of those means, which is intended to be used, or which may be used, for the purpose of recording that matter :

** Eastern Bengal and Assam Act.]

**(16*a*) Eastern Bengal and Assam Act shall mean an Act made by theLieutenant Governor of Eastern Bengal and Assam in council under the Indian Councils Acts, 1861 and 1892 or the Indian Councils Act, 1861 to 1909."

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* Compare the Interpretation Act, 1889 (52 & 53 Vict., c. 63), s 18 (3).

† For rules determining when any given Act is to come into force, see s. 5, *infra*.

‡ Compare the N.-W. P. and Oudh General Clauses Act (N.-W. P. and Oudh Act 1. of 1887).

§ Compare the Consular Salaries and Fees Act, 1891 (54 & 55 Vict., c. 36), s. 3.

|| As to definition of "High Court," see sub-s (24), *infra*.

¶ Compare the Indian Evidence Act (I. of 1872). As to definition of "written," see sub-s (58), *infra*.

** The words within quotations have been added by Act 10 of 1914.

"Enactment." (17) "enactment" shall include a Regulation (as hereinafter defined) and any Regulation of the Bengal, Madras, or Bombay Code, and shall also include any provision contained in any Act or in any such Regulation as aforesaid :

"Father." (18) "father," in the case of any one whose personal law permits adoption, shall include an adoptive father :

'Financial year." (19)* "financial year" shall mean the year commencing on the first day of April :

"Good faith." (20)† A thing shall be deemed to be done in "good faith" where it is in fact done honestly, whether it is done negligently or not :

"Government." (21)‡ "Government" or "the Government" shall include the Local Government as well as the Government of India :

"Government of India." (22) "Government of India" shall mean the Governor-General in Council or, during the absence of the Governor General from his Council, the President in Council, or the Governor-General alone as regards the powers which may be lawfully exercised by them or him respectively :

"Her Majesty" or the "Queen." (23)§ "Her Majesty" or "the Queen" shall include her successors :

"High Court." (24) "High Court," used with referenee to civil proceedings, shall mean the highest Civil Court of appeal in the part of British India in which the Act or Regulation containing the expression operates

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* Compare the Inter pretation Act, 1889 (52 & 53 Vict., c. 63) s 29.

† Compare the Bills of Exchange Act, 1882 (45 & 46 Vict., c. 61), s. 90, and the Sale of Goods Act, 1893 (56 & 57 Vict, c 71), 62.

As to discussion in Council regarding definition of "good faith," see *Gazette of India*, 1897, Pt. VI , pp. 56 to 62 and 76 to 79.

‡ Compare the Code of Civil Procedure (Act XIV. of 1882), s 2. As to definition of Local Government, see sub-s (29), *infra*.

§ Compare the interpretation Act, 1889 (52 & 53 Vict., c. 63), s. 30), as to references to the reigning Sovereign.

As to Her Majesty's title as Empress of India, see the Royal Titles Act, 1876 (39 Vict., c. 10.)

"Immoveable property."

(25) "immoveable property" shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth : *

"Imprisonment."

(26) "imprisonment" shall mean imprisonment of either description as defined in the Indian Penal Code :

"India."

(27)† "India" shall mean British India, together with any territories of any Native Prince or Chief under the suzerainty of Her Majesty exercised through the Governor General of India, or through any Governor or other officer subordinate to the Governor-General of india :

"Local authority."

(28)‡ "local authority" shall mean a municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund :

"Local Government."

(29) "Local Government" shall mean the person authorized by law to administer executive Government in the part of British India in which the Act or Regulation containing the expression operates, and shall include a Chief Commissioner :

"Madras Act."

(30) "Madras Act" shall mean an Act made by the Governor of Fort St. George in Council under "the Indian Councils Act, 1861, or the Indian Councils Act, 1861§ or" the Indian Councils Act, 1861§ and 1892§ or the Indian Councils Acts, 1861 to 1909"|| "or the Government of India Act, 1915."¶

"Magistrate."

(31) "Magistrate" shall include every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure for the time being in force ;**

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* As to growing crops and timber so far as they are affected by the Indian Registration Act (XVI of 1908), see s. 3 of that Act.

† Compare the interpretation Act, 1889 (52 & 53 Vict., c. 63) s. 18 (5).

‡ Compare the Local Authorities Loan (XI. of 1879).

§ Stats. 24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14, respectively. The words quoted have been inserted by Act I of 1903.

|| The words within quotations have been added by Act 10 of 1914.

¶ The words within quotations have been added by Act 24 of 1917.

** The Code now in force is Act V of 1898.

(32)* "master" used with reference to a ship, shall mean any person (except a pilot or harbour-master) having for the time being control or charge of the ship ;

"Master" (of a ship).

"Month."

(33) "month" shall mean a month reckoned according to the British calender ;

"Moveable property".

(34) "moveable property" † shall mean property of every description, except immoveable property ;

"North-Nestern Provinces and Oudh Act."

(35) "North-Western Provinces and Oudh Act" shall mean an Act made by the Lieutenant-Governor of the North-Western Provinces and Oudh in Council under "the Indian Councils Act, 1861, or" the Indian Councils Acts, 1861 and 1892 ;

"Oath."

(36) "oath" shall include affirmation and declaration in the case of persons by-law allowed to affirm or declare instead of swearing :

"Offence."

(37) ‡ "offence" shall means any Act or omission made punishable by any law for the time being in force :

"Part."

(38) "Part" shall mean a Part of the Act or regulation in which the word occurs :

"Person."

(39) "person" shall include any company or association or body of individuals, whether incorporated or not :

"Political Agent."

(40)§ "Political Agent" shall include—

(*a*) the principal officer representing the Government in any territory or place beyond the limits of British India, and

(*b*) any officer of the Government of India or of any Local Government appointed by the Government of India or the Local Government to exercise all or any of the powers of a Political Agent for any place not forming part of British India under the law for the time being in force relating to foreign jurisdiction and extradition :

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* See s. 742 of the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60).

† For a comprehensive definition of the word "property," see s. 168 of the Bankruptcy Act, 1883 (46 and 47 Vict, c. 52).

‡ See a similar definition in s. 4 (o) of the Code of Criminal Procedure (Act V. of 1898).

§ See s. 3 of the Foreign Jurisdiction and Extradition Act (XXI of 1879).

(41)* "Presidency-town" shall mean the local limits for the time beingof the ordinary original civil jurisdiction of the High Court of Judicature at Fort William, Madras, or Bombay, as the case may be:

"Presidency-town."

(42)† "Privy Council" shall mean the Lords and others for the time being of Her Majesty's Most Honourable Privy Council:

"Privy Council."

(43)‡ "Province" shall mean the territories for the time being administered by any Local Government:

"Province."

(44)§ "Public nuisance" shall mean a public nuisance as defined in the Indian Penal Code:

"Public nuisance"

(44*a*) "Punjab Act" shall mean an Act made by the Lieutenant-Governor of the Punjab in Council under the Indian Councils Acts, 1861 and 1892: "or the Indian Councils Acts, 1861 to 1909" "or the Government of India Act, 1915."

"Punjab Act"

(45)¶ "registered," used with reference to a document, shall mean registered in British India under the law for the time being in force for the registration of documents:

"Registered."

(46) "Regulation" shall mean a Regulation made under the Government of India Act, 1870:** "or the Government of India Act, 1915"

"Regulation."

(47) "rule" shall mean a rule made in exercise of a power conferred by any enactment, and shall include a regulation made as a rule under any enactment:††

"Rule."

(48) "schedule" shall mean a schedule to the Act or Regulation in which the word occurs:

"Schedule."

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* See s. 4 (*h*) of the repealed Code of Criminal Procedure (Act X. of 1882), and compare s. 3 (25) of the Madras General Clauses Act (Mad. Act I of 1891).

† Compare s. 12 (5) of the Interpretation Act, 1889 (52 & 53 Vict. c. 63).

‡ Compare s. 4 (*g*) of the repealed Code of Criminal Procedure (Act, X of 1882).

§ As to procedure in the case of public nuisances, see the Code of Criminal Procedure (Act V. of 1898), Ch. X.

|| Cl. (44*a*) has been inserted by Act I of 1903,

¶ Compare the Madras General Clauses Act (Mad. Act I. of 1891). s. 3. (*11*) As to the law now in force, see the Indian Registration Act (XVI of 1908).

** Stat. 33 Vict., c 3,

†† The provisions of ss. 20 to 24, *infra*. apply to rules defined in this sub section.

Schedule District.

49. "Schedule District" shall mean a "Scheduled District" as defined in the Scheduled Districts Act, 1874 :*

"Section."

(50) "section" shall mean a section of the Act or Regulation in which the word occurs :

"Ship."

(51)† "ship" shall include every description of vessel used in navigation not exclusively propelled by oars :

"Sign."

(52)‡ "sign," with its grammatical variations and cognate expressions shall, with reference to a person who is unable to write his name, include "mark" with its grammatical variations and cognate expressions :

"Son."

(53) "son," in the case of any one whose personal law permits adoption, shall include an adopted son :

"Sub-section."

(34) "sub-section" shall mean a sub-section of the section in which the word occurs :

"Swear."

(55)§ "swear", with its grammatical variations and cognate expressions, shall including affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing :

"United Provinces Act.

(55*a*) "United Provinces Act" shall mean an Act made by the Lieutenant Governor of the North-Western Provinces and Oudh (or of the United Provinces of Agra and Oudh) in Council under the Indian Coucils Act, 1861, or the Indian Councils Acts, 1861 and 1892 : or the India Councils Act, 1861 to 1909"‖ "or the Government of India Act 1915".¶

"Vessel."

(56)** "vessel" shall include any ship or boat or any other description of vessel used in navigation :

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* Act XIV. 1874.

† Compare s. 742 of the Merchant Shipping Act, 1894 (57 & 58 Vict , c. 60).

‡ See also definition of "writing" in sub-s. (58), *infra*.

§ See also definition of "affidavit" and "oath" *supra*, sub-ss. (3) and (36) respectively ; and as to oaths, see the Indian Oaths Act (XI of 1873).

‖ The words within quotations have been added by Act 10 of 1914.

¶ The words within quotations has been added by Act 24 of 1917.

** Compare s. 752 of the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), This definition supplements the definition of ship in sub-s. (51), *supra*. See also definition of vessel in s 48 of the Indian Penal Code.

"Will." (57)* "will" shall include a codicil and every writing making a voluntary posthumous disposition of property :

"Writing." (58)† expressions referring to "writing" shall be construed as including references to printing lithography, photography, and other modes of representing or reproducing words in a visible form : and

"Year." (59)‡ "year" shall mean a year reckoned according to the British calendar.

Application of foregoing definitions to previous enactments

4. (1) The definitions in section 3 of the following words and expressions," that is to say, "affidavit," "barrister," "British India," "District Judge" "father," "Government of India," "Her Majesty," or "the Queen," "High Court," "immoveable property," "imprisonment," "Local Government," "Magistrate," "month" "moveable property," "oath," "person," "section," "son," "swear," "will," and "year," apply also, unless there is anything repugnant in the subject or context, to all Acts of the Governor-General in Council made after the third day of January 1868, and to all Regulations made on or after the fourteenth day of January 1887.

(2) The definitions in the said section of the following words and expressions, that is to say, "abet," "chapter," "commencement," "financial year," "local authority," "master" "offence," "Part," "public nuisance," "registered," "schedule," "ship," "sign," "sub-section," and "writing," apply also, unless there is anything repugnant in the subject or context, to all Acts of the Govenor-General in Council and Regulations made on or after the fourteenth day of January 1887.

General Rules of Construction.

Coming into operation of enatment.

5. (1) Where any Act of the Governor-General in Council is not expressed to come into operation on a particular day, then it shall come into operation on the day on which it receives the assent of the Governor-General.

(2)|| Where any Act of the Governor General in council is reserved, under section 68 of the Government of India Act, 1915 for the signification of His Majestys' pleasure thereon, then, if

* See the definition of "will" in s. 3 of the Indian Succession Act (X. of 1865.)

† Compare s. 20 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63).

‡ As to "financial year," see sub-s. (10) *supra*.

§ The words within quotations have been inserted by Act 10 of 1910.

|| Sub-section 2 of section 5 has been substituted by Act 24 of 1917.

no later date is expressed, it shall come into operation, if assented to by His Majesty on the day on which that assent is only notified.

(3)* Unless the contrary is expressed, an Act of the Governor-General in Council or Regulation shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.

Effect of repeal.

6.† Where this Act, or any Act of the Governor-General in Council or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not—

(*a*) revive anything not in force or existing at the time at which the repeal takes effect ; or

(*b*) affect the previous operation of any enactment so repealed, or anything duly done or suffered thereunder ; or

(*c*) affect any right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment so repealed ; or

(*d*) affect any penalty forfeiture, or punishment incurred in respect of any offence committed against any enactment so repealed ; or

(*e*) affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid ;

and any such investigation, legal proceeding, or remedy may be instituted, continued, or enforced, and any such penalty, forfeiture, or punishment may be imposed as if the repealing Act or Regulation had not been passed.

Revival of repealed enactments.

7.‡ (1) In any Act of the Governor-General in Council or Regulation, made after the commencement of this Act, it shall be necessary, for the purpose of reviving, either wholly or partially, any enactment wholly or partially repealed, expressly to state that purpose.

(2)This section applies also to all Acts of the Governor-General in Council made after the third day of January 1868, and to all Regulations made on or after the fourteenth day of January 1887.

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* Compare s. 56 (2) of the Interpretation Act, 1889 (52 & 53 Vict., c 63), As to Power to make rules between the passing and commencement of an Act which does not come into force at once, see s. 22, *infra*,

† Compare s. 38 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63).

‡ Compare s. 11 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63).

Construction of references to repealed enactments.

8.* (1) Where this Act, or any Act of the Governor-General in Council or regulation made after the commencement of this Act, repeals and re-enacts, with or without modification, any provision of a former enactment, then references in any other enactment, or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re-enacted.

"(2) Where any Act of Parliament repeals and re-enacts, with and without modification, any provision of a former enactment, then references in any Act of the Governor-General in Council or in any regulation or instrument to the provision so repealed shall, unless a different intention appear be construed as references to the provision so re-enacted."†

Commencement and termination of time.

9 (1). In any Act of the Governor-General in Council or Regulation made after the commencement of this Act, it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time, to use the word "from," and, for the purpose of including the last in a series of days or any other period of time, to use the word "to."

(2) This section applies also to all Acts of the Governor-General in Council made after the third day of January 1868, and to all Regulations made on or after the fourteenth day of January 1887.

Computation of time.

10‡ (1) Where, by any Act of the Governor-General in Council or Regulation made after the commencement of this Act, any act or proceeding is directed or allowed to be done or taken in any Court or office on a certain day or within a prescribed period, then, if the Court or office is closed on that day or the last of day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open:

Provide that nothing in this section shall apply to any act or proceeding to which the Indian Limitation Act, 1877, applies.

(2) This section applies also to all Acts of the Governor-General in Council and Regulations made on or after the fourteenth day of January 1887.

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* Compare s. 38 (1) of the Interpretation Act, 1889 (52 & 53 Vict., c. 63); see a similar provision in s. 3 of the Code of Criminal Procedure (Act V. of 1898).

† The words within quotations have been added by Act 18 of 1919.

‡ See the Madras General Clauses Act (Mad. Act 1. of 1891), s. 11.

Measurement of distances.

11.* In the measurement of any distance, for the purposes of any Act of the Governor-General in Council or Regulation made after the commencement of this Act, that distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane.

Duty to be taken *pro rata* in enactment.

12. Where, by any enactment † now in force or hereafter to be in force, any duty of customs or excise, or in the nature thereof, is leviable on any given quantity, by weight, measure, or value of any goods or merchandise, then a like duty is leviable according to the same rate on any greater or less quantity.

Gender and number.

13. In all Acts of the Governor-General in Council and Regulations, unless there is anything repugnant in the subject or context,—

(1) words importing the masculine gender shall be taken to include females; and

(2) words in the singular shall include the plural, and *vice versa.*

References to the sovereign.

13A. In all Acts of the Governor-General in Council and Regulations, references to the sovereign or to the crown shall, unless a different intention appears be construed as references to the sovereign for the time being."‡

Powers and Functionaries.

Powers conferred on the Government to be exerciseable from time to time.

14. (1) Where, by any Act of the Governor-General in Council or Regulation made after the commencement of this Act, any power is conferred then "unless a different intention appears."† that power may be exercised from time to time as occasion requires.

(2) This section applies also to all Acts of the Governor-General in Council and Regulations made on or after the fourteenth day of January, 1887.

Power to appoint to include power to appoint *ex-officio.*

15. Where, by any Aat of the Govenor-General in Council or Regulation, a power to appoint any person to fill any office or execute any function is conferred, then, unless it is otherwise expressly provided, any such appointment, if it is made after the commencement of this Act, may be made either by name or by virtue of office.§

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* Compare s. 34 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63).

† As to definition "enactmdnt," see s. 3, sub-s. (17) *supra.*

‡ The words within quotations have beon inserted by Act 18 of 1919.

§ See similar provision in s. 39 of the Code of Criminal Procedure (Act V. of 1898).

Power to appoint include power to suspend or dismiss.

16. Where, by any Act of the Governor-General in Council or Regulation, a power to make any appointment is conferred, then, unless a different intention appears, the authority having power to make the appointment shall also have power to suspend or dismiss any person appointed by it in exercise of that power.*

Substitution of functionaries.

17. (1) In any Act of the Governor-General in Council or Regulation made after the commencement of this Act, it shall be sufficient, for the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions, or that of the officer by whom the functions are commonly executed.

(2) This section applies also to all Acts of the Governor-General in Council made after the third day of January 1868, and to all Regulations made on or after the fourteenth day of January 1887.

Successors.

18 (1) In any Act of the Governor-General in Council or Regulation made after the commencement of this Act, it shall be sufficient, for the purpose of indicating the relation of a law to the suceessors or any functionaries or of corporations having perpetual succession, to express its relation to the functionaries or corporations.

(2) This section applies also to all Acts of the Governor-General in Council made after the third day of January 1868, and to all Regulations made on or after the fourteenth day of January 1887.

Official chiefs and subordinates.

19. (1) In any Act of the Governor-General in Council or Regulaion made after the commencement of this Act, it shall be sufficient, for the purpose of expressing that a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully performing the duties of that office in the place of their superior, to prescribe the duty of the superior.

(2) This section applies also to all Acts of the Governor-General in Council made after the third day of January 1868, and to all Regulations made on or after the fourteenth day of January 1887.

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* See as to this provision the Statement of Object and Reasons, quoted *supra*,

Provisions as to Orders, Rules, etc., made under Enactments.

Construction of notification, orders, etc., issued under enactments.

20.* Where, by any Act of the Governor-General in Council or Regulation, a power to issue any "notifications,"† order, scheme, rule, form, or bye-law, is conferred, then expressions used in the "notification"† order, scheme, rule, form, or bye-law, if it is made after the commencement of this Act, shall, unless there is anything repugnant in the subject or context, have the same respective meanings as in the Act or Regulation conferring the power.

Power to make to include power to add to, amend, vary, or rescind, orders, rules or bye-laws.

21.‡ Where, by any Act of the Governor-General in Council or Regulation, a power to "issue notifications,"§ orders, rules, or bye-laws, is conferred, then that power includes a power, exerciseable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary, or rescind any "notifications,"† orders rules or bye-laws so "substituted."§

Making of rules or bye-laws, and issuing of orders between passing and commencement of enactment.

22‖ Where, by any Act of the Governor-General in Council or Regulation which is not to come into force immediately on the passing thereof, a power is conferred to make rules or byelaws, or to issue orders with respect to the application of the Act or Regulation, or with respect to the establishment of any Court or office, or the appointment of any Judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which, or the fees for which, anything is to be done under the Act or Regulation, then that power may be exercised at any time after the passing of the Act or Regulation; but rules, bye laws, or orders so made or issued, shall not take effect till the commencement of the Act or Regulation.

Provisions applicable to making of rules or bye-laws after previous publication.

23. Where, by any Act of the Governor-General in Council or Regulation, a power to make rules or bye-laws is expressed to be given subject to the condition of the rules or bye laws being made after previous publication, then the following provisions shall apply, namely :—

(1) the authority having power to make the rules or bye-laws shall, before making them, publish a draft of the

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* Compare s. 31 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63), and s. 60 of the Madras General Clauses Act (Mad. Act. I of 1891).

† Inserted by Act I. of 1903.

‡ Compare s. 32 (3) of the Interpretation Act. 1889 (52 & 53. Vict., c. 63).

§ These words were substituted by Act I. of 1903.

‖ Compare s 37 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63).

proposed rules or bye-laws for the information of persons likely to be affected thereby;

(2) the publication shall be made in such manner as that authority deems to be sufficient, or if the condition with respect to previous publication so requires, in such manner as the Governor-General in Council or the Local Government prescribes;

(3) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration;

(4) the authority having power to make the rules or bye laws and where the rules or bye laws are to be made with, the sanction, approval, or concurrence of another authority, that authority also shall consider any objection or suggestion which may be received by the authority having power to make the rules or bye-laws from any person with respect to the draft before the date so specified;

(5) the publication in the Gazette of a rule or bye-law purporting to have been made in exercise of a power to make rules or bye-laws after previous publication shall be conclusive proof that the rule or bye-law has been duly made.

Continuation of "appointment, notification" orders, etc., issued under enactments repealed and re-enacted.

24.* Where any Act of the Governor-General, in Council or Regulation is, after the commencement of this Act, repealed and re-enacted with or without modification, then, unless it is otherwise expressly provided, any "appointment, notification"† order, scheme, rule, form, or bye-law issued "made or"† under the repealed Act or Regulation, shall, so far as it is not inconsistent with the provisions re-enacted, continue in force, and be deemed to have been issued "made or"† under the provisions so re enacted, unless and until it is superseded by any "appointment, notification"† order, scheme, rule, form, or bye-law issued under the provisions so re-enacted;

and when any Act of the Governor-General in Council or Regulation, which, by a notification under section 5 or 5A of the Scheduled Districts Act, 1874,‡ or any like law, has been extended to any local area, has by a subsequent notification, has been withdrawn from and re-extended to such area or any part thereof,

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* Compare s. 18 of the Madras General Clauses Act (Mad. Act I. of 1891). Similar provisions occur frequently in Indian Acts, see *e. g.*, s. 2 of the Foreign Jurisdiction and Extradition Act (XXI. of 1879.

† Inserted by Act I. of 1903

‡ Act XIV. of 1874.

the provisions of such Act or Regulation shall be deemed to have been repealed and re-enacted in such area or part within the meaning of this section.*

Miscellaneous.

Recovery of fines

25. Sections 63 to 70 of the Indian Penal Code, and the provisions of the Code of Criminal Procedure † for the time being in force in relation to the issue and the execution of warrants for the levy of fines, shall apply to all fines imposed under any Act, Regulation, rule or bye law, unless the Act, Regulation, rule. or bye-law contains an express provision to the contrary.

Provision as to offences punishable under two or more enactment.

26. Where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence ‡

Meaning of service by post.

27 § Where any Act of the Governor-General in Council or Regulation made after the commencement of his Act authorizes or requires any document to be served by post, whether the expression " serve," or either of the expressions " give " or " send," or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, prepaying, and posting, by registered post, a letter containing the document, and, unless the contrary is proved to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Citation of enactments.

28 || (1) in any Act of the Governor-General in Council or Regulation, and in any rule. bye-law, instrument or document made under, or with reference to, any such Act or Regulation, any enactment may be cited by reference to the title or short title (if any) conferred thereon, or by reference to the number and year thereof, and any provision in an enactment may be cited by reference to the section or sub section of the enactment in which the provision is contained

(2) In this Act and in any Act of the Governor-General in Council or Regulation made after the commencement of this Act, a description or citation of a portion of another enactment shall,

* Added by Act XVII. of 1914.

† See now s. 386 *et seq.* of the Code of Criminal Procedure (Act V. of 1898)

‡ As to definition of " offence " see *supra*, sub-s. (37).

§ Compare s. 26 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63).

|| Compare s. 35 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63) Short titles have been conferred on the unrepealed General Acts of the Governor-General in Council which had previously no short titles. See the Indian Short Titles Act (XIV. of 1897).

unless a different intention appears, be construed as including the word, section, or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

Saving for previous enactments.

29.* The provisions of this Act respecting the construction of of the Acts, Regulations, rules, or bye-laws made after the commencement of this Act, shall not affect the construction of any Act, Regulation, rule, or bye law made before the commencement of this Act, although the Act, Regulation, rule, or bye-law is continued or amended by an Act Regulation, rule, or bye-law made after the commencement of this Act.

Application of Act to Ordinances.

30.† In this Act the expression "Act of the Governor General in Council, wherever it occurs, except in section 5, and the word "Act" in clause (9), (12), (38), (48), and (50) of section 3 and in section 25 shall be deemed to include an ordinance made and promulgated by the Governor-General under section 23 of the Indian Councils Act 1861.‡ "or section 72 of the Government or India Act, 1915 "§

Application of Act to Acts made by the Governor-General.

30A‖ In this Act the expression "Act of the Governor General in Council" wherever it occurs, except in section 5, shall be deemed to include an Act made by the Governor-General under section 67B of the Government of India Act.

Construction of references to Local Government of a Province.

31.¶ In any enactment made by any authority in British India before the date on which section 3 of the Government of India Act, 1919, comes into operation, and in any rule, order, notification, scheme, bye law or other document made under or with reference to any such enactment, any reference by whatever form of words to an authority authorized by law, at the time the enactment was made, to administer executive Government in any part of British India shall, where a corresponding new authority has been constituted by the Government of India Act 1919, be construed for all purposes, after the above mentioned date, as a reference to such new authority."

THE SCHEDULE.

[Repealed by Act I. of 1903.

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*Compare s. 10 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63).
† Added by Act XVII. of 1914.
‡ 24 & 25 Vict., c. 67.
§ The words within quotations have been added by Act 24 of 1917.
‖ Section 30A has been added by Act II of 1923.
¶ Section 31 has been added by Act 31 of 1920.

ACT NO. XIV. OF 1897.

The Indian Short Titles Act, 1897.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 22nd July 1897.

An Act to facilitate the citation of certain Acts.

WHEREAS it is expedient to facilitate the citation of certain Acts; It is hereby enacted as follows:—

Title and commencement.

1. (1) This Act may be called the Indian Short Titles Act, 1897;*

(2) It shall come into force at once.

Citation of Acts described in schedule.

2. Each of the Acts described in the first three columns of the schedule may, without prejudice to any other mode of citation, be cited for all purposes by the short title mentioned in that behalf in the fourth column thereof.

THE SCHEDULE.

Already incorporated in different Acts.

ACT NO. XVI OF 1897.

The Oudh Courts Act (1891) Amendment Act, 1897.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 14th January 1897.

An Act to amend the Oudh Courts Act, 1891.

WHEREAS it is expedient to amend the Oudh Courts Act, 1891;† It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Oudh Courts Act (1891) Amendment Act, 1897; and

(2) It shall come into force at once.

Amendment of section 4, Act XIV, 1891.

2. (1) In section 4 of the Oudh Courts Act, 1891† (hereinafter referred to as "the said Act"), after sub-section 1 the following sub-section shall be inserted, namely:

* Here the word "and" has been repealed by Act X of 1914.

† Act XIV. of 1891.

"(2) The Local Government, with the like sanction and in the like manner, may also appoint such penson as it thinks fit to be Second Additional Judicial Commissioner, and to exercise jurisdiction, as such Second Additional Judicial Commissioner, in the said Court."

(2) Sub-section 2 of the same section shall be re-numbered as sub-section 3.

Substitution of new section for section 5, Act XIV., 1891.

3. For section 5 of the said Act the following section shall be substituted, namely:

"5. (1) Subject to the other provisions of this Act, an Additional Judicial Commissioner shall exercise the same jurisdiction as the Judicial Commissioner may exercise under any enactment for the time being in force, but only in such cases as the Judicial Commissioner may direct.

Jurisdiction of Additional Judicial Commissioner and distribution of business.

"(2) The Judicial Commissioner may, from time to time, transfer any case with respect to which he may have directed an Additional Judicial Commissioner to exercise jurisdiction and of which the hearing before such Additional Judicial Commissioner has not commenced, for hearing and disposal to his own file or to the file of the other Additional Judicial Commissioner (if any).

("3) Where this Act or any other enactment for the time being in force requires a case to be heard by a bench of two Judges of the Court of the Judicial Commissioner of Oudh and that Court for the time being consists of three Judges, the Judicial Commissioner shall, from time to ti ne, determine what two Judges shall constitute such bench"

4. In section 6 of the said Act, for the word "the," where it occurs before the words "Additional Judicial Commissioner," the word "an" shall be substituted.

Amendment of section 6, Act XIV., 1891.

5. In section 7 of the said Act, sub-section 1 is repealed, and, in sub section 2, for the first fourteen words the following shall be substituted, namely:

Amendment of section 7, Act XIV., 1891.

"If the Court of the JudicialCommissioner of O udh for the time being consists of only two Judges and any such case as is referred to in section 377 of the Code of Criminal Procedure, 1882."*

6. In section 8 of the said Act, for the word "the," where it first occurs before the words "Additional Judicial Commissioner," the word "an" shall be substituted, and for the words "the Judicial Commissioner and the Additional Judicial Commissioner

Amendment of section 8, Act XIV., 1891.

* Act X. of 1882.

sitting together" the words "a bench consisting of two Judges of the Court of the Judicial Commissioner of Oudh" shall be substituted.

Amendment of section 9, Act XIV., 1891

7. In section 9 of the said Act, for the word "Whenever" the following shall be substituted, namely:

"If the Court of the Judicial Commissioner of Oudh for the time being consists of only two Judges and."

Addition of new section after section 11, Act XIV, 1891.

8. After section 11 of the said Act, the following section shall be added, namely:

Power to make rules as to judgments, evidence and affidavits

12. The Judicial Commissioner may, from time to time, with the previous sanction of the Local Government, by notification in the official Gazette, make rules to provide for—

(1) the recording of judgments, orders and sentences;

(2) the taking down of the evidence of witnesses; and

(3) the admission of affidavits as evidence of the matters to which such affidavits relate:

and the Court of the Judicial Commissioner of Oudh shall, on the publication, of any such rules, be bound thereby instead of by such parts of the Code of Criminal Procedure, 1882,* and the Code of Civil Procedure, as relate to the mode of recording judgments, orders and sentences and of taking down the evidence of witnesses, and may, in accordance with such rules permit the admission of affidavits as evidence of the matters aforesaid."

Repeal of certain other parts of Act XIV., 1891.

9. (1) In section 1 of the said Act, the words and figures "and (3) It shall come into force on the first day of April 1891," are repealed.

(2) Section 2 and sub-sections 1 and 2 of section 11 of the said Act are repealed.

* Act XIV. of 1882, but now see Act V of 1898.

ACT NO. I. OF 1898.

The Stage-Carriages Act (1861) Amendment Act 1898.

Received the assent of the Governor-General on the 21st January 1898.

An Act to Amend the Stage-Carriages Act, 1861.

WHEREAS it is expedient to amend the Stage-Carriages Act, 1861 ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Stage-Carriages Act (1861) Amendment Act, 1898.

2. [*Section 2 has been repealed by Act X. of* 1914.]

Substitution of new paragraph in section 4, Act XVI., 1861.

3. The first paragraph of section 4 of the Stage-Carriages Act, 1861, is hereby repealed, and the following paragraph is substituted therefor, namely :—

"For every such license there shall be paid by the proprietor of the stage-carriage the sum of five rupees or such less sum as the Local Government may fix, and such license shall be in force for one year from the date thereof."

Addition of new section after section 20, Act XVI., 1861.

4. After section 20 of the said Act the following section shall be added, namely :—

"20A. (1) The Local Government may, by notification in the official Gazette, make rules to carry out the purposes and objects of this Act in the territories under its administration or any part of the said territories.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power such rules may—

(*a*) prescribe forms for licenses under this Act, the sums payable for the same, and the conditions on which they may be granted, and the cases in which they may be revoked ;

(*b*) provide for the inspection of stage-carriages, and of the animals employed in drawing them ; and

(*c*) regulate the number and length of the stages for which animals may be driven in stage-carriages, and the manner in which they shall be harnessed and yoked.

(3) In making any rule under this section the Local Government may direct that a breach thereof shall be punishable with fine which may extend to one hundred rupees."

Addition of sections after section 21, Act XVI., 1861.

5. After section 21 of the said Act the following section shall be added, namely :—

Extent of Act.

"22. This Act, as amended by subsequent Acts, extends to to the whole of British India ; but it shall not apply to carriages ordinarily plying for hire within the limits of any municipality or cantonment or other place in which any law for the regulation of carriages is for the time being in force.

Power to Local Government to exempt.

"23. The Local Government may, by notification in the official Gazette, exempt any carriages or class of carriages from all or any of the provisions of this Act.

ACT NO. III. OF 1898.

The Lepers Act, 1898.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNIL.

Received the assent of the Governor-General on the 4th February 1898.

An Act to provide for the segregation and medical treatment of pauper lepers and the control of lepers following certain callings.

WHEREAS it is expedient to provide for the segregation and medical treatment of pauper lepers and the control of lepers following certain callings ; It is hereby enacted as follows :—

Title, extent, and commencement.

1. (1) This Act may be called the Lepers Act, 1898.

(2) It extends to the whole of British India, inclusive of* British Baluchistan, the Santal Parganas and the Pargana of Spiti ; but

(3) It shall not come into force in any part thereof until the Local Government, as hereinafter provided, has declared it applicable thereto.

(4) The Local Government may, by, notification in the official Gazette, apply this Act or any part thereof to the whole or any portion of the territories for the time being under its administration.†

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* Certain words after this repeald by Act 13 of 1898 have been omitted

† Certain words after this repeald Act 22 of 1920 have been omitted.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context;—

(1) "leper" means any person suffering from any variety of leprosy*

(2) "pauper leper" means a leper—

(*a*) who publicly solicits alms or exposes or exhibits any sores, wounds bodily ailment or deformity with the object of exciting charity or of obtaining alms, or

(*b*) who is at large without any ostensible means of subsistence;

(3) "leper asylum" means a leper asylum appointed under section 3;

(4) "Board" means a Board constituted under section 5; and

(5) "District Magistrate" includes a Chief Presidency Magistrate.

Appointment of leper asylums by Local Goverment.

3. "The local Government may, by notification in the official Gazette, appoint any place to be a leper asylum if it is sastisfied that adequate arrangements have been made or will be made for the accommodation and medical treatment of leper therein and may, by a like notification specify the local areas from which lepers may be sent to such asylum"†

Appointment of Inspectors of Lepers and Superintendents of Asylums.

4. Subject to any rules which may be made under section 16, the Local Government may appoint any Medical Officer of the Government or other qualified medical man to be an Inspector of Lepers, and any person to be a Superintendent of a Leper Asylum, with such establishment as may in its opinion, be necessary, and every Inspector or Superintendent so appointed shall be deemed to be a public servant.

Constitution of Board.

5. The Local Government shall constitute for every leper asylum appointed under section 3 a Board consisting of not less than three members, one of whom at least shall be a Medical Officer of the Government.

Arrest of pauper lepers.

6 (1) Within any local area which has been specified under section 3 any police-officer "or any other person specially empowered by the Local Government by order in writing in this behalf"* may arrest without a warrant any person who appears to him to be a pauper leper.

(2) Such police-officer "or other person"* shall forthwith take or send the person so arrested to the nearest convenient police-station.

* The words within quotations have been in serted by Act 22 of 1920

† Section 3 has been substituted by Act 22 of 1920.

Person arrested how to be dealt with.

7. Every person brought to a police-station under the last foregoing section shall, without unnecessary delay, be taken before an Inspector of Lepers, who,—

(*a*) if he finds that such person is not a leper within the meaning of section 2, shall give him a certificate in Form A set forth in the schedule, whereupon such person shall be forthwith released from arrest;

(*b*) if he finds that such person is a leper within the meaning of section 2, shall give to the police-officer, in whose custody the leper is, a certificate in Form B set forth in the schedule, whereupon the leper shall, without unnecessary delay, be taken before a Magistrate having jurisdiction under this Act.

Procedure with regard to pauper lepers.

8. (1) If it appears to any Presidency Magistrate or Magistrate of the first class or to any other Magistrate authorised in this behalf by the Local Government, upon the certificate in Form B set forth in the schedule, that any person is a leper, and if it further appears to the Magistrate that the person is a pauper leper he may, after recording the evidence on the above-mentione points, and his order thereon, send the pauper leper in charge of a police-officer, together with an order in Form C set forth in the schedule, to a leper asylum, where such leper shall be detained: until discharged by order of the Board or the District Magistrate.

Provided that, if the person denies the allegation of leprosy, the Magistrate shall call and examine the Inspector of Lepers, and shall take such further evidence as may be necessary to support or to rebut the allegation that the person is a leper, and may for this purpose adjourn the enquiry from time to time, remanding the person for observation or for other reason to such place as may be convenient, or admitting him to bail:

Provided also that if any friend or relative of any person found to be a pauper leper shall undertake in writing to the satisfaction of the Magistrate that such pauper leper shall be properly taken care of and shall be prevented from publicly begging in any area specified under section 3, the Magistrate, instead of sending the leper to an asylum, may make the leper over to the care of such friend or relative, requiring him, if he thinks fit, to enter into a bond with one or more sureties, to which the provisions of section 514 of the Code of Criminal Procedure* shall be applicable.

(2) If the Magistrate finds that such person is not a leper, or that, if a leper, he is not a pauper leper, he shall forthwith discharge him.

*Act X. of 1882.

Powers to prohibit lepers from following certain trades and doing certain acts.

9. (1) The Local Government may, by notification in the official Gazette, order that no leper shall, within any area specified under section 3,—

(*a*) personally prepare for sale or sell any article of food or drink or any drugs or clothing intended for human use; or

(*b*) bathe, wash clothes or take water from any public well or tank debarred by any municipal or local bye-law from use by lepers; or

(*c*) drive, conduct or ride in any public carriage plying for hire other than a railway carriage; or

(*d*) exercise any trade or calling which may by such notification be prohibited to lepers.

(2) Any such notification may comprise all or any of the above prohibitions.

(3) Whoever disobeys any order made pursuant to the powers conferred by this section shall be punishable with fine which may extend to twenty rupees:

Provided that when any person is accused of an offence under this section, the Magistrate before whom he is accused shall cause him to be examined by an Inspector of Lepers, and shall not proceed with the case unless such Inspector furnishes a cartificate, in Form B set forth in the schedule, in respect of such person.

Conviction after previous conviction.

10. (1) Whenever any leper who has been convicted of an offence punishable under the last foregoing section is again convicted of any offence punishable under that section, the Magistrate may, in addition to, or in lieu of, any punishment to which such leper may be liable, require him to enter into a bond, with one or more sureties, binding him to depart forthwith from the local area specified under section 3 in which he is, and not to enter that or any other local area so specified until an Inspector of Lepers shall have given him a certificate in Form A set forth in the schedule.

(2) If any such leper fails to furnish any security required under sub section 1, the Magistrate may send him in charge of a police-officer, with an order in Form D set forth in the schedule, to a leper asylum, where such leper shall be detained until discharged by order of the Board or the District Magistrate.

(3) The powers conferred by this section shall only be exercised by a Presidency Magistrate or Magistrate of the first class.

Penalty on person employing lepers in prohibited trade.

11. Any person who, within any area specified under section 3, knowingly employs a leper in any trade or calling prohibited by order under section 9 shall be punishable with fine which may extend to fifty rupees:

Provided that the alleged leper shall be produced before the Magistrate, and the Magistrate shall cause him to be examined by an Inspector of Lepers, and shall not proceed with the case unless such Inspector funishes a certificate in Form B set forth in the schedule in respect of such alleged leper.

Re-arrest of escaped lepers.

12. Whoever, having been sent to a leper asylum under an order of a Magistrate in Form C or Form D set forth in the schedule, escapes from, or leaves, the asylum without the permission in writing of the Superintendent thereof, may be arrested "without a warrant by any police-officer or by any other person especially empowered by the Local Government by order in writing in this behalf" and upon arrest shall be forthwith taken back to the leper asylum.

Inspection by Board.

13. Two or more members of the Board, one of whom shall be the Medical Officer, shall, once at least in every three months, together inspect the leper asylum for which they are constituted, and see and examine (*a*) every leper therein admitted since the last inspection, together with the order for his admission, and (*b*), as far as circumstances will permit, every other leper therein, and shall enter in a book to be kept for the purpose any remarks which they may deem proper in regard to the management and condition of the asylum and the lepers therein.

Order of discharge by Board.

14. Any two members of the Board, one of whom shall be the Medical Officer, may at any time, by an order in writing in Form E set forth in the schedule and signed by them, direct the discharge from the leper asylum of any leper detained therein under the provisions of this Act.

Appeals.

15. Any person, other than a pauper leper, in respect of whom an Inspector of Lepers has issued a certificate, in Form B set forth in the schedule, declaring him to be a leper, or has refused to issue a certificate in Form A set forth in the schedule, may appeal against the issue or refusal of any such certificate to such officer as may be appointed by the Local Government in this behalf, and the decision of such officer shall be final.

Power of the Local Government to make rules.

16. The Local Government may, by notification in the official Gazette, make rules generally for carrying out the purposes of this Act, and in particular—

(*a*) for the guidance of all or any of the officers discharging any duty under this Act ; and

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The words within quotations have been substituted by Act XXII of 1920.

(*b*) for the management of, and the maintenance of discipline in, a leper asylum.

Power to local authorities to expend funds and appropriate property to asylums.

17. Notwithstanding anything in any enactment with respect to the purposes to which the funds or other property of a local authority may be applied, any local authority may—

(*a*) establish or maintain, or establish and maintain, or contribute towards the cost of the establishment or maintenance or the establishment and maintenance of, a leper asylum either within or without the local limits of such local authority;

(*b*) with the previous sanction of the Local Government and subject to such conditions as that Government may prescribe, appropriate any immoveable property vested in or under the control of, such body, as a site for, or for use as, a leper asylum.

Protection to persons acting *bonâ fide* under Act.

18. No suit, prosecution or other legal proceeding shall lie against any officer or person in respect of anything in good faith done or intended to be done under, or in pursuance of, the provisions of this Act.

Lepers from Native States.

19. The Governor-General in Council may, by notification in the Gazette of India, direct that any leper or class of lepers, with respect to whom an order for segregation and medical treatment has been made by a Magistrate having jurisdiction within the territories of any native Prince or State in India, may be sent to any Leper asylum specified in such order; and thereupon the provisions of this Act and of any rules made thereunder shall, with such modifications not affecting the substance as may be reasonable and necessary to adopt them to the subject matter, apply to any leper sent to a leper asylum in pursuance of such notification as though he had been sent by the order of a Magistrate having jurisdiction under this Act.*

* Section 19 was repealed by Act I. of 1903, but a new has been substituted by Act XIII. of 1903.

SCHEDULE.

A.—CERTIFICATE.

(*Section* 7.)

I, THE undersigned (*here enter name and official designation*), hereby certify that I on the day of at personally examined (*here enter name of person examined*) and that the said is not a leper as defined by the Lepers Act.

Given under my hand this day of 189 .

(*Signature.*)
Inspector of Lepers.

B.—CERTIFICATE.

(*Section* 7.)

I, THE undersigned (*here enter name and official designation*), hereby certify that I on the day of at personally examined (*here enter name of leper*), and that said is a leper as defined by the Lepers Act, 1898, and that I have formed this opinion on the following grounds, namely,—

(*Here state the grounds.*)

Given under my hand this day of 189

Signature.)
Inspector of Lepers.

C.—WARRANT OF DETENTION.

(*Section 8*)

To

THE SUPERINTENDENT OF THE LEPER ASYLUM AT

WHEREAS it has been made to appear to me that (*name and description*) is a pauper leper as defined in the Leapers Act, 1898 :

This is to authorise you, the said Superintendent, to receive the said into your custody together with this order and $\frac{\text{him}}{\text{her}}$ safely to keep in the said asylum until $\frac{\text{he}}{\text{she}}$ shall be discharged by order of the Board or the District Magistrate .

Given under my hand and the seal of the Court this day of 189 .

(*Signature.*)
Seal. *Magistrate.*

D.—WARRANT OF DETENTION.

(*Section 10.*)

To

THE SUPERINTENDENT OF THE LEPER ASYLUM AT

WHEREAS (*name and description*) has this day been convicted by me of an offence punishable under section 9 of the Leapers Act, 1898, and whereas it has been proved before me that the said (*name and description*) was previously convicted of an offence punishable under the same section :

This is to authorise you, the said Superintendent, to receive the said into your custody together with this order and $\frac{\text{him}}{\text{her}}$ safely to keep in the said asylum until $\frac{\text{he}}{\text{she}}$ shall be discharged by order of the Board or the District Magistrate.

Given under my hand and the seal of the Court this day of 189 .

Seal. (*Signature.*)
Magisttrate.

E.—ORDER OF DISCHARGE BY BOARD.*
(*Section 14*)

To

THE SUPERINTENDENT OF THE LEPER ASYLUM AT .

WHEREAS (*name and description*) was committed to your custody under an order dated the day of 189 , and there have appeared to us sufficient grounds for the opinion that $\frac{\text{he}}{\text{she}}$ can be released without hazard or inconvenience to the community:

This is to authorise and require you forthwith to discharge the said (*name*) from your custody.

Given under our hands this day of 189 .

(*Signatures.*)
Members of the Asylum Board.

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* A corresponding form may be used by the District Magistrate for orders of discharge issued under section 10 (2).

ACT NO. IV. OF 1898.

The Indian Penal Code Amendment Act, 1898.

Received the assent of the Governor-General on the 18th February 1898.

An Act to amend the Indian Penal Code.

WHEREAS it is expedient to amend the Indian Penal Code; It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Indian Penal Code Amendment Act, 1898.*

†(2) It shall come into force at once.

Substitution of new section of section 4, Act XLV., 1861

2. Section 4 of the Indian Penal Code* is hereby repealed, and the following section is substituted therefor, namely :—

[*Vide vol. I. p.* 369.]

Abetment in British India of offences outside it.

3. After section 108 of the Indian Penal Code* the following section shall be added, namely :—

[*Vide vol. I. p.* 399.]

Substitution of new section for section 124A, Act XLV., 1860.

4. Section 124A of the Indian Penal Code* is hereby repealed, and the following section is substituted therefor, namely :—

[*Vide vol. I. p* 406.]

Addition of new section after section 153, Act XLV., 186.

5. After section 153 of the Indian Penal Code* the following section shall be inserted namely :—

[*Vide vol. I. p.* 414.]

Substitution of new section for section 505, Act XLV, 1860.

6. Section 505 of the Indian Penal Code* is hereby repealed and the following section is substituted therefor, namely :—

[*Vide vol. I. p.* 527.]

* Act XLV. of 1860.

† The word "and" before this has been repealed by Act X. of 1914.

ACT NO. VI. OF 1898.

The Indian Post Office Act, 1898.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 22nd March 1898.

An Act to consolidate and amend the Law relating to the Post Office in India.

Whereas it is expedient to consolidate and amend the law relating to the Post Office In India: It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent, application, and commencement.

1. (1) This Act may be called "The Indian Post Office Act, 1898."

(2) It extends to the whole of British India, inclusive of* British Baluchistan, the Santal Parganas, and the Pargana of Spiti; and it applies also to —

(*a*) all Native Indian subjects of Her Majesty in place with out and beyond British India;

(*b*) all other British subjects within the territories of any Native Prince or Chief in India; and

(*c*) all servants of the Queen, whether British subjects or not, within the territories of any Native Prince of Chief in India.

(3) It shall come into force on the first day of July, 1898.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) the expression "Director-General" means the Director-General of the "Posts and Telegraphs."†

(*b*) the expression "inland," used in relation to a postal article, means—

(i) posted in British India and addressed to any place in British India, or any place for which a post office is established by the Governor-General in Council beyond the limits of British India; or

* Certain words after this repeated by Act 13 of 1898 have been omitted.
† The words within quotations have been added by Act 14 of 1914.

(ii) posted at any post office established by the Governor-General in Council beyond the limits of British India, and addressed to any place for which any such post office is established, or to any place in British India :

(*c*) the expression " mail bag " includes a bag, box, parcel, or any other envelope or covering in which postal articles, in course of transmission by post, are conveyed, whether it does or does not contain any such article :

(*d*) the expression " mail ship " means a ship employed for carrying mails, pursuant to contract or continuing arrangement, by the Government of India or Her Majesty's Government, or the Government of any British possession or foreign country :

(*e*) the expression " officer of the post office " includes any person employed in any business of the post office, or on behalf of the post office :

(*f*) the expression " postage " means the duty chargeable for the transmission by post of postal articles :

(*g*) the expression " postage stamp " means any stamp provided by the Governor-General in Council for denoting postage or other fees or sums payable in respect of postal articles under this Act, and includes adhesive postage stamps and stamps printed, embossed, impressed, or otherwise indicated on any envelope, wrapper, post-card, or other article :

(*h*) the expression " post office " includes every house, building, room, carriage, or place used for the purposes of the post office, and every letter-box provided by the post office for the reception of postal articles :

(*i*) the expression " postal article " includes a letter, post-card, newspaper, book, pattern or sample packet, parcel, and every article or thing transmissible by post :

(*j*) the expression " Post-Master-General " includes a Deputy Post-Master-General or other officer exercising the powers of a Post-Master-General ; and

(*k*) the expression " the Post Office " means the department " established for the purpose of carrying the provisions of this Act into effect and "* presided over by the Director-General.

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* The words within quotations have been added by Act 14 of 1914.

"Provided that the word "inland" shall not apply to any class of postal articles which may be specified in this behalf by the Governor-General in Council by notification in the *Gazette of India*, when posted in or at or addressed to any places or post offices which may be described in such notification,"*

Meanings of "in course of transmission by post" and "delivery."

3. For the purposes of this Act—

(*a*) a postal article shall be deemed to be in course of transmission by post from the time of its being delivered to a post office to the time of its being delivered to the addressee, or of its being returned to the sender or otherwise disposed of under Chapter VII :

(*b*) the delivery of a postal article of any description to a postman or other person authorized to receive postal articles of that description for the post shall deemed to be a delivery to a post office ; and

(*c*) the delivery of a postal article at the house or office of the addressee, or to the addressee or his servant or agent or other person considered to be authorized to receive the article according to the usual manner of delivering postal articles to the addressee, shall be deemed to be delivery to the addressee.

CHAPTER II.

PRIVILEGE AND PROTECTION OF THE GOVERNMENT.

Exclusive privilege of conveying letters reserved to the Government.

4. (1) Wherever within British India posts or postal communications are established by the Governor-General in Council, the Governor-General in Council shall have the exclusive privilege of conveying by post, from one place to another, all letters, except in the following cases, and shall also have the exclusive privilege of performing all the incidental services of receiving, collecting, sending, despatching, and delivering all letters, except in the following cases, that is to say :—

(*a*) letters sent by a private friend in his way, journey, or travel, to be delivered by him to the person to whom they are directed, without hire, reward, or other profit or advantage for receiving, carrying, or delivering them.

* The words within quotations have been added by Act II of 1903.

(*b*) letters solely concerning the affairs of the sender or receiver thereof sent by a messenger on purpose ; and

(*c*) letters solely concerning goods or property sent either by sea or by land to be delivered with the goods or property which the letters concern, without hire, reward, or other profit or advantage for receiving, carrying, or delivering them ;

Provided that nothing in this section shall authorize any person to make a collection of letters excepted as aforesaid for the purpose of sending them otherwise than by post.

For the purposes of this section and section 5, the expression "letters" includes postcards.

Certain persons expressly forbidden to convery letters.

5. Wherever within British India posts or postal communications are established by the Governor-General in Council, the following persons are expressly forbidden to collect, carry, tender, or deliver letters, or to receive letters for the purpose of carrying or delivering them although they obtain no hire, reward, or other profit or advantage for so doing that is to say :—

(*a*) common carriers of passengers or goods, and their servants or agents, except as regards letters solely concerning goods in their carts or carriages ; and

(*b*) owners and masters of vessels sailing or passing on on any river or cannal in British India, and their servants or agents, except as regards letters solely concerning goods on board, and except as regards postal articles received for conveyance under Chapter VIII.

Exemption from liability for loss, misdelivery, delay, or damage.

6. The Secretary of State for India in Council shall not incur any liability by reason of the loss, misdelivery or delay of, or damage to, any postal article in course of transmission by post, except in so far as such liability may in express terms be undertaken by the Governor-General in Council as hereinafter provided, and no officer of the post office shall incur any liability by reason of any such loss, misdelivery, delay, or damage, unless he has caused the same fraudulently or by his wilful act or default.

CHAPTER III.

POSTAGE.

Power to fix rates of inland postage.

7. (1) The Governor-General in Council may by notification in the *Gazette of India*, fix the rates of postage and other sum to be charged in respect of postal articles sent by the inland post under this Act, and may make rules as to the scale of weights, terms, and conditions subject to which the rates so fixed shall be charged :—

Provided that the highest rate of postage, when repaid, shall not exceed the rate set forth for each class of postal articles in the first schedule.

(2) Unless and until such notification as aforesaid is issued, the rates set forth in the said schedule shall be the rates chargeable under this Act.

(3) The Governor-General in Council may, by notification in the *Gazette of India*, declare what packets may be sent by the inland post as book pattern, and sample packets within the meaning of this Act.

Power to make rules as to payment of postage and fees in certain cases.

8 The Governor-General in Council may, by rule,—

(*a*) require the payment of postage on inland postal articles or any class of inland postal articles, and prescribe the manner in which repayment shall be made ;

(*b*) prescribe the postage to be charged on inland postal articles when the postage is not prepaid or is insufficiently prepaid ;

(*c*) Provide for the re-direction of postal articles and the transmission by post of articles so re-directed, either free of charge or subject to such further charge as may be specified in the rules ; and

(*d*) prescribe the fees to be charged for the "express delivery" of postal articles, in addition to, or instead of, any other postage chargeable thereon under this Act.

Explanation.—"Express delivery" means delivery by a special messenger or conveyance.

Power to make rules as to registered news-Papers.

9. (1) The Governor-General in Council may make rules providing for the registration of newspapers for transmission by inland post as registered newspapers,

(2) For the purpose of such registration, every publication, consisting, wholly or in great part, of political or other news, or of articles relating thereto, or to other current topics, with or without advertisements, shall be deemed a newspaper, subject to the following conditions, namely :—

(*a*) that it is published in numbers at intervals of not more than thirty-one days ; and

(*b*) that it has *bond-fide* list of subscribers

(3) An extra or supplement to a newspaper, bearing the same date as the newspaper, and transmitted therewith, shall be deemed to be part of the newspaper ;

Provided that no such extra or supplement shall be so deemed unless it consists, wholly or in great part, of matter like that of the newspaper, and has the title and date of publication of the newspaper printed at the top of each page.

Explanation.—Nothing in this section or in the rules thereunder shall be construed to render it compulsory to send newspapers by the inland post.

Power to declare rates of foreign postage.

10. (1) Where agreements are in force with the United Kingdom, or with any British possession or foreign country, for the transmission by post of postal articles between British India and the United Kingdom or such possession or country, the Governor-General in Council may, in conformity with the provisions of such arrangements, declare what postage rates and other sums shall be charged in respect of such postal articles, and may make rules as to the sale of weight, terms, and conditions subject to which the rates so declared shall be charged.

(2) Unless and until such declaration as aforesaid is made, the existing rates and regulations shall continue in force.

Liability for payment of postage.

11. (1) The addressee of a postal article on which postage or any other sum chargeable under this Act is due shall be bound to pay the postage or sum so chargeable on his accepting delivery of the postal article, unless he forthwith returns it unopened :

Provided that, if any such postal article appears, to the satisfaction of the Post-Master-General, to have been maliciously sent for the purpose of annoying the addressee, he may remit the postage.

(2) If any postal article on which postage or any other sum chargeable under this Act is due is refused or returned as aforesaid, or if the addressee is dead or cannot be found, then the sender shall be bound to pay the postage or sum due thereon under this Act.

Recovery of postage and other sums due in respect of postal articles.

12. If any person refuses to pay any postage or other sum due from him under this Act in respect of any postal article, the sum so due may, on application made by an officer of the post office authorized in this behalf by the written order of the Post-Master-General, be recovered for the use of the post office from the person so refusing as if it were a fine imposed under this Act by any Magistrate having jurisdiction where that person may, for the time being, be resident; and the Post-Master-General may further direct that any other postal article, not being on Her Majesty's service, addressed to that person shall be withheld from him until the sum so due is paid or recovered as aforesaid.

Customs-duty paid by the Post Office to be recoverable as postage.

13. When a postal article on which any duty of customs is payable has been received by post from any place beyond the limits of British India, and the duty has been paid by the postal authorities at any customs-port or elsewhere, the amount of the duty shall be recoverable as if it were postage due under this Act.

Post office marks *prima facie* evidence of certain facts denoted.

14. In every proceeding for the recovery of any postage or other sum alleged to be due under this Act in respect of a postal article—

(*a*) the production of the postal article, having thereon the official mark of the post office denoting that the article has been refused, or that the addressee is dead or cannot be found, shall be *prima-facie* evidence of the fact so denoted, and

(*b*) the person from whom the postal article purports to have come shall, until the contrary is proved, be deemed to be the sender thereof.

Official mark to be evidence of amount of postage.

15. The official mark on a postal article denoting that any postage or other sum is due in respect thereof to the post office of British India or to the post office of the United Kingdom, or of any British possession or foreign country, shall be *prima-facie* evidence that the sum denoted as aforesaid is so due.

CHAPTER IV.

POSTAGE STAMPS.

Provision of postage stamps and power to make rules as to them.

16. (1) The Governor-General in Council shall cause postage stamps to be provided of such kinds and denoting such values as he may think necessary for the purposes of this Act.

(2) The Governor-General in Council may make rules as to the supply, sale, and use of postage stamps.

(3) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) fix the price at which postage stamps shall be sold ;

(*b*) declare the classes of postal articles in respect of which postage stamps shall be used for the payment of postage or other sums chargeable under this Act ;

(*c*) prescribe the conditions with regard to perforation, defacement, and all other matters subject to which postage stamps may be accepted or refused in payment of postage or other sums ;

(*d*) regulate the custody, supply, and sale of postage stamps;

(*e*) declare the persons by whom, and the terms and conditions subject to which, postage stamps may be sold ; and

(*f*) prescribe the duties and remuneration of persons selling postage stamps.

Postage stamps to be deemed to be stamps for the purpose of revenue.

17. Postage stamps provided under section 16 shall be deemed to be stamps issued by Government for the purpose of revenue within the meaning of the Indian Penal Code,* and, subject to the other provisions of this Act, shall be used for the prepayment of postage or other sums chargeable under this Act in respect of postal articles, except where the Governor-General in Council directs that prepayment shall be made in some other way.

CHAPTER V.

CONDITIONS OF TRANSMISSION OF POSTAL ARTICLES.

Re-delivery to sender of postal article in course of transmission by post.

18. (1) The Governor-General in Council may, by rule, provide for the re delivery to the sender, without reference to the consent of the addressee and subject to such conditions (if any) as may be deemed fit, of any postal article in course of transmission by post

* Act XLV. of 1860.

(2) Save as provided by any rules that may be made under sub-section (1), the sender shall not be entitled to recall a postal article in course of transmission by post.

Transmission by post of anything injurious prohibited.

19. (1) Except as otherwise provided by rule, and subject to such conditions as may be prescribed thereby, no person shall send by post any explosive, dangerous, filthy, noxious, or deleterious substance, any sharp instrument not properly protected, or any living creature which is either noxious or likely to injure postal articles in course of transmission by post or any officer of the post office.

(2) No person shall send by post any article or thing which is likely to injure postal articles in course of transmission by post or any officer of the post office.

Transmission by post of anything indecent, etc., prohibited.

20. No person shall send by post—

(*a*) any indecent or obscene printing, painting, photograph, lithograph, engraving, book or card, or any other indecent or obscene article, or

(*b*) any postal article having thereon, or on the cover thereof, any words, marks, or designs of an indecent, obscene, seditious, scurrilous, threatening, or grossly offensive character.

Power to make rules as to transmission by post of postal articles.

21. "(1) The Governor-General in Council may make rules as to the transmission of articles by post.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) specify articles which may not be transmitted by post.

(*b*) prescribe conditions on which articles may be transmitted by post;

(*c*) provide for the detention and disposal of articles in Course of transmissions by post in cantravention of rules made under clause (a) or clause (b);

(*d*) provide for the granting of receipts for, and the granting and obtaining certificates of, posting and delivery of postal articles and the sums to be paid in addition to any other postage, for such receipts and certificates, and

(*e*) regulate covers, forms, dimensions, maximum weights, and enclosures, and the use of postal articles, other than letters, for making communications"*

* Section 21 (1) and (2) have been Substituted by Act III of 1912.

(3) Postal articles shall be posted and delivered at such times and in such manner as the Director-General may, by order, from time to time appoint.

Power to postpone despatch or delivery of certain postal articles.

22. (1) Where the despatch or delivery from a post office of letters would be delayed by the despatch or delivery thereform at the same time of book, pattern, or sample packets and parcels, or any of them, such packets, or parcels, or any of them. may, subject to such rules as the Governor-General in Council may make in this behalf, be detained in the post office so long as may be necessary.

(2) Where separate parcel posts are established, parcles may be forwarded and conveyed by them, being detained, if necessary, in the post office for that purpose.

Power to deal with postal articles posted in contravention of Act.

23. (1) Any postal article sent by post in contravention of any of the provisions of this Act may be detained and either returned to the sender or forwarded to destination, in each case charged with such additional postage (if any) as the Governor-General in Council may, by rule, direct.

(2) Any officer in charge of a post office or authorized by the Post-Master-General in this behalf may open or unfasten any newspaper or any book, pattern, or sample packet, in course of transmission by post, which he suspects to have been sent by post in contravention of section 21, or of any of the provisions of this Act relating to postage.

(3) Notwithstanding anything in sub-section (1)—

((*a*) any postal article sent by post in contravention of the provisions of section 19 may, under the authority of the Post-Master-General, if necessary, be opened and destroyed ; and

"(*b*) any postal article sent by post in contravention of the provisions of section 20 may be disposed in such manner as the Governor General in Council may by rule direct."*

Power to deal with postal articles containing goods contraband or liable to duty

24. "Except as otherwise provided in this Act, where a postal article suspected to contain any goods of which the import by post or the transmission by post is prohibited by or under any enactment for the time being in force."* or anything liable to duty, is received for delivery at a post office, the officer in charge of the post office shall send a notice in writing to the addressee inviting him to attend, either in person or by agent, within a specified time at the post office, and shall

* The words within quotations have been substituted by Act III of 1912.

in the presence of the addressee or his agent, or if the addressee or his agent fails to attend as aforesaid then in his absence, open and examine the postal article :

Provided, first, that, if the Director-General so directs in the case of any post office or class of post offices, the officer in charge of the post office shall call in two respectable persons as witnesses before he opens a postal article in the absence of the addressee or his agent

Provided, secondly, that in all cases a postal article, after being opened under this section, shall be delivered to the addressee, unless it is required for the purpose of any further proceeding under this or any other law or enactment for the time being in force, and that the opening of the postal article and the circumstances connected therewith shall be immediately reported to the Post-Master General :—

Provided, thirdly, that nothing in this section shall prevent the detention of parcels, received by post from any place beyond the limits of British India, at the customs-port or other place at which they are received, and the opening of parcels so received by the Customs-authorities for the purpose of levying any duty of customs.

Power to deliver such articles to customs authority.

24A.* " The Governor-General in Council may, by general or special order, empower any officer, specified in such order, to deliver any postal article, received from beyond the limits of British India and suspected to contain anything liable to duty, to such customs authority as may be specified in the said order, and such customs authority shall deal with such article in accordance with the provisions of the Sea Customs Act, 1878,† or or any other law for the time being in force."

Power to intercept notified goods during transmission by post.

25. Where a notification has been published under section 19 of the Sea Customs Act, 1878,† in respect of any goods of any specified description, any officer of the post office empowered in this behalf by the Governor-General in Council may search, or cause search to be made, for any such goods in course of transmission by post, and shall deliver "all postal articles reasonably believed or found to contain such goods."‡ to such officer as the Governor-General in Council may appoint in this behalf, and such goods may be disposed of in such manner as the Governor General in Council may direct.

"In carrying out any such search such officer of the Post Officer may open or unfastened, or cause to be opened or unfastened, any newspaper or book pattern or sample packet in course of transmission by post"‡

* Section 24A has been added by Act 15 of 1912. † Act VIII of 1878.

‡ The words within quotations have been substituted or added by Act III of 1912.

Power to intercept postal articles for public good.

26. (1) On the occurrence of any public emergency, or in interest of the public safety or tranquillity, the Governor General in Council, or Local Government, or any officer specially authorized in this behalf by the Governor-General in Council, may, by order in writing, direct that any postal articles or class or description of postal articles in course of transmission by post shall be intercepted or detained, or "shall be disposed of in such manner as the authority issuing the order may direct.

(2) If any doubt arises as to the existence of a public emergency, or as to whether any act done under sub-section (1) was in the interest of the public safety or tranquility a certificate signed by a Secretary to the Government of India or to the Local Government shall be conclusive proof on the point.

Power to deal with postal articles from abroad bearing fictitious or previously-used stamps.

27. (1) Where a postal article is received by post from any place beyoned the limits of British India—

(*a*) bearing a fictitious postage stamp, that is to say, any facsimile or limitation or representation of a postage stamp; or

(*b*) purporting to be repaid with any postage stamp which has been previously used to prepay any other postal article,

the officer in charge of the post office at which the postal article is received shall send a notice to the addressee inviting him to attend, either in person or by agent, within a specified time at the post office to receive delivery of the postal article.

(2) If the addressee or his agent attends at the post office within the time specified in the notice, and consents to make known to the officer in charge of the post office the name and address of the sender of the postal article, and to re-deliver to the officer aforesaid the portion of the postal article which bears the address and the fictitious or previously-used postage stamp, or, if the postal article is inseparable from the stamp, the entire postal article, the postal article shall be delivered to the addressee or his agent.

(3) If the addressee or his agent fails to attend at the post office within the time specified in the notice, or, having attended within that time, refuses to make known the name and address of the sender, or to, re-deliver the postal article or portion thereof as required by sub-section (2), the postal article shall not be delivered to him, but shall be disposed of in such manner as the Governor-General in Council may direct.

Explanation.—For the purposes of this section, the expression "postage stamp" includes any postage stamp for denoting any rate or duty of postage of any part of Her Majesty's dominions, or of any Native State or foreign country.

Prohibition of transmission by post of certain newspapers.

27A.* No newspaper printed and published in British India without conforming to the rules laid down in the Press and Registration of Books Act, 1867 shall be transmitted by post.

Power to detain newspapers and other articles being transmitted by post.

27B.* (1) Any officer of the Post Office authorised by the Postmaster-General in this behalf may detain any postal article in course of transmission by post which he suspects to contain—

(*a*) (i) any newspaper or book as defined in the Press and Registration of Books Act, 1867 ; or

(ii) any document ;

containing any seditious matter, that is to say, any matter the publication of which is punishable under section 124 A of the Indian Penal Code ; or

(*b*) any newspaper as defined in the Press and Registration of Books Act, 1867, edited, printed or published otherwise than in conformity with the rules laid down in that Act ;

and shall deliver any postal article under the provisions of sub-section (1) shall forthwith send by post to the addressee of such article notice of the fact of such detention.

(3) The Local Government shall cause the contents of any postal article detained under sub section (1) to be examined and, if it appears to the Local Government that the article contained any newspaper, book or other document, of the nature described, in clause (*a*) or clause (*b*) of sub section (1) may pass such orders as to the disposal of the article and its contents as it may deem proper, and, if it does not so appear, shall release the article and its contents, unless the same be otherwise liable to seizure under any law for the time being in force :

Provided that any person interested in any article detained under the provisions of clause (*a*) of sub-section (1) may, within two months from the date of such detention, apply to the Local Government for release of the same, and the Local Government shall consider such application and pass such orders thereon as it may deem to be proper :

Provided also that, if such application is rejected, the applicant may, within two months from the date of the order rejecting the application, apply to the High Court for release of the article and

* Sections 27A to 27D have been inserted by Act 14 of 1922.

its contents on the ground that the article did not contain any newspaper, book or other document containing any seditious matter.

(4) In this section "document" includes also any painting, drawing or photograph, or other visible representation.

Procedure for disposal by High Court of applications for release of newspapers and articles so detained.

27C.* Every application made under the second proviso to sub-section (3) of section 27 B shall be heard and determined in the manner provided by sections 99 D to 99 E of the Code of Criminal Procedure, 1898, by a special branch of the High Court constituted in the manner provided by section 99C of that code.

Juridiction barred.

27D.* No order passed or action taken under section 27 B shall be called in question in any court otherwise than in accordance with the second proviso to sub-section (3) of that section.

CHAPTER VI.

REGISTRATION, INSURANCE, AND VALUE-PAYABLE POST.

Registration of postal articles

28. The sender of a postal article may, subject to the other provisions of this Act, have the article registered at the post office at which it is posted, and require a receipt therefor; and the Governor-General in Council may, by notification in the *Gazette of India*, direct that, in addition to any postage chargeable under this Act, such further fee as may be fixed by the notification shall be paid on account of the registration of postal articles.

Power to make rules as to registration.

29. (1) The Governor-General in Council may make rules as to the registration of postal articles

(2) In particular and without prejudice to the generality of the foregoing power, such rule may—

(*a*) declare in what cases registration shall be required;

(*b*) prescribe the manner in which the fees for registration shall be paid, and

(*c*) direct that twice the fee for registration shall be levied on the delivery of a postal article required on which the fee for registration has not been prepaid.

(3) Postal articles made over to the post office for the purpose of being registered shall be delivered, when registered, at such times and in such manner as the Director-General may, by order, from time to time appoint.

* Sections 27A to 27D have been inserted by Act 14 of 1922.

Insurance of postal articles.

30. The Governor-General in Council may, be notification in the *Gazette of India*, direct—

(*a*) that any postal article may, subject to the other provisions of this Act, be insured at the post office at which it is posted, against the risk of loss or damage in course of transmission by post, and that a receipt therefor shall be granted to the person posting it; and

(*b*) that, in addition to any postage and fees for registration chargeable under this Act, such further fee as may be fixed by the notification shall be paid on account of the insurance of postal articles.

Power to require insurance of postal articles.

31. The Governor-General in Council may, by notification in the *Gazette of India*, declare in what cases insurance shall be required, and direct that any postal article containing anything required to be insured, which has been posted without being insured, shall be returned to the sender or shall be delivered to the addressee, subject to the payment of such special fee as may be fixed by the notification:

Provided that the levy of such special fee as aforesaid shall not impose any liabiity upon the Secretary of State for India in Council in respect of the postal article.

Power to make rules as to insurance.

32. (1) The Governor-General in Council may make rules as to the insurance of postal articles.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) declare what classes of postal articles may be insured under section 30;

(*b*) fix the limit of the amount for which postal articles may be insured; and

(*c*) prescribe the manner in which the fees for insurance shall be paid.

(3) Postal articles made over to the post office for the purpose of being insured shall be delivered, when insured at such places and times, and in such manner, as the Director-General may, by order, from time to time appoint.

Liability in respect of postal articles insured.

33. Subject to such conditions and restrictions as the Governor General in Council may, by rule, prescribe, the Secretary of State for India in Council shall be liable to pay compensation, not exceeding the amount for which a postal article has been

insured, to the sender thereof for the loss of the postal article or its contents, or for any damage caused to it in course of transmission by post :

Provided that the compensation so payable shall in no case exceed the value of the article lost or the amount of damage causd.

Transmission by post of value-payable postal articles.

34. The Govenor-General in Council may, by notification in the *Gazette of India*, direct that, subject to the other provisions of this Act, and to the payment of fees at such rates as may be fixed by the notification, a sum of money specified in writing at the time of posting by the sender of a postal article shall be recoverable on the delivery thereof from the addressee, and that the sum, so recovered, shall be paid to the sender :

Provided that the Secretary of State for India in Council shall not incur any liability in respect of the sum specified for recovery, unless and until that sum has been received from the addressee.

Explanation.—Postal articles sent in accordance with the provisions of this section may be described as " value-payable " postal articles.

Power to make rules as to value-payable postal articles.

35. (1) The Governor-General in Council may make rules as to the transmission by post of value payable postal articles.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) declare what classes of postal articles may be sent as value-payable postal articles :

(*b*) direct that no postal article shall be so sent unless the sender declares that it is sent in execution of a *bona-fide* order received by him ;

(*c*) limit the value to be recovered on the delivery of any value-payable postal article;*

(*d*) prescribe the form of declaration to be made by the senders of value payable postal articles, and the time and manner of the payment of fees.

"(*e*) provided for the retention and repayment to the addressee in cases of fraud, of money recovered on the delivery of any value payable postal article and.

(*f*) prescribe the fees to be charged for inquires into complaints regarding the delivery of or payment for value-payable postal articles."†

* Certain word after this repealed Act III. of 1912 has been omitted.

† The words within quotations have been inserted by Act III. of 1912.

(3) Postal articles shall be made over to the post office for the purpose of being sent as "value-payable," and shall be delivered, when so sent, at such times and in such manner as the Director-General may, by order, from time to time appoint.

"(4) No suit or other legal proceeding shall be instituted against the Secretary of State for India in Council or any officer of the Post office in respect of anything done, or in good faith purporting to be done, under any rule made under clause (*e*) of subsection (2)"*

Power to give effect to arrangements with other countries.

36. (1) Where arrangements are in force with the United Kingdom, or with any British possession, Native State or foreign country, for the transmission by post of registered, insured, or value-payable postal artfcles between British India and the United Kingdom or such possession, State, or country, the Governor-General in Council may make rules to give effect to such arrangements.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

(*a*) the from of declaration to be made by the senders of such postal articles as aforesaid ; and

(*b*) the fees to be charged in respect thereof.

CHAPTER VII.

UNDELIVERED POSTAL ARTICLES.

Power to make rules as to disposal of underlivered postal articles.

37. (1) The Governor-General in Council may make rules as to the disposal of postal articles which, for any reason, cannot be delivered (hereinafter referred to as "undelivered postal articles.")

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe the period during which undelivered postal articles at a post office shall remain in that office ; and

(*b*) provide for the publication of lists of undelivered postal articles, or of any class of undelivered postal articles.

(3) Every undelivered postal article, after being detained at a post office for the period prescribed by rule under the foregoing provisions of this section, shall be either forwarded, free of further charge, to the post office at which it was posted for return to the sender, or sent to the office of the Post-Master-General.

Disposal of undelivered postal articles at office of Post-Master-General.

38. (1) Every postal article received at the office of the Post-Master-General under sub-section (3) of section 37 shall be dealt with as follows :—

* The words within quotations have been added by Act III of 1912.

(*a*) if practicable, it shall be re-directed and forwarded by post to the addressee ; or,

(*b*) if it cannot be re-directed and forwarded as aforesaid, it shall be opened by some officer appointed by the Post-Master-General in this behalf, and bound to secrecy, in order to ascertain the name and address of the sender.

(2) If the name and address of the sender are so ascertained, it shall be returned by post to the sender, free of further charge, or subject to such further charge as the Governor-General in Council may, by rule, direct.

Final disposal of undelivered postal articles.

39. Undelivered postal articles which cannot be disposed of under the foregoing provisions shall be detained in the office of the Post-Master-General for such further period (if any), and shall be dealt with in such manner, as the Governor-General in Council may, by rule, direct :

Provided that—

(*a*) letters and postcards shall be destroyed ;

(*b*) money or saleable property, not being of a perishable nature, found in any undelvered postal article, shall be detained for a period of one year in the office of the Post-Master-General, and, if, on the expiration of that period, no person has established his right thereto, shall, if money, be credited to the post office, and, if saleable property, be sold, the sale-proceeds being credited to the post office.

CHAPTER VIII.

SHIP LETTERS.

Duty of master of ship, departing from any part in British India, and not being a mail ship, to convey mail bags.

40. The master of a ship, not being a mail ship about to depart from any port in British India to any port within, or any port or place beyond, British India, shall receive on board any mail bag tendered to him by any officer of the post office for conveyance, granting a receipt therefor in such form as the Governor Genera in Council may, by rule, prescribe, and shall, without delay, deliver the same at the port or place of destination.

Duty of master of ship, arriving at any port in British India in respect of postal articles and mail bags on board.

41. (1) The master of a ship arriving at any port in British India shall, without delay, cause every postal article or mail bag on board which is directed to that port and is within the exclusive privilege conferred on the Governor-General in Council by section 4, to be

delivered either at the post office at that port, or to some officer of the post office authorized in this behalf by the Post-Master-General.

(2) If there is on board any postal article or mail bag which is directed to any other place within British India, and is within the exclusive privilege aforesaid, the master shall, without delay, report the fact to the officer in charge of the post office at the port of arrival, and act according to the directions he may receive from such officer, and the receipt of such officer shall discharge him from alll further responsibility in respect of the postal article or mail bag.

Allowance of gratuities for conveyance of postal articles by ships other than mail ships.

42. The Governor General in Council may, by notification in the *Gazette of India*, declare what gratuities shall be allowed to masters or ships, not being mail ships, in respect of postal articles received by them for conveyance on behalf of the post office, and the master of a ship, not being a mail ship, about to leave any port in British India as aforesaid, shall, if he receives on board a mail bag for conveyance, be entitled to demand and obtain immediately the amount of the gratuity payable under this section in respect of the mail bag and its contents.

CHAPTER IX.

MONEY ORDERS.

Power to maintain money order system, and to make rules as to remittances thereby.

43. (1) The Govenor-General in Council may provide for the remitting of small sums of money through the post office by means of money orders, and may make rules as to such money orders.

(2) In particular and without prejudice to the generaliy of the foregoing power, such rules may prescribe—

(*a*) the limit of amount for which money orders may be issued ;

(*b*) the period during which money orders shall remain current ; and

(*c*) the rates of commissission or the fees to be charged on money orders or in respect thereof.

Power for remitter to recall money order or alter name of payee.

44. (1) Subject to such conditions as the Governor-General in Council may, by rules made under section 43, prescribe in respect of the levy of additional rates of commission or fees or any other matters, a person remitting money through the post office by

means of a money order may require that the amount of the order, if not paid to the payee, be repaid to him, or be paid to such person other than the original payee as he may direct.

(2) If neither the payee nor the remitter of a money order can be found, and if within the period of one year from the date of the issue of the order, no claim is made by such payee or remitter, the amount of such order shall not be claimable from the Government.

Power to provide for the issue of postal orders.

45. The Governor-General in Council may authorize the issue, in such form as may be suitable, of money orders, to be called postal orders, or by such other designation as may be deemed appropriate, for certain fixed amounts, and may make rules as to the rates of commission to be charged thereon and the manner in which, and conditions subject to which, they may be issued, paid, and cancelled :

Provided that no such order shall be issued for an amount in excess of the rupees.

Power to give effect to arrangements with other countries.

46. (1) Where arrangements are in force with the United Kingdom, or with any British possession, Native State, or foreign country, for the issue and payment through the post office of money orders between British India and the United Kingdom or such possession, State, or country, the Governor-General in Council may make rules to give effect to such arrangements.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

(*a*) the manner in which, and the conditions subject to which, such orders may be issued and paid in British India ;

(*b*) the rates of commission to be charged thereon.

Recovery of money order paid to the wrong person.

47. If any person, without reasonable excuse, the burden of proving which shall lie on him, neglects or refuses to refund—

(*a*) any amount paid to him in respect of a money order by an officer of the post office in excess of what ought to have been paid to him in respect thereof, or

(*b*) the amount of a money order paid by an officer of the post office to him instead of to some other person to whom it ought to have been paid,

such amount shall be recoverable by an officer of the post office authorized by the Post-Master-General in this behalf from the person so neglecting or refusing as if were an arrear of land-revenue due from him.

Exemption from liability inrespect of money orders.

48. No suit or other legal proceeding shall be instiuted against the Secretary of State for India in Council or any officer of the post office in respect of—

(*a*) any thing done under any rule made by the Governor-General in Council under this Chapter; or

(*b*) the wrong payment of a money order caused by incorrect or incomplete information given by the remitter as to the name and address of the payee, provided that, as regards incomplete information, there was reasonable justification for accepting the information as a sufficient description for the purpose of identifying the payee; or

(*c*) the payment of any money order being refused or delayed by, or on account of, any accidental neglect, omission, or mistake, by, or on the part of, an officer of the post office, or for any other cause whatsoever, other than the fraud or wilful act or default of such officer; or

(*d*) any wrong payment of a money order after the expiration of one year from the date of the issue of the order.

(*e*) any wrong payment or delay in payment a money order beyond the limits of British India by an officer or any post office not being one established by the Governor-General in Council.*

CHAPTER X.

PENALTIES AND PROCEDURE.

Offences by Officers of the Post Office.

Penalty for misconduct of person employed to carry or deliver mail bags or postal articles.

49. Whoever, being employed to carry or deliver any mail bag or any postal article in course of transmission by post—

(*a*) is in state of intoxication while so employed, or

(*b*) is guilty of carelessness or other misconduct, whereby the safety of any such mail bag or postal article as aforesaid is endangered, or

(*c*) loiters or makes delay in the conveyance or delivery of any such mail bag or postal article as aforesaid, or

(*d*) does not use due care and diligence safely to convey or deliver any such mail bag or postal article as aforesaid,

shall be punishable with fine which may extend to fifty rupees.

* The words within quotations have been added by Act III of 1912.

50. Whoever, being employed to carry or deliver any mail bag or any postal article in course of transmission by post, voluntarily withdraws from the duties of his office without permission, or without having given one month's previous notice in writing, shall be punishable with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Penalty for voluntary withdrawal from duty, without permission or notice, of person employed to carry or deliver mail bags or postal articles.

51. Whoever, being employed to carry or deliver any postal article in course of transmission by post, and required, while so employed, to keep any register, makes, or causes or suffers to be made, any false entry in the register with intent to induce the belief that he has visited a place, or delivered a postal article, which he has not visited or delivered, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Penalty for making false entry in register kept by person employed to carry or deliver postal articles.

52. Whoever, being an officer of the post office, commits theft in respect of, or dishonestly misappropriates, or, for any purpose whatsoever, secretes, destroys, or throws away, any postal article in course of transmission by post or anything contained therein, shall be punishable with imprisonment for a term which may extend to seven years, and shall also be punishable with fine.

Penalty for theft, dishonest misappropriation, secretion, destruction, or throwing away, of postal articles.

53. Whoever, being an officer of the post office, contrary to his duty, opens, or causes or suffers to be opened, any postal article in course of transmissing by post, or wilfully detains or delays, or causes or suffers to be detained or delayed, any such postal article, shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both :

Penalty for opening, detaining, or delaying postal articles.

Provided that nothing in this section shall extend to the opening, detaining, or delaying of any postal article under the authority of this Act, or in obedience to the order in writing of the Governor-General in Council or the direction of a competent Court.

Penalty for fraud in connection with official marks, and for receipt of excess postage.

54. Whoever, being an officer of the post office,—

(*a*) fraudulently puts any wrong official mark on a postal article, or

(*b*) fraudulently alters, removes, or causes to disappear any official mark which is on a postal article, or,

(*c*) being entrusted with the delivery of any postal article, knowingly demands or receives any sum of money in respect of the postage thereof which is not chargeable under this Act,

shall be punishable with imprisonment for a term which may extend to two years, and shall also be punishable with fine.

Penalty for fraudulently preparing, altering, secreting or destroying post office documents.

55. Whoever, being an officer of the post office entrusted with the preparing or keeping of any document, fraudulently prepares the document incorrectly, or alters or secretes or destroys the document, shall be punishable with imprisonment for a term which may extend to two years, and shall also be punishable with fine.

Penalty for fraudulently sending unpaid postal articles.

56. Whoever, being an officer of the post office, sends by post, or puts into any mail bag, any postal article upon which postage has not been paid or charged in the manner prescribed by this Act, intending thereby to defraud the Government of the postage on such postal article, shall be punishable with imprisonment for a term which may extend to two years, and shall also be punishable with fine.

Punishment of offences committed in India outside British India.

57. (1) Whoever, being an officer of the post office employed in any place in India beyond the limits of British India in which posts are established by the Governor-General in Council, or being appointed to sell postage stamps in any such place, commits therein an offence punishable under this Act, shall be punishable either in the place where the offence was committed by any Court or officer duly empowered by the Governor-General in Council to take cognizance of offences committed in that place, or in any part of British India by any Court of competent jurisdiction, as if the offence had been committed in that part.

(2) The provisions of section 188 of the Code of Criminal Procedure, 1898, shall not apply to any offence referred to in this section.

Other Offences.

Penalty for contravention of section 4.

58. Whoever—

(*a*) conveys, otherwise than by post, a letter within the exclusive privilege conferred on the Governor-General in Council by section 4, or

(*b*) performs any service incidental to convey, otherwise than by post, any letter within the exclusive privilege aforesaid, or

(*c*) sends, or tenders or delivers in order to be sent, otherwise than by post, a letter within the exclusive privilege aforesaid, or

(*d*) makes a collection of letters excepted from the exclusive privilege aforesaid for the purpose of sending them otherwise than by post,

shall be punishable with fine which may extend to fifty rupees for every such letter.

(2) Whoever, having already been convicted of an offen ce under this section, is again convicted thereunder, shall, on every such subsequent conviction, by punishable with fine which may extend to five hundred rupees.

Penalty for contravention of section 5.

59. (1) Whoever, in contravention of the provisions of section 5, carries, receives, tenders. or delivers letters, or collects letters, shall be punishable with fine which may extend to fifty rupees for every such letter.

(2) Whoever, having already been convicted of an offe nce under this section, is again convicted thereunder, shall on every such subsequent conviction, be punishable with fine which may extend to five hundred rupees.

Penalty for breach of rules under section 16.

60. Whoever, being appointed to sell postage stamps,—

(*a*) takes from any purchaser for any postage stamp or quantity of postage stamps a price higher than that fixed by any rule made under section 16, sub-section (3), clause (*a*), shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both ; or

(*b*) commits a breach of any other rule made under section 16, shall be punishable with fine which may extend to two hundred rupees.

Penalty for contravention of section 19 or 20.

61. (1) Whoever, in contravention of the provisions of section 19 or section 20, sends, or tenders or makes over in order to be sent, by post any postal article or anything, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(2) The detention in the post office of any postal article on the ground of its having been sent in contravention of the provisions of section 19 or section 20 shall not exempt the sender from any proceedings which might been taken if the postal article had been delivered in due course of post.

Penalty for defiling or injuring post office letter-boxes.

62. Whoever places in or against any letter-box provided by the post office for the reception of postal articles any fire, match, or light, any explosive, dangerous, filthy, noxious, or deleterious substance, or any fluid, or commits a nuisance in or against any such letter-box, or does any thing likely to injure any such letter-box or its appurtenances or contents, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Penalty for affixing without any authority thing to, or painting, tarring, or disfiguring, post office or post letter-box.

63. Whoever, without due authority, affixes any placard, advertisement, notice, list, document, board, or other thing in or on or paints, tars, or in any way disfigures, any post office or any letter box provided by the post office for the reception of postal articles, shall, be punishable with fine wich may extend to fifty rupees.

Penalty for making false declaration.

64. Whoever, being required by this Act to make a declaration in respect of any postal article to be sent by post or the contents or value thereof, makes in his declaration any statement which he knows, or has reason to believe, to be false, or does not believe to be true, shall be punishable with fine which may extend to two hundred rupees, and, if the false declaration is made for the purpose of defrauding the Government, with fine which may extend to five hundred rupees.

Penalty for master of ship failng to comply with the provisions of section 40 or 41.

65. Whoever, being the master of a ship,—

(*a*) fails to comply with the provisions of section 40, or,

(*b*) without reasonable excuse, the burden of proving which shall lie on him, fails to deliver any postal article or mail bag, or to comply with the directions of the officer in charge of the post office at a port of arrival, as required by section 41,

shall be punishable with fine which may extend to one hundred rupees.

Penalty for detention of lettrrs on board vessel arriving in port.

66. (1) Whoever, being either the master of a ship arriving at any port in British India or any one on board, knowingly has in his baggage or in his possession or custody, after the postal articles on board or any of them have been sent to the post office at the port of arrival, any postal article within the exclusive privilege conferred on the Governor-General in Council by section 4, shall be punishable with fine, which may extend to fifty rupees for every such postal article as aforesaid.

(2) Whoever, being such master or other person as aforesaid, detains any such postal article as aforesaid after demand made for it by an officer of the post office, shall be punishable with fine which may extend to one hundred rupees for every such postal article.

Penalty for declaring mails or opening mail-bag.

67. Whoever except under the authority of this Act "or any other Act for the time being in force"* or in obedience to the order in writing of the Governor-General in Council or the direction of a competent Court, detains the mails or any postal article in course of transmission by post, or on any pretence opens a mail-bag in course of transmission by post, shall be punishable with fine which may extend to two hundred rupees :

Provided that nothing in this section shall prevent the detention of an officer of the post office carrying the mails or any postal article in course of transmission by post, on a charge of having committed an offence declared to be cognizable by the Code of Criminal Procedure, 1898, or any other law for the time being in force.

Penalty for retaining postal articles wrongly delivered or mail-bags.

68. Whoever fraudulently retains, or wilfuly secrets or makes away with, or keeps or detains, or, when required by an officer of the post office, neglects or refuses to deliver up, any postal article in course of transmission by post which ought to have been delivered to any other person or a mail-bag containing a postal article, shall be punishable with imprisonment for a term which may extend to two years, and shall also be punishable with fine.

Penalty for unlawfully diverting letters.

69. Whoever, not being an officer of the post office, wilfully and maliciously, with intent to injure any person, either opens, or causes to be opened, any letter which ought to have been delivered, or does any act whereby the due delivery of a letter to any person is prevented or impeded shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

* The words within quotations have been added by Act 15 of 1921.

Provided that nothing in this section shall apply to a person who does any act to which the section applies, if he is a parent, or in the position of a parent or guardian, of the addressee, and the addressee is a minor or a ward.

General.

Penalty for abetting, or attempting to commit, offences under Act.

70. Whoever abets the commission of any offence punishable under this Act, or attempts to commit any offence so punishable, shall be punishable with the punishment provided for that offence.

Property in cases of offences to be laid in the post office.

71. In every prosecution for an offence in respect of a mail-bag, or of any postal article sent by post, it shall be sufficient, for the purpose of the charge, to describe the mail-bag or postal article as being the property of the post office, and it shall not be necessary to prove that the mail-bag or postal-article was of any value.

Authority for prosecutions under certain sections of Act.

72. No Court shall take cognizance of an offence punishable under any of the provisions of sections 51, 53, 54, clauses (*a*) and (*b*), 55, 56, 58, 59, 61, 64, 65, 66, and 67 of this Act, unless upon complaint made by order of, or under authority from, the Director General or a post-Master-General.

CHAPTER XI.

SUPPLEMENTAL.

Zamindari and other district posts.

73. (1) The Governor-General in Council may make rules for the management of any Zamindari or other district post.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may declare what portions of this Act shall be applicable to zamindari and other district posts, and to the persons employed in connection therewith.

General power to make rules and provisions as to rules under Act.

74. (1) In addition to the powers hereinbefore conferred, the Governor-General in Council may make rules to carry out any of the purposes and objects of this Act.

(2) In making any rule under this Act, the Governor-General in Council may direct that a breach of it shall be punishable with fine which may extend to fifty rupees.

(3) All rules made by the Governor-General in Council under this Act shall be published in the *Gazette of India*, and, on such publication, shall have effect as if enacted by this Act.

Delegation of powers, other than rule-making powers, to Director General.

75. The Governor-General in Council may, by notification in the *Gazette of India*, authorize, either absolutely or subject to conditions, the Director-General to exercise any of the powers conferred upon the Governor-General in Council by this Act other than a power to make rules.

76. [Repealed by Act X of 1914.]

Saving.

77. Nothing in this Act shall derogate from or affect the provisions of the East India Company Act 1780,* or any enactment amending or extending the same.

THE FIRST SCHEDULE.*

INLAND POSTAGE RATES.

(*See Section 7.*)

LETTERS.	
For a weight not exceeding two and a half tolas ...	One anna.
For every two and a half tolas, or fractions thereof exceeding two and a half tolas.	One anna.
POST-CARDS.	
Single	Half an anna.
Reply	One anna.
BOOKS, PATTERN AND SAMPLE PACKETS.	
For every five tolas or fraction thereof	Half an anna.
REGISTERED NEWS-PAPERS.	
For a weight not exceeding eight tolas ...	Quarter of an anna.
For a weight exceeding eight tolas and not exceeding twenty tolas.	Half an anna.
Every twenty tolas, or fraction thereof, exceeding twenty tolas	Half an anna.
PARCELS.	
For a weight not exceeding twenty tolas	Two annas.
For a weight exceeding twenty tolas and not exceeding forty tolas	Four annas.
For every forty tolas, or fraction thereof, exceeding forty tolas.	Four annas.

* 21 Geo. III., c. 70.

ACT NO. IX OF 1898.

The Live-Stock Importation Act, 1898.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the Assent of the Governor-General on the 12th August 1898.

An Act to make Better Provision for the Regulation of the Importation of Live-stock.

WHEREAS it is expedient to make better provision for the regulation of the importation of live stock which is liable to be affected by infectious or contagious disorders ; It is hereby enacted as follows :—

Short title, local extent, and commencement.

1. (1) This Act may be called the "Live-stock Importation Act, 1898."*

(2) It extends to the whole of British India ;

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context, —

(*a*) the expression "infectious or contagious disorders" includes tick-pest, anthrax, glanders, farcy, scabies, and any other disease or disorder which may be specified by the Governor-General in Council by notification in the *Gazette of India* ; and

(*b*) 'live-stock" includes horses, kine, camels, sheep, and any other animal which may be specified by the Governor-General in Council by notification in the *Gazette of India.*

Power to regulate importation of live-stock.

3. (1) The Governor-General in Council may, by notification in the *Gazette of India*, regulate, restrict, or prohibit, in such manner, and to such extent as he may think fit, the bringing or taking, by sea or land, into British India or any specified place therein, of any live-stock which may be liable to be affected by infectious or contagious disorders, and of any fodder, dung, stable-litter, clothing, harness, or fittings appertaining to live-stock, or that may have been in contact therewith.

* Here the word "coal" has been repealed by Act X. of 1914.

(2) A notification under sub-section (1) shall operate as if it had been issued under section 19 of the Sea Customs Act, 1878,* and the officers of customs at every port shall have the same powers in respect of any live-stock or thing, with regard to the importation of which such a notification has been issued, and the vessel containing the same, as they have for the time being in respect of any article the importation of which is regulated, restricted, or prohibited by the law relating to sea customs, and the vessel containing the same; and the enactments for the time being in force relating to sea customs or any such article or vessel shall apply accordingly.

Power for Local Government to make rules.

4. (1) The Local Government may, subject to the control of the Governor-General in Council, make rules for the detention, inspection, disinfection, or destruction of imported live stock, and of fodder, dung, stable-litter, clothing, harness, or fittings appertaining to imported live-stock, or that may have been in contact therewith and for regulating the powers and duties of the officers whom it may appoint in this behalf.

(2) In making any rule under this section the Local Government may direct that a breach thereof shall be punishable with fine which may extend to one thousand rupees.

Protection to persons acting under Act.

5. No suit, prosecution, or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act.

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* Act VIII. of 1878.

ACT No. X. OF 1898.

The Indian Insolvency Rules Act, 1898.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the Assent of the Governor-General on the 2nd September 1898.

An Act to make Provision for certain Matters connected with Insolveney.

WHEREAS doubts have arisen as to the extent of the power to make rules conferred by sections 15 and 76 of the Indian Insolvency Act, 1848,* and whereas it is expedient to remove those doubts, and to confirm certain rules which were made by the High Court of Judicature at Bombay on the thirty-first day of July 1878; It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the "Indian Insolvency Rules Act, 1898; †

(2) It shall come into force at once.

2. & **3.** [*Repealed by Act III. of 1907.*]

Official assignee's allowance for pension.

4. The Chief Justice of the said Court may, with the previous sanction of the Governor-General in Council, pay to the present official assignee, out of the interest on the Unclaimed Dividend Account, such sum by way of pension on retirement or bonus in lieu thereof as may be reasonable and proper, having regard to the length, nature, and conditions of his service.

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* II & 12 Vict., c. 21.

† The word "and" has been repealed by Act X. of 1914.

ACT No. XII. OF 1898.

The Central Provinces Land-Revenue Act, 1898.

PASSED BY THE GOVENOR GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 21st October 1898.

An Act further to amend the Central Provinces Land-Revenue Act, 1881.

Whereas it is expedient further to amend the Central Provinces Land-revenue Act, 1881;* It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Central Provinces Land-Revenue Act, 1898; and

(2) It shall come into force at once.

Substitution of new definition of "sir-land" for that contained in section 4, clause (6), Act XVIII., 1881.

2. In Chapter I. of the Central Provinces Land revenue Act, 1881* (hereinafter referred to as "the said Act"), clause (6) of section 4 is repealed, and and after section 4 the following shall be added, namely :—

[*Vide vol. II.* 545.]

Substitution of new section 65 A, Act XVIII., 1881.

3. For section 65A of the said Act the following shall be substituted, namely :—

[*Vide vol. II. p.* 563.]

Substitution of new section for section 69, Act XVIII, 1881.

4. For section 69 of the said Act the following shall be substituted, namely :—

[*Vide vol. II* 569.]

Amendment of section 78, XVIII, 1881.

5. In section 78 of the said Act, after the figures "69," the word and figure "sub-section (1)," shall be inserted.

Addition of an *explanation* to section 91, Act XVIII, 1881.

6. To section 91 of the said Act the following *explanation* shall be added, namely :—

"*Explanation.*—The term 'assigns' in this section includes a mortgagee in possession and a thikadar."

* Act XVIII. of 1881.

Addition of new section after section 91, Act XVIII., 1881.

7. After section 91 of the said Act the following shall be added, namely :—

[*Vide vol. II* 575.]

Addition to section 132, Act XVIII., 1881.

8. For clause (*i*) of section 132 of the said Act the following clauses shall be substituted namely :—

[*Vide vol. II* 587.]

Addition of new section after section 136V., Act XVIII., 1881.

9. After section 136V. of the said Act the following section shall be added, namely :—

[*Vide vol II* 593.]

Rules regarding village-watchmen may povide for their punishment.

10. In clause (*a*) of section 147A of the said Act, between the words "appointment" and "suspension" the word "punishment" shall be inserted.

Addition of new section after section 119, Act XVIII., 1881.

11. In chapter XII. of the said Act, after section 157 the following shall be added, namely :—

[*Vide vol. II.* 602.]

Transfer from Criminal to Revenue Courts of Power to fine a mukaddam for breach of duty under the Act.

12. In sections 161A and 161B of the said Act, for the words "punishable with fine" the words "liable, on the order of a Deputy Commissioner, to a fine" shall be substituted.

Repeals.

13. Sections 3, 5, 17, 19, 20, and 24 of the Central Provinces Land-revenue Act, 1889,* are repealed.

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* Act XVI. of 1889.

ACT NO XIII OF 1898:

The Burma Laws Act, 1898.

Passed by the Governor-General of India in Council.

Received the assent of the Governor-General on the 4th November 1898.

An Act to declare the Regulations of the Bengal Code and Acts of the Governor-General in Council now in force in Upper Burma, and to make certain provisions regarding the law in Burma and other matters.

WHEREAS it is expedient to declare the Regulations of the Bengal Code and Acts of the Governor-General in Council now in force in Upper Burma, and to make certain provisions regarding the law in Burma;

And whereas it is also expedient to amend, repeal, and facilitate the citation of, various enactments in force in Burma;

It is hereby enacted as follows:—

Preliminary.

Short title, commencement and extent

1. (1) This Act may be called "The Burma Laws Act, 1898;" and

(2) It shall come into force at once.

(3) Save in so far as it applies expressly or by necessary implication to particular territory only, it extends to the whole of British India.

Saving of special or local laws.

2. Save as otherwise in this Act expressly declared, nothing herein contained shall affect the provisions of the Arakan Hill District Laws Regulation, 1874,* the Kachin Hill Tribes Regulation, 1895,† the Chin Hills Regulation, 1896,‡ or any special or local law for the time being in force in Burma or any part thereof.

Definitions.

3. In This Act, unless there is anything repugnant in the subject or context:—

(*a*) the word "Burma" means the territories for, the time being administered by the Lieutenant-Governor of Burma;

* Reg. IX. of 1874. † Reg. I. of 1895. ‡ Reg. V. of 1896

(*b*) the word "chief," used with reference to a Shan State, includes a person temporarily administering such a State;

(*c*) the expression "Chin Hills" means the territories for the time being known as the Chin Hills;

(*d*) the expression "Lower Burma" means the territories for the time being included in Lower Burma;

(*e*) the expression "Shan States" means the territories for the time being included in the Shan States; and

(*f*) the expression "Upper Burma" means the territories for the time being included in Upper Burma, including also the Chin Hills.

Upper Burma.

Bengal Regulations and Acts of the Governor-General in Council in force in Upper Burma

4. (1) Subject to the provisions of this Act, and of any other enactment for the time being in force, this, Act and the enactments mentioned in the first schedule, to the extent specified in the fourth column thereof, shall be deemed to be in force in Upper Burma.

(2) A Regulation of the Bengal Code or an Act of the Governor-General in Council passed before the commencement of this Act, but not mentioned in the first schedule, shall not be deemed to be in force in Upper Burma, or in any part thereof, unless it is, after the commencement of this Act, extended thereto in exercise of the powers conferred by section 5 of the Scheduled Districts Act, 1874,* or any other enactment for the time being in force.

(3) The undermentioned enactments shall, in their application to Upper Burma, be deemed to be subject to the following modifications, that is to say:—

(*a*) in the Indian Tolls Act, 1851,† for the last sixteen words of section 4, the words "or of any person or property exempted by order of the Local Government from payment of tolls" shall be substiuted ;‡

(*c*) in the Indian Evidence Act, 1872,§ after the expression "police-officer" in section 25, the words "who is not a Magistrate" shall be inserted.

(4) This section does not extend to the Shan States.

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* Act XIV of 1874. † Act VIII. of 1851.

‡ Clause (*b*) has been repealed by Act IV. of 1909. § Act I. of 1872.

Division of Upper Burma into divisions, districts, subdivisions, townships, and circles.

5. The Local Government may, for administrative, inclueding rvenue, purposes,—

(*a*)* divide Upper Burma into divisions, and each of those divisions into districts, and vary the limits of those divisions and districts, and,

(*b*)* divide each of those districts into sub-divisions, each of those sub divisions into townships, and each of those townships into circles, and vary the limits of those sub-divisions, townships, and circles.

Construction of enactments in force in Upper Burma.

6. For the purpose of facilitating the application of any enactment for the time being in force in any part of Upper Burma, any Court may construe the enactment with such alterations, not affecting the substance, as may be necessary or proper to adapt it to the matter before the Court.

Lower Burma.

Construction of references in certain existing enactments to British Burma and Burma.

7. Where, in any enactment in force, on the twenty-fourth day of September 1886, in any part of Lower Burma, and still in force, there occurs a reference to the "British Burma Gazette," or a reference to "the territories administered by the Chief Commissioner of British Burma (or Burma)," or to "British Burma" or "Burma" (except where the expression "Burma" occurs in section 3 of the Petroleum Act, 1886),† such reference shall be construed as referring to the Burma Gazette or to Lower Burma, as the case may be.

Extension of Bengal Regulation III., 1818, to Lower Burma.

8. The unrepealed portions of Regulation III. of 1818 of the Bengal Code shall, *mutatis mutandis*, be deemed to extend, and on and from the sixteenth day of September, 1875, to have extended, to Lower Burma

Conferment of magisterial and other powers upon police-officers in Salween and Arakan Hill Districts of Lower Burma.

9. In the tracts of country respectively known as the Salween District and the Hill District of Arakan, section 20 of the Police Act, 1861,‡ shall not apply to any police-officer appointed under section 4 of that Act, and, notwithstanding anything in the Code of Criminal Procedure, 1898,§ the Local Government shall continue to have power to confer on any such police-officer in either of those tracts, either generally or in regard to particular cases or classes of cases, all or any of the powers conferred or conferable by or under that Code on any Magistrate.

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* Certain words have been omitted by Act IV. of 1914.

† Act XII. of 1886. ‡ Act V. of 1861, § Act V. of 1898.

The Shan States.

Law in the Shan States.

10. (1) The Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the Burma Gazette, extend, with such restrictions and modifications as it thinks fit, to all or any of the Shan States, or to any specified local area in the Shan States, any enactment which is in force in any part of Upper Burma at the date of the extension.

(2) Unless and until it is extended under sub-section (1), or unless it is expressed by special mention of the Shan States to extend thereto, an enactment shall not be in force in the Shan States, or in any part thereof.

(3) The Local Government "subject to the control of the Governor General in Council."* may, by notification in the Burma Gazette, declare what territories constitute the Shan States for the purposes of this Act.

Administration of Shan States by their own chiefs, and under their own laws.

11. (1) Subject to the provisions of this Act, and of any other enactment for the time being in force in a Shan State, and to such conditions as may have been, or may be, prescribed by the Local Government, with the approval of the Governor-General in Council, in any instrument recognizing a person as the chief of the State, the administration of civil and criminal justice and the collection of the revenue within the State shall be vested in the person for the time being recognized by the Local Government as the chief of the State.

(2) Subject as aforesaid, the law to be administered in a Shan State shall be the customary law of the State in so far as that law is in accordance with justice, equity, and good conscience, and in so far as the punishments which may be awarded thereunder or the practices which are permitted thereby, are in conformity with the spirit of the law in force in the rest of British India.

Participation of the Government in the administration of Shan States.

12. (1) The Local Government may, by order,—

(*a*) appoint officers to undertake, or to take part in, the administration of civil and criminal justice and the collection of the revenue within the Shan States ;

(*b*) "subject to the control of the Governor-General in Council,"* define the powers, and regulate the procedure, of officers so appointed and their deputies and subordinates, and of the chiefs and their deputies and subordinates ;

* The words within quotations have been substituted by Act 38 of 1920.

(*c*) "subject to the control of the Governor-General in Council,"* direct by what authority any jurisdiction, power, or duty incident to the operation of any enactment for the time being in force in the Shan States is to be exercised or performed;

(*d*) modify the customary law of the Shan States, in so far as, in the opinion of the Local Government, that law is not in accordance with justice, equity and good conscience, or authorizes punishments, or permits practices, which are not in conformity with the spirit of the law in force in the rest of British India; and

(*e*) modify the system of taxation in the Shan States, and regulate the assessment and collection of the revenue therein.

(2) An order of the Local Government under sub section (1) may have reference to any one Shan State, or to any specified local area therein, or to any number of Shan States, specified or referred to in the order.

General.

Law to be administered in certain cases.

13. (1) Where, in any suit or other proceeding in Burma, it is necessary for the Court to decide any question regarding succession, inheritance, marriage, or caste, or any religious usage or institution,—

(*a*) the Buddhist law in cases where the parties are Buddhists,

(*b*) the Muhammadan law in cases where the parties are Muhammadans, and

(*c*) the Hindu law in cases where the parties are Hindus,

shall form the rule of decision, except in so far as such law has, by enactment, been altered or abolished, or is opposed to any custom having the force of law.

(2) Subject to the provisions of sub-section (1), and of any other enactment, for the time being in force, all questions arising in civil cases instituted in the Courts of Rangoon shall be dealt with and determined according to the law for the time being administered by the High Court of Judicature at Fort William in Bengal in the exercise of its ordinary original civil jurisdiction.

(3) In cases not provided for by sub section (1) or sub-section (2), or by any other enactment for the time being in force, the decision shall be according to justice, equity, and good conscience.

(4) This section does not extend to the Shan States.

* The words within quotations have been substituted by Act 38 of 1929.

Tranfer of territory between Upper and Lower Burma.

14. (1) The Local Government, "subject to the control of"* the Governor General in Council, may, by notification in the Burma Gazette, transfer any portion of Upper Burma to Lower Burma, or any portion of Lower Burma to Upper Burma, with effect from a date to be specified in the notification, and, on and with effect from that date, the portion so transferred shall form part of Lower Burma or Upper Burma, as the case may be.

(2) When any portion of Upper Burma (except the Shan States) is transferred to Lower Burma, the territory so transferred shall, unless the Govenor-General in Council otherwise directs, continue to be a Scheduled District.

(3) When any portion of Lower Burma is transferred to Upper Burma, the Governor General in Council may direct that the territory so transferred shall form part of the Scheduled District of Upper Burma.

Transfer to Lieutenant-Governor of powers and duties of Chief Commissioner

15. All powers conferred or duties imposed upon the Chief Commissioner of British Burma or Burma by or under any enactment shall be deemed to be, and, on and with effect from the first day of May, 1897, to have been, conferred or imposed upon the Lieutenant-Governor of Burma; and, subject to the provisions of section 7, all references in any instrument to the said Chief Commissioner shall, on and with effect from that date, be construed as referring to the Lieutenant-Governor.

Amendment of certain enctments.

16. The enactments mentioned in the third schedule are hereby amended to the extent and in the manner specified in the fourth column thereof.

Citation of certain enactments.

17. The enactments mentioned in the fourth schedule may, without prejudice to any other mode of citation, be cited for all purposes by the appropriate short titles specified in the fourth column thereof.

18. [*Repealed by Act I. of* 1903.]

* The words within quotations have been substituted by Act 38 of 1920.

THE FIRST SCHEDULE.

See section 4, sub-section (1).

ENACTMENTS DECLARED IN FORCE IN UPPER BURMA.

[NOTE.—The citation of an enactment includes all enactments, passed before the commencement of this Act, expressly amending the former enactment.]

1	2	3	4
Year.	No.	Short title.	Extent of application.
		Regulation of the Bengal Code.	
1818	III.	The Bengal State Prisoners Regulation, 1818.	So much as is unrepealed.
		Acts of the Governor-General in Council.	
1843	V.	The Indian Slavery Act, 1843 ...	So much as is unrepealed.
1847	XX.	The Indian Copyright Act, 1847 ...	Ditto.
1850	XII.	The Public Accountants' Defaults Act, 1850.	Ditto.
,,	XVIII.	The Judicial Officers' Protection Act, 1850	The whole Act.
,,	XIX.	The Apprentices Act, 1850 ...	So much as is unrepealed.
,,	XXXIV.	The State Prisoners Act, 1850 ...	Ditto.
,,	XXXVII.	The Public Servants (Inquiries) Act, 1850.	Ditto.
1851	VIII.	The Indian Tolls Act, 1851 ...	Ditto.
1852	XXX.	The Indian Naturalisation Act, 1852.	Ditto.
1853	II.	The Landholders' Public Charges and Duties Act, 1853.	The whole Act.
1855	XII.	The Legal Representatives' Suits Act, 1855.	So much as is unrepealed.
,,	XIII.	The Indian Fatal Accidents Act, 1855.	Ditto.
,,	XXIV.	The Penal Servitude Act, 1855 ...	Ditto. *

* Certain words after this repealed by Act 4 of 1922 have been omitted.

THE FIRST SCHEDULE—*contd.*

ENACTMENTS DECLARED IN FORCE IN UPPER BURMA—*contd.*

1	2	3	4
Year.	No.	Short title.	Extent of application.
		Acts of the Governor-General in Council—contd.	
1858	III.	The State Prisoners Act, 1858 ...	Section 5.
„	XXXV.	The Lunacy (District Courts) Act, 1858.	So much as is un. repealed.
„	XXXVI.	The Indian Lunatic Asylums Act, 1858.	Ditto.
1859	IX.	The Forfeiture Act, 1859 ...	Ditto.
1860	IX.	The Employers and Workmen (Disputes) Act, 1860.	Ditto.
„	XXI.	The Societies Registration Act, 1860.	Ditto.
„	XLV.	The Indian Penal Code	Ditto.
1861	V.	The Police Act, 1861	Ditto.
1863	XVI.	The Excise (Spirits) Act, 1863 ...	Ditto.
1864	III.	The Foreigners Act, 1864 ...	Ditto.
„	VI.	The Whipping Act, 1864 ...	So much as is unrepealed, except section 6.
„	XV.	The Indian Tolls Act, 1864 ...	The whole Act.
1865	III.	The Carriers Act, 1865	So much as is unrepealed.
„	X.	The Indian Succession Act, 1865 ...	Ditto.
„	XXI.	The Parsi Intestate Succession Act, 1865.	The whole Act.
1867	III.	The Public Gambling Act, 1867 ...	So much as is unrepealed.
„	XXV.	The Press and Registration of Books Act, 1867.	Ditto.

THE FIRST SCHEDULE—*contd.*

ENACTMENTS DECLARED IN FORCE IN UPPER BURMA—*contd.*

1	2	3	4
Year.	No	Short title.	Extent of application.
		Acts of the Governor-General in Council—contd.	
1869	IV.	The Indian Divorce Act, 1869 ...	Ditto.
„	V.	The Indian Articles of War ...	Ditto.
„	XV.	The Prisoners' Testimony Act, 1869.	Ditto.
1869	XX.	The Indian Volunteers Act, 1869 ...	So much as is unrepealed.
1870	VII.	The Court-fees Act, 1870 ...	Ditto.
„	XXIII.	The Indian Coinage Act, 1870 ...	Ditto.
1871	I.	The Cattle-trespass Act, 1871 ...	The whole Act.
„	V.	The Prisoners Act, 1871 ...	So much as is unrepealed.
„	XXIII.	The Pensions Act, 1871	Ditto.
1872	I.	The Indian Evidence Act, 1872 ...	Ditto.
„	IX.	The Indian Contract Act, 1872 ...	Ditto.
„	XV.	The Indian Christian Marriage Act, 1872.	Ditto.
1873	V.	The Government Savings Banks Act, 1873.	Ditto.
„	X.	The Indian Oaths Act, 1873 ...	Ditto.
1874	II.	The Administrator-General's Act, 1874.	Ditto.
„	III.	The Married Women's Property Act, 1874.	Ditto.
„	IV.	The Foreign Recruiting Act, 1874 ...	Ditto.
„	IX.	The European Vagrancy Act, 1874 ...	Ditto.
„	XIV.	The Scheduled Districts Act, 1874 ...	Ditto.

THE FIRST SCHEDULE—*contd.*

ENACTMENTS DECLARED IN FORCE IN UPPER BURMA—*contd.*

1	2	3	4
Year.	No.	Short title.	Extent of Application.
		Acts of the Governor-General in Council—contd.	
1875	V.	The Unattested Sepoys Act, 1875 ...	The whole Act.
,,	IX.	The Indian Majority Act, 1875 ...	Ditto.
,,	XIII.	The Probate and Administration Act, 1875.	So much as is unrepealed.
1876	XI.	The Presidency Banks Act, 1876 ...	Ditto.
,,	XIX.	The Dramatic Performances Act, 1876.	The whole Act, except section 12.
1877	I.	The specific Relief Act, 1877 ...	So much as is unrepealed.
,,	II.	The Probate and Administration Act, 1877.	Ditto.
,,	XI.	The Military Lunatics Act, 1877 ...	Ditto.
,,	XV.	The Indian Limitation Act, 1877 ...	Ditto.
1878	I.	The Opium Act, 1878 ...	Ditto.
,,	VI.	The Indian Treasure-trove Act, 1878.	Ditto.
,,	VIII.	The Sea Customs Act, 1878 ...	The whole Act.
,,	XI.	The Indian Arms Act. 1878 ...	So much as is unrepealed.
1879	I.	The Indian Stamp Act, 1879 ...	Ditto.
,,	III.	The Destruction of Records Act, 1879.	Sections 2, 4, 5, 7, and 8.
,,	XI.	The Local Authorities Loans Act, 1879.	The whole Act.
,,	XIV.	The Hackney Carriage Act, 1879 ...	So much as is unrepealed.
,,	XX.	The Glanders and Farcy Act, 1879 ...	Ditto.
,,	XXI.	The Foreign Jurisdiction and Extradition Act, 1879.	Ditto.

THE FIRST SCHEDULE – *contd.*

ENACTMENTS DECLARED IN FORCE IN UPPER BURMA – *contd.*

1	2	3	4
Year.	No.	Short title.	Extent of application.
		Acts of the Governor-General in Council—contd.	
1880	V.	The Burma Boundaries Act, 1880 ...	Ditto.
,,	XIII.	The Vaccination Act, 1880 ...	The whole Act.
1881	V.	The Probate and Administration Act, 1881.	So much as is unrepealed.
,,	XI,	The Municipal Taxation Act, 1881 ...	The whole Act.
,,	XXVI.	The Negotiable Instruments Act, 1881.	So much as is unrepealed.
1882	VI.	The Indian Companies Act, 1882 ...	The whole Act.
,,	XII.	The Indian Salt Act, 1812 ...	Sections 1, 2, 6, 7, and 8 and Chapter IV.
1882	XIV.	The Code of Civil Procedure ...	So much as is unrepealed.
,,	XVIII.	The Burma Steam-Boilers and Prime-movers Act, 1882.	The whole Act.
,,	XX.	The Indian Paper Currency Act, 1882.	So much as is unrepealed.
1883	XIX.	The Land Improvement Loans Act, 1883.	Ditto.
1884	IV.	The Indian Explosives Act, 1884 ...	Ditto.
,,	VI.	The Indian Steam-vessels Act, 1884.	Ditto.
,,	XII.	The Agriculturists' Loans Act, 1884.	The whole Act.
,,	XVI.	The Burma Gaming Act, 1884 ...	Ditto.
1885	XIII.	The Indian Telegraph Act, 1885 ...	Ditto.
1886	II.	The Indian Income-tax Act, 1886 ...	So much as is unrepealed.
,,	VI.	The Births, Deaths, and Marriages Registration Act, 1886.	Ditto.

THE FIRST SCHEDULE—*contd.*

Enactments declared in force in Upper Burma—*contd.*

1	2	3	4
Year.	No.	Short title.	Extent of application.
		Acts of the Governor-General in Council—contd.	
„	XI.	The Indian Tramways Act, 1886 ...	Ditto.
„	XII.	The Petroleum Act, 1886 ...	The whole Act.
„	XIII.	The Indian Securities Act, 1886 ...	So much as is unrepealed.
1887	VII.	The Suits Valuation Act, 1887 ...	Ditto.
„	IX.	The Provincial Small Cause Courts Act, 1887.	Ditto.
„	XIII.	The Electricity Act, 1887 ...	The whole Act.
„	XIV.	The Indian Marine Act, 1887 ...	Ditto.
„	XV.	The Burma Military Police Act, 1887.	Ditto.
„	XX.	The Wild Birds' Protection Act, 1887.	Ditto.
1888	III.	The Police Act, 1888	Ditto.
„	V.	The Inventions and Designs Act 1888.	Ditto.
1888	VIII.	The Indian Tolls Act, 1888 ...	So much as is unrepealed.
„	XVIII.	The Burma Financial Commissioners Act, 1888.	Ditto.
1889	I.	The Metal Tokens Act, 1889 ...	Ditto.
„	II.	The Measures of Length Act, 1889 ...	The whole Act.
„	IV.	The Indian Merchadise Marks Act, 1889.	So much as is unrepealed.
„	VI.	The Probate and Administration Act, 1889.	So much as is unrepealed, except section 21.
„	VII.	The Succession Certificate Act, 1889.	The whole Act.

THE FIRST SCHEDULE—*concld.*

ENACTMENTS DECLARED IN FORCE IN UPPER BURMA—*concld.*

1	2	3	4
Year.	No.	Short title.	Extent of application.
		Acts of the Governor-General in Council—concld.	
,,	XI.	The Lower Burma Courts Act, 1889.	Sections 46 and 47.
,,	XIII.	The Cantonments Act, 1889 ...	So much as is unrepealed.
,,	XV.	The Indian Official Secrets Act, 1889	The whole Act.
1890	I.	The Revenue Recovery Act, 1890 ...	Ditto.
,,	VI.	The Charitable Endowments Act, 1890.	Ditto.
,,	VIII.	The Guardian and Wards Act, 1890.	Ditto.
,,	IX.	The Indian Railways Act, 1890 ...	So much as is unrepealed.
,,	XI.	The Prevention of Cruelty to Animals Act, 1890.	The whole Act.
,,	XIII.	The Excise (Malt Liquors) Act, 1890	Section 9.
1891	XVIII.	The Bankers' Books Evidence Act, 1891.	The whole Act.
1892	II.	The Marriages Validation Act, 1892.	Ditto.
,,	X.	The Government Management of Private Estates Act, 1892. ...	Ditto.
1893	IV.	The Partition Act, 1893 ...	Ditto.
1893	V.	The Foreign Jurisdiction (Capital Sentences) Act, 1893.	The whole Act.
1894	I.	The Land Acquisition Act, 1894 ...	Ditto.
,,	IX.	The Prisons Act, 1894	Ditto.
1895	IX.	The Extradition (India) Act, 1895 ...	Ditto.

THE FIRST SCHEDULE—*concld.*

ENACTMENTS DECLARED IN FORCE IN UPPER BURMA—*concld.*

1	2	3	4
Year.	No.	Short title.	Extent of application.
		Acts of the Governor-General in Council—concld.	
„	X.	The Indian Railway Companies Act, 1895.	Ditto.
„	XII.	The Indian Companies (Memorandum of Association) Act, 1895	Ditto.
„	XV.	The Crown Grants Act, 1895 ...	Ditto.
„	XX.	*Ex*-King Thebaw's Act, 1895 ...	Ditto.
1896	XII.	The Excise Act, 1896	Ditto.
1897	III.	The Epidemic Diseases Act, 1897 ...	Ditto.
„	VIII.	The Reformatory Schools Act, 1897.	Ditto.
„	IX.	The Provident Funds Act, 1897 ...	Ditto.
„	X.	The General Clauses Act, 1897.	Ditto.
„	XII.	The Local Authorities (Emergency) Loans Act 1897.	Ditto.
„	XIV.	The Indian Short Titles Act, 1897 ...	Ditto.
1898	II.	The Indian Paper Currency Act, 1898	Ditto.
„	III.	The Lepers Act 1898	Ditto.
„	V.	The Code of Criminal Procedure, 1898.	The whole Code (subject to the provisions of the Upper Burma Criminal Justice Regulation, 1892).
„	VI.	The Indian Post Office Act, 1898 ...	The whole Act.
„	IX.	The Live-stock Importation Act, 1898.	Ditto.

THE SECOND SCHEDULE [*Repealed by Act IV. of* 1909.]

THE THIRD SCHEDULE

(*See section* 16.)

AMENDMENTS.

1	2	3	4
Year.	No.	Short title.	Amendment.
		Part I.—Acts of the Governor-General in Council.	
1876	*II.	The Burma Land and Revenue Act, 1876.	In section 55, in the second proviso, *for* Chief Commissioner, *substitute* Financial Commissioner.
1877	XIII.	The Burma Embankment Act, 1877.	In section 7, clause (*a*) *after* charge *insert* or of which he is the owner.
1879	IX.	The Burma Coast lights Act, 1879.	In section 16, *for* on or before the first day of October in each year, publish *substitute* publish annually.
1880	†II.	The Lower Burma District Cesses and Rural Police Act, 1880.	In section 1, *for the second proviso substitute* Provided also that nothing herein contained applies to any town to which the Burma Municipal Act, 1898, extends. In section 9, *for the proviso substitute*:— Provided that the Local Government may at any time, for reasons to be recorded, transfer a sum of money from the accounts of any one district to the accounts of any other district.
1882	‡XVIII.	The Burma Steam-boilers and Prime-movers Act, 1882.	In section 18, after clause (*a*) *insert*:— (*aa*) for delegating to Commissioners all or any of the powers conferred upon him by sections 3 and 9;
1883	XXII.	The Rangoon Tramways Act, 1883.	In section 2, *for the definition of* "*committee*" *substitute*:— "committee" means the committee for the town of Rangoon continued or appointed under the Burma Municipal Act, 1898.

* Before this some portion has been repealed by Burma Act III. of 1905.

† Before this some portion has been repealed by Burma Act IV. of 1905.

‡ Before this some portion has been repealed by Burma Act IV. of 1902 and II. of 1905.

THE THIRD SCHEDULE—*contd.*

AMENDMENTS—*contd.*

1	2	3	4
Year.	No.	Short title.	Amendment.
Part I—Acts of the Governor General in Council—concld.			
1887	XV.	The Burma Military Police Act, 1887.	In section 1, sub-section (2), *after* and *add* applies to every member of the Burma military police-force, wherever he may be; and.
1889	*	* *	* * *
Part II.—Regulations made under the Government of India Act, 1810 (33 Vict., c. 3).			
1874	IX.	The Arakan Hill District Laws Regulation, 1874.	*For* section 5 *substitute*:— 5. Notwithstanaing anything in the Operation of Act XI., 1878. Indian Arms Act, 1878, or in any rule under that Act, no license to manufacture, or deal in arms or ammunition shall be granted without the express sanction of the Local Government. In the first division (*Acts*) of the schedule, *omit* the entires in the fourth column relating to Act XXXVII. of 1850, and to the division *add*:—
			XIV. of 1874 ... Scheduled Districts. — The whole Act, except section 10. XV. of 1874 ... Laws Local Extent. — The whole Act, except sections 4, 5, 6, and 7. V. of 1875 ... Unattested Sepoys. — The whole Act. VII. of 1875 ... Burma Fisheries. — The whole Act. IX. of 1875 ... Majority ... — The whole Act. I. of 1897 ... Amending Act XXXVII. of 1850. — The whole Act.
1887	V.	The Upper Burma Municipal Regulation, 1887.	In section 21, *after* any rule made under *insert* section 6 or, *and for* that section *substitute* section 12.

* Here certain words have been repealed by Burma Act VI. of 1907.

THE THIRD SCHEDULE—*contd.*

AMENDMENTS—*contd.*

1	2	3	4
Year.	No.	Short title.	Amendment.
Part II.—Regulations made under the Government of India Act, 1870 (33 Vict., c. 3)—contd.			
1887	IX.	The Upper Burma Frontier Crossing and Disturbed Districts Regulation, 1887.	In section 2, sub section (2), *for* Chindwin, *substitute* Upper Chindwin, *after* Bhamo *insert* Myitkyina, *and for* Yamethin and Pyinmana *substitute* and Yamenthin.
,,	XII	The Upper Burma Ruby Regulation, 1887.	In section 16, *for* Upper Burma Land Acquistion Regulation, IX. of 1886, *substitute* Land Acquisition Act, 1894, *and for* that Regulation *substitute* that Act.
1889	III.	The Upper Burma Land and Revenue Regulation, 1889.	In section 36, sub-section (1), *for* shall ascertain *substitute* may ascertain.
1891	†	† †	
1892	V.	The Upper Burma Criminal Justice Regulation, 1892.	In section 2, sub-section (1), *for* 1882 *substitute* 1898 In the second column of the table annexed to section 5 of the schedule, *for* To entertain cases without complaint, section 191, clause (*c*), *substitute* To take cognizance of any offence upon information received from any person other than a police-officer, or upon his own knowledge or suspicion, that such offence has been committed, section 190, sub-section (1), clause (*c*); *for* To entertain complaints, section 191, *substitute* To take cognizance of an offence upon receiving a complaint of facts which constitute such offence, section 190, sub-section (1), clause (*a*); *and for* To receive police-reports, section 191, clause (*b*), *substitute* To take cognizance of an offence upon a policereport of facts which constitute such offence, section 190, sub-section (1), clause (b).

* After this a portion has been repealed by Bur Act VI. of 1907.
† Here certain words have been repealed by Bur. Act III. of 1907.

THE THIRD SCHEDULE—*contd.*

AMENDMENTS—*contd.*

1	2	3	4
Year.	No.	Short title.	Amendment.
Part II.—Regulations made under the Government of India Act, 1870 (33 *Vict.*, *c.* 3)—contd.			
1892	*V.—contd.*		*After* section XIV. of the schedule *add* :— XIV. A. Notwithstanding anything in section 526, a Court of Session may.— (Section 526.) Transfer of cases. (1) if it is absolutely debarred by section 487 from trying any case committed to it, or by section 556 from hearing any appeal pending before it, direct that such case or appeal be transferred for trial or hearing to any other Criminal Court of equal jurisdiction ; (2) exercise as regards all Criminal Courts subordinate to its authority all the powers with respect to the transfer of criminal cases and appeals conferred upon the High Court by section 526 : Provided, first, that an application for the exercise of the power conferred by this section, if founded upon a report of the Judge or Magistrate before whom the case or appeal is pending, need not be supported by affidavit or affirmation : Provided, secondly, that the Court shall, before directing the transfer of a case or of an appeal under this section, issue a notice to the accused requiring him to show cause on a certain day, to be fixed in the notice, why the said case or appeal should not be transferred to some Court therein named, or to such other Court of competent jurisdiction as might be determined ; Provided, thirdly that the High Court may, on the application of the accused or of the Public Prosecutor reverse or vary any order made by a Court of Session under this section or substitute any other order in lieu thereof.

THE THIRD SCHEDULE—*concld.*

AMENDMENTS—*concld.*

1	2	3	4
Year.	No.	Short title.	Amendment.
			Part II.—Regulations made under the Government of India Act, 1870 (33 Vict., c. 3)—concld.
			In section XVI. of the schedule, *for* 55. clause (*c*), *substitute* 554, sub-section (2), clause (*c*).
1896	I.	The Upper Burma Civil Courts Regulation, 1896.	To section 12 *add* :— (4) The period of limitation for an appeal to the Divisional Court under clause (*b*) of sub-section (3) shall be sixty days, and in the computation of that period and in all other respects the limitation of the appeal shall be governed by the provisions of the Indian Limitation Act, 1877. To section 13 *add* :— The period of limitation for an appeal to the Court of the Judicial Commissioner under this section shall be ninety days and in the computation of that period and in all other respects the limitation of the appeal shall be governed by the provisions of the Indian Limitation Act, 1877.
			Part III.—Regulation of the Bengal Code.
1812	XI.	The Bengal Foreign Immigrants Regulation 1812.	In section 2, *for* he *substitute* it.

THE FOURTH SCHEDULE.

(*See section 17.*)

SHORT TITLES.

1	2	3	4
Year.	No.	Subject	Short title.
		Acts of the Governor-General in Council.	
1888	XVIII	To provide for the appointment of a Financial Commissioner for Burma and for the definition of his functions.	The Burma Financial Commissioner's Act, 1888.
1892	III.	To amend the Rangoon Port Commissioners Act, 1879	The Rangoon Port Commissioners Act (1879) Amendment Act, 1892.
1894	XI.	To amend the Lower Burma Village Act, 1882.	The Lower Burma Village Act (1889) Amendment Act, 1894.
1895	XI.	To remove certain doubts as to the validity of certain proceedings and acts of certain officers of the Pegu and Tenasserim Divisions in Lower Burma, and to prevent their being raised in the future.	The Pegu and Tenasserim Validation Act, 1895.
„	XVIII.	To amend the Lower Burma Village Act, 1889, and the Lower Burma Towns Act, 1892.	The Lower Burma Villages and Towns Law Amendment Act, 1895.
		Regulations made under the Government of India Act, 1870 (33 Vict., c. 3).	
1891	I.	To amend the Upper Burma Civil Justice Regulation, 1886, the Upper Burma Stamps and Limitation Regulation, 1887, and the Upper Burma Village Regulation, 1887.	The Upper Burma Village Regulation (1887) Amendment Regulation, 1891.

THE FOURTH SCHEDULE—*concld.*

SHORT TITLES—*concld.*

1	2	3	4
Year.	No.	Subject.	Short title.
		Regulations made under the Government of India Act, 1870 (33 *Vict., c. 3*)—concld.	
1891	V.	To amend the Upper Burma Ruby Regulation, 1887.	The Upper Burma Ruby Regulation (1887) Amendment Regulation, 1891.
1892	II.	To amend the Arakan Hills Civil Justice Regulation, 1874.	The Arakan Hills Civil Justice Regulation (1874) Amendment Regulation, 1892.
1894	III.	To amend the Upper Burma Land and Revenue Regulation, 1889.	The Upper Burma Land and Revenue Regulation (1889) Amendment Regulation, 1894.
,,	V.	To amend the Upper Burma Village Regulation, 1887	The Upper Burma Village Regulation (1887) Amendment Regulation, 1894.
1895	II.	To amend the Upper Burma Land and Revenue Regulation, 1889.	The Upper Burma Land and Revenue Regulation (1889) Amendment Regulation, 1895.
1896	IV.	To amend the Upper Burma Village Regulation, 1887, the Upper Burma Land and Revenue Regulation, 1889, and the Upper Burma Towns Regulation, 1891.	The Upper Burma Villages, Towns, and Land-Revenue Law Amendment Regulation, 1896.
1897	I.	To amend the Upper Burma Ruby Regulation, 1887.	The Upper Burma Ruby Regulation (1887) Amendment Regulation, 1897.

THE FIFTH SCHEDULE.—[*Repealed by Act I. of* 1903.]

ACT NO. I OF 1899.

The Indian Marine Act (1887) Amendment Act, 1899.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 13th January 1899.

An Act to amend the Indian Marine Act, 1887.

Whereas it is expedient to amend the Indian Marine Act, 1887* (hereinafter referred to as "the said Act"); It is hereby enacted as follows :—

Short title and commencement.

1 (1) This Act may be called the Indian Marine Act (1887) Amendment Act, 1899;†

(2) It shall come into force at once.

Amendment of section 2, sub-section (1), clause (*a*), Act XIV, 1887.

2. In section 2, sub-section (1), clause (*a*), of the said Act, for the words, 'the Indian Marine Service,' the words, 'the Royal Indian Marine Service (herein referred to as "the Indian Marine Service" or "Her Majesty's Indian Marine Service"),' shall be substituted.

Substitution of new clauses (*b*), (*c*), and (*d*), section 2, sub-section (1), Act XIV., 1887.

3. In the same section and sub section of the said Act, for clauses (*b*), (*c*), and (*d*), the following clauses shall be substituted, namely :—

'(*b*) "gazetted officer" means a person who, by virtue of his letter of appointment, is holding a position in the Indian Marine Service as—

Commander,	Chief Engineer,
Lieutenant,	Engineer, or
Sub-Lieutenant,	Assistant Engineer :

(*c*) "warrant-officer" means a person who, by virtue of his appointment, is holding a position in the Indian Marine Service as—

Assistant Surgeon,	Carpenter,
Gunner,	Clerk,

Engine-driver, first class :

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* Act XIV. of 1887.

† Certain word after this repealed by Act 10 of 1914 has been omitted.

(*d*) "petty officer" means a persons who is employed in the Indian Marine Service as—

General Mess Steward,	Carpenter's Crew, first class,
Chief Syrang of Lascars, first class,	Carpenter's Crew, second class,
Chief Syrang of Lascars, second class,	Plumber,
Syrang of Lascars, first class,	General Mess Butler, first class,
Syrang of Lascars, second class,	General Mess Butler, second class,
Sukkani,	Cook, first class,
Tindal of Lascars, first class,	Cook, second class,
Tindal of Lascars, second class,	Ship's Steward,
Engine-driver, second class,	Tide-watcher,
Syrang of Stokers, first class,	Kassab, first class,
Syrang of Stokers, second class,	Kassab, second class,
Tindal of Stokers, first class,	Pilot,
Tindal of Stokers, second class,	Chart-room Attendant,
Carpenter's Mate first class,	Leadsman, or
Carpenter's Mate, second class,	Interpreter:

Substitution of new sub-sections for sub-sections (1), (2), and (3), section 53, Act XIV., 1887.

4. (1) In section 53 of the said Act, for sub-sections (1), (2), and (3), the following sub-sections shall be substituted, namely:—

"53. (1) An Indian Marine Court shall consist of a president, and not less than two, or more than four, other members, such members to be of rank not inferior to that of Lieutenant.

(2) The president of an Indian Marine Court for the trial of a Commander shall be of rank not below that of commander, and two at least of the other officers composing the Court shall be of rank not below that of Commader.

(3) Except in the case of an Indian Marine Court convened under section 52, sub section (2), the president of an Indian Marine Court for the trial of any person below the grade of Commander shall be of rank not below that of Commander."

(2) To the said section the following sub-sections shall be added, namely :—

"(10) The seniority and precedence of officers serving on the same Indian Marine Court shall be governed by their seniority as shown in the latest Indian Marine List. The fact of any officer bearing a superior title by virtue of an appointment which he may for the time being be holding shall not give him seniority or precedence over any officer serving with him on the Indian Marine Court who may be senior to him on the Indian Marine List.

(11) The authority convening an Indian Marine Court shall, when practicable, appoint a Judge-Advocate to every trial, who shall be, if possible, an officer of the Judge-Advocate-General's Department.

(12) The authority convening an Indian Marine Court shall also appoint a person as Provost Marshal, who shall be responsible for the arrest and safe custody of the prisoner of prisoners as directed, until the decision of the confirming authority is made known and communicated to him by the convening authority."

Addition of new section after section 70, Act XIV., 1887.

5. After section 70 of the said Act, the following shall be added, namely ;

Supplemental.

70A. When an Indian Marine vessel is wrecked, lost, destroyed, or captured by the enemy, it shall, for the purposes of this Act, be deemed to remain an Indian Marine vessel until her crew are regularly removed into some other Indian Marine vessel or until a Court of Inquiry has been held into the cause of the wreck, loss, destruction, or capture thereof."

Provision in case of wreck, loss, destruction, or capture of Indian Marine vessel.

ACT NO. II OF 1899.*

The Indian Stamp Act, 1899.

[*As amended up to 31st July 1913.*]

(*Received the Governor-General's Assent on the 27th January 1899.*)

An act to consolidate and amend the Law relating to Stamps.

WHEREAS it is expedient to consolidate and amend the law relating to Stamps, it is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY,

Short title, extent and Commencement.

1. (1) This Act may be called the Inian Stamp Act, 1899.

(2) It extends to the whole of British India *inclusive of*† *British Baluchistan, the Santal Parganas, ana the Pargana of Spiti* ; and

(3) It shall come into force on the first day of *July 1899.*

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* Various local amendments have been made by Acts of local legislature. For those amendments Vide Assam Act III of 1922, Ben Act III of 1922, Bom. Act II of 1922, Mad. Act VI of 1922 and Pun. Act VIII of 1922.

† The words Upper Burma repealed by Act X, of 1914 have been omitted here.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context—

(1) "Banker" includes a bank and any person acting as a Banker:

(2) "Bill of exchange" *means a bill of exchange as defined by the Negotiable Instruments* Act, *1881*, * *and* includes *also* a hundi *and any other document entitling or purporting to entitle any person, whether named therein or not, to payment by any other person of, or to draw upon any other person for, any sum of money*:

(3) "Bill of exchange payable on demand" *includes*—

(*a*) *an order for the payment of any sum of money by a bill of exchange or promissory note, or for the delivery of any bill of exchange or promissory note in satisfaction of any sum of money, or for the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen.*

(*b*) *an order for the payment of any sum of money weekly, monthly, or at any other stated periods*; *and*

(*c*) *a letter of credit, that is to say, any instrument by which one person authorizes another to give credit to the person in whose favour it is drawn*:

(4) "Bill of Lading" *includes a "through bill of lading," but does not include a mate's receipt*:

(5) "Bond" *includes*—

(*a*) any instrument whereby a person obliges himself to pay money to another on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be:

(*b*) any instrument attested by a witness, and not payable to order or bearer, whereby a person obliges himself to pay money to another and

(*c*) any instrument so attested, whereby a person obliges himself to deliver grain to other agricultural produce to another:

(6) "Chargeable" means as applied to an instrument executed or first executed after *the commencement of* this Act, chargeable under this Act, and, as applied to any other instrument, chargeable under the law in force in British India when such instrument was executed or, where several persons executed the instrument at different times, first executed:

* Act XXVI. of 1881.

(7) " Cheque " means a bill of exchange drawn on a *specified* banker, and *not expressed to be* payable *otherwise than* on demand :

(8) " Chief Controlling Revenue authority " means—

(*a*) in the Presidency of Fort St. George " the Presidency of Fort William in Bengal "* and the territories respectively under the administration of the Lieutenant-Governors of " Bihar and Orissa "* and the North-Western Provinces and the Chief Commissioner of Oudh—the Board of Revenue ;

(*b*) in the Presidency of Bombay, outside Sindh and the limits of the town of Bombay—a Revenue Commissioner ;

(*c*) in Sindh—the Commissioner ,

(*d*) in the Punjab *and Bnrma including Upper Burma*—the Financial Commissioner ; and

(*e*) elsewhere—the Local Government, or such officer as the Local Government may, by notification in the official gazette, appoint in this behalf

(9) " Collector "—

(*a*) means, within the limits of the towns of Calcutta, Madras, and Bombay, the Collector of Calcutta, Madras, and Bombay, respectively, and, without those limits, the Collector of a district and

(*b*) includes a Deputy Commissioner and any officer whom the Local Government may, by notification in the official gazette, appoint in this behalf :

(10) " Conveyance " *includes a conveyance on sale and every* instrument by which property, whether moveable or immoveable, is transferred *inter vivos, and which is not otherwise specifically provided for by Schedule I.*

(11) " Duly stamped " as applied to an instrument, means *that the instrument bears an adhesive or impressed stamp of not less than the proper amount, and that such stamp has been affixed or used in accordance with the law for the time being in force in British India:*

(12) " Executed " *and* " Execution," used with *reference to instruments, mean* " *signed* " and " *signature :*"

(13) " Impressed stamp " *includes—*

(*a*) *labels affixed and impressed by the proper officer, and*

(*b*) *stamps embossed and engraved on stamped paper.*

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* The words within quotations have been inserted or added by Act III of 1916.

(14) " Instruments " *includes every document by which any right or liability is or purports to be created, transferred, limited, extended, extinguished, or recorded* :

(15) " Instrument of partition " means any instrument whereby co-owners of any property divide or agree to divide such property in severalty, and includes also a final order for effecting a partition passed by any Revenue-authority *or any Civil Court, and an award by an arbitrator directing a partition* :

(16) " Lease " means a lease of immoveable property, and includes also—

(*a*) a patta ;

(*b*) a kabuliyat or other undertaking in writing, not being a counterpart of a lease, to cultivate, occupy, or pay or deliver rent for, immoveable property ;

(*c*) any instrument by which tolls of any description are let ;

(*d*) any writing on any application for a lease intended to signify that the application is granted :

(16*a*)* "Marketable security" means a security of such a description as to be capable of being sold in any stock-market in British India, or in the United Kingdom :

(17) "Mortgage-deed" includes every instrument whereby, for the purpose of securing money advanced, or to be advanced, by way of loan, or an existing or future debt, or the performance of an engagement, one person transfers or creates, to or in favour of another, a right over, *or in respect of*, specified property :

(18) "Paper" includes vellum, parchment, or any other material on which an instrument may be written :

(19) "Policy of insurance" *includes*—

(*a*) any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damages, or liability arising from an unknown or contingent event ;

(*b*) a life-policy, *and any policy insuring any person against accident or sickness and any other personal insurance* :†

(20) "Policy of sea-insurance" *or "sea-policy"*—

(*a*) means any insurance made upon any ship or vessel *whether for marine or inland navigation*), or upon the machinery, tackle, or furniture of any ship or vessel, or upon any goods, merchandise, or property

* Cl. 16A has been added by Act XV. of 1904, s. 2 (*a*).

† Here the word "*and*" and sub-cl. (*c*) have been repealed by Act V. of 1906, s. 2.

of any description whatever on board of any ship or vessel, or upon the freight of, or any other interest which may be lawfully insured in or relating to, any ship or vessel; and

(*b*) includes any insurance of goods, merchandise, or property for any transit which includes, not only a sea-risk *within the meaning of clause* (*a*), but also any other risk incidental to the transit insured from the commencement of the transit to the ultimate destination covered by the insurance :

Where any person, in consideration of any sum of money paid or to be paid for additional freight or otherwise, agrees to take upon himself any risk attending goods, merchandise, or property of any description whatever while on board of any ship or vessel, or engages to indemnify the owner of any such goods, merchandise, or property from any risk, loss or damage, such agreement or engagement shall be deemed to be a contract for sea-insurance :

(21) "Power-of attorney" *includes* any instrument (not chargeable with a fee under the law* relating to court-fees for the time being in force) empowering a specified person to act *for*, *and* in the *name* of, the person executing it :

(22) "Promissory note" *means a promissory note as defined by the Negotiable Instruments Act*, 1881 ;†

it also includes a note promising the payment of any sum of money out of any particular fund which may or may not be available or upon any condition or contingency which may or may not be performed or happen :

(23) "Receipt" *includes* any note, memorandum, or writing—

(*a*) whereby any money, or any bill of exchange, cheque, or promissory note is acknowledged to have been received, or

(*b*) whereby any other moveable property is acknowledged to have been received in satisfaction of a debt, or

(*c*) whereby any debt or demand, or any part of a debt or demand, is acknowledged to have been satisfied or discharged, or

(*d*) which signifies or imports any such acknowledgment, *and* whether the same *is* or is not signed with the name of any peason ; *and*

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* The Court Fees Act (VII, of 1870).

† Act XXVI. of 1881.

(24) "Settlement" means any non-testamentary disposition, in writing, of moveable or immoveable property, made—

(*a*) in consideration of marriage,

(*b*) for the purpose of distributing property of the settlor among his family or those for whom he desires to provide, or for the purpose of providing for some person dependent on him, or

(*c*) for any religious or charitable purpose :

and includes an agreement in writing to make such a disposition ; "and, where any such disposition has not been made in writing, any instrument recording, whether by way of declaration of trust or otherwise, the terms of any such disposition."*

CHAPTER II.

STAMP-DUTIES.

A.—Of Liability of Instruments to Duty.

Instruments chargeable with duty.

3. Subject to the *provisions of this Act and the* exemptions contained in Schedule I., the following instruments shall be chargeable with duty of the amount indicated in *that* schedule as the proper duty therefor respectively, that is to say—

(*a*) every instrument mentioned in this schedule which, not having been previously executed by any person, is executed in British India on or after the first day of *July, 1899* ;

(*b*) every bill of exchange, cheque, or promissory note drawn or made out of British India on or after that day, and accepted or paid, or presented for acceptance or payment, or endorsed, transferred, or otherwise negotiated, in British India ; and

(*c*) every instrument (other than a bill of exchange, cheque, or promissory note) mentioned in that schedule, which, not having been previously executed by any person, is executed out of British India on or after that day, relates to any property situate, or to any matter or thing done or to be done, in British India, and is received in British India :

Provided that no duty shall be chargeable in respect of—

(i) any instrument executed by, or on behalf of, or in favour of, Government in cases where, but for this exemption, the Government would be liable to pay the duty chargeable in respect of such instruments ;

* The words quoted have been added by Act XV. of 1904, s. 2., cl. (*b*).

(2) any instrument for the sale, transfer, or other disposition, either absolutely or by way of mortgage or otherwise, of any ship or vessel, or any part interest, share, or property of or in any ship or vessel registered under the Merchant Shipping Act, 1894,* or under Act XIX, of 1838, or the Indian Registration of Ships Act, 1841,† as amended by subsequent Acts.

Several instruments used in single transaction *of sale, mortgage, or settlement.*

4. (1) Where, in the case of any sale, mortgage, or settlement several instruments are employed for completing the transaction, the principal instrument only shall be chargeable with the duty prescribed in Schedule I. for the conveyance, mortgage, or settlement, and each of the other instruments shall be chargeable with a duty of one rupee instead of the duty (if any) prescribed for it in that schedule.

(2) The parties may determine for themselves which of the instruments so employed shall, for the purposes of *sub-section* (1), be deemed to be the principal instrument:

Provided that the duty chargeable on the instrument so determined shall be the highest duty which would be chargeable in respect of any of the said instruments employed.

Instruements relating to several distinct matters.

5. Any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of the duties with which separate instruments, each comprising or relating to one of such matters, would be chargeable under this Act.

Instruments coming within several descriptions in Schedule I.

6. Subject to the provisions of the *last preceding* section, an instrument so framed as to come within two or more of the descriptions in Schedule I. shall, where the duties chargeable thereunder are different, be chargeable only with the highest of such duties:

Provided that nothing in *in this Act* contained shall render chargeable with duty exceeding one rupee a counterpart or duplicate of any instrument chargeable with duty, and in respect of which the proper duty has been paid.

Policies of sea-insurance.

7. (1) No contract for sea-insurance (other than such insurance as is referred to in section 506 of the Merchant Shipping Act, 1894‡) shall be valid unless the same is expressed in a sea-policy.

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* Stat, 57 & 58 Vict., c. 60. † Act X. of 1841.

‡ Stat, 57 & 58 Vict., c, 60.

(2) No *sea-policy* made for time shall be made for any time exceeding twelve months.

(3) No *sea policy* shall be valid unless it specifies the particular risk or adventure or the time for which it is made, the names of the subscribers or under-writers, and the amount or amounts insured.

(4) Where any sea insurance is made for or upon a voyage, and also for time, or to extend to or cover any time beyond thirty days after the ship shall have arrived at her destination, and been there moored at anchor, the policy shall be charged with duty as a policy for or upon a voyage, and also with duty as a policy for time.

Bonus, debentures, or other *securities* issued on loans under Act XI., 1879.

8. (1) Notwithstanding anything in this Act, any local authority raising a loan under the provisions of the Local Authorities Loans Act, 1879 * or of any other law for the time being in force, by the issue of bonds, debentures, or other *securities*, shall, in respect of such loan, be chargeable with a duty of "*one per centum*"† on the total amount of the bonds, debentures, or other *securities* issued by it, and such bonds, debentures, or other *securities* need not be stamped, and shall not be chargeable with any further duty on renewal, consolidation, sub-division, or otherwise.

(2) The provisions of sub-section (1) exempting certain bonds, debentures, or other *securities* from being stamped, and from being chargeable with certain further duty, shall apply to the bonds, debentures, or other *securities* of all outstanding loans of the kind mentioned therein, and all such bonds, debentures, or other *securities* shall be valid, whether the same stamped are or not:

Provided that nothing herein contained shall, exempt the local authority which has issued such bonds, debentures, or other *securities*, from the duty chargeable in respect thereof prior to the twenty sixth day of March 1897, when such duty has not already been paid or remitted by order issued *by the Governor-General in Council.*

(3) In the case of wilful neglect to pay the duty required by this section, the local authority shall be liable to forfeit to the Government a sum equal to ten per centum upon the amount of duty payable, and a like penalty for every month after the first month during which the neglect continues.

Power to reduce, remit, *or compound* duties.

9. The Governor-General in Council may, by *rule or* order published in the *Gazette of India*.—

* Act XI. of 1879.

† Substituted for "*eight annas per centum*" by Act VI. of 1910.

(*a*) reduce or remit, whether prospectively or retrospectively, in the whole or any part of British India, the duties with which any instruments or any particular class of instruments, or any of the instruments belonging to such class, or any instruments, when executed by or in favour of any particular class of persons, or by or in favour of any members of such class, are chargeable, and

(*b*) provide for the composition or consolidation of duties, in the case of issues, by any incorporated company or other body corporate, of debentures, bonds, or other marketable securities.

B.—Of Stamps and the Mode of using them.

Duties how to be paid.

10. (1) Except as otherwise expressly provided in this Act, all duties with which any instruments are chargeable shall be paid, and such payment shall be indicated on such instruments, by means of stamps—

(*a*) according to the provisions herein contained, or,

(*b*) when no such provision is applicable thereto—as the Governor-General in Council may by rule direct.

(2) The rules made under *sub-section* (1) may among other matters, regulate—

(*a*) in the case of each kind of instrument—the description of stamps which may be used ;

(*b*) in the case of instruments stamped with impressed stamps—the number of stamps which may be used ;

(*c*) in the case of *bills of exchange or promissory notes written in any Oriental language*—the size of the paper on which they are written.

Use of adhesive stamps.

11. The following instruments may be stamped with adhesive stamps, namely—

(*a*) instruments chargeable with the duty of one anna, "or half an anna"* except parts of bills of exchange payable otherwise than on demand, and drawn in sets ;

(*b*) bills of exchange, cheques, and promissory notes drawn or made out of British India ;

(*c*) entry as an advocate, vakil, or attorney on the roll of a High Court :

(*d*) notarial acts ; and

* The words quoted have been added by Act V, of 1904, s. 2,

(*e*) transfers by endorsement of shares *in any incorporated company or other body corporate.*

Cancellation of adhesive stamps.

12. (1) (*a*) Whoever affixes any adhesive stamp to any instrument chargeable with duty, and which has been executed by any person, shall, when affixing such stamp, cancel the same, so that it cannot be used again ; and

(*b*) whoever executes any instrument on any paper bearing an adhesive stamp shall, at the time of execution, unless such stamp has been already cancelleed in manner aforeSaid, cancel the same so that it cannot be used again.

(2) Any instrument bearing an adhesive stamp which has not been cancelled, so that it cannot be used again, shall, so far as such stamp is concerned, be deemed to be unstamped.

(3) The person required by sub-section (1) to cancel an adhesive stamp may cancel it by witting on or across the stamp his name or initials, or the name or initials of his firm with the true date of his so writing, or in any other effectual manner.

Instruments stamped with impressed stamps how to be written.

13. Every instrument written upon paper stamped with an impressed stamp shall be written in such manner that the stamp may appear on the face of the instrument, and cannot be used for or applied to any other instrument.

Only one instrument to be on same stamp.

14. No second instrument chargeable with duty shall be writen upon a piece of stamped paper upon which an instrument chargeable with duty has already been written :

Provided that nothing in this section shall prevent any endorsement which is duly stamped, or is not chargeable with duty, being made upon any instrument for the purpose of transferring any right created or evidenced thereby, or of acknowledging the receipt of any money or goods the payment or delivery of which is secured thereby.

Instrument written contrary to section 13 or 14 deemed unstamped.

15. Every instrument written in contravention of section 13 or *section* 14 shall be deemed to be unstamped.

Denoting duty.

16. Where the duty with which an instrument is chargeable, or its exemption from duty, depends in any manner upon the duty actually paid in respect of another instrument, the payment of such last-mentioned

duty shall, if application is made in writing to the Collector for that purpose, and on production of both the instruments, be devoted upon such first-mentioned instrument *by endorsement under the hand of the Collector, or* in such *other* manner (*if any*) as the Governor-General in Council may by rule prescribe.

C.—Of the Time of stamping Instruments.

Instruments executed in British India.

17. All instruments chargeable with duty, and executed by any person in British India, shall be stamped before or at the time of execution.

Instruments other than bills, cheques, and notes executed out of British India.

18. (1) Every instrument chargeable with duty executed out of British India, and not being a bill of excharge, cheque, or, promissory note, may be stamped within three months after it has been first received in British India.

(2) Where any such instrument cannot, with referrence to the description of stamp prescribed therefor, be duly stamped by a private person, it may be taken within the said period of three months to the Collector, *who* shall stamp the same, in such manner as the Governor-General in Council may by rule prescribe, with a stamp of such value as the person so taking such instrument may require and pay for.

Bills, cheques, and notes drawn out of British India.

19. The first holder in British India of any bill of exchange cheque, or promissory note drawn or made out of British India shall, before he presents the same for acceptance or payment, or endorses, transfers, or otherwise negotiates the same in British India, affix thereto the proper stamp, and cancel the same.

Provided that,—

(*a*) if, at the time any such bill *of exchange*, cheque, or note comes into the hands of any holder thereof in British India, the proper adhesive stamp is affixed thereto and cancelled in manner prescribed by section 12, and such holder has no reason to believe that such stamp was affixed or cancelled otherwise than by the person, and at the time, required by this Act, such stamp shall, so far as relates to such holder, be deemed to have been duly affixed and cancelled;

(*b*) nothing contained in this proviso shall relieve any person from any penalty incurred by him for omitting to affix or cancel a stamp.

D.—Of Valuations for Duty.

Conversion of amount expressed in foreign currencies.

20. (1) Where an instrument is chargeable with *ad-valorem* duty in respect of any money expressed in any *currency other than that of British India*, such duty shall be calculated on the value of such money in the currency of British India according to the current rate of exchange on the day of the date of the instrument.

(2) The Governor-General in Council may from time to time, by notification in the "Gazette of India," prescribe a rate of exchange for the conversion of British or any foreign currency into the currency of British India for the purposes of calcutating stamp-duty, and such rate shall be deemed to be the current rate for the purposes of sub-section (1).

Stock and marketable securities how to be valued.

21. Where an instrument is chargeable with *ad-valorem* duty in respect of any stock, or of any marketable *or other* security, such duty shall be calculated on the value of such stock or security according to the average price *or the value* thereof on the day of the date of the iustrument.

Effect of statement of rate of exchange or average price.

22. Where an instrument contains a statement of current rate of exchange or average price, as the case may require, and is stamped in accordance with such statement, it shall, so far as regards the subject matter of such statement, be presumed, until the contrary is proved, to be duly stamped.

Effect of statement of rate of exchange or average price.

23. Where interest is expressly made payable by the terms of an instrument, such instrument shall not be chargeable with duy higher than that with which it would have been chargeable had no mention of interest been made therein.

Certain instruments connected with mortgages of marketable securities of be chargeable as agreements.

23A*. (1) Where an instrument (not being a promissory note or bill of exchange)—

(*a*) is given upon the occassion of the deposit of any marketable security by way of security for money advanced or to be advanced by way of loan, or for an existing or future debt, or

(*b*) makes redeemable or qalifies a duly-stamped transfer, intended as a security, of any marketable security,

* S. 23A is added by Act XV. of 1904, s. 3.

it shall be chargeable with duty as if it were an agreement or memorandum of an agreement chargeable with duty under "Article No, 5 (*c*)"* of Schedule I.

(2) A release or discharge of any such instrument shall only be chargeable with the like duty.

How transfer in consideration of the debt or subject to future payment, etc., to be charged.

24. Where any property is transferred to any person in consideration, wholly or in part, of any debt due to him, or subject, either certainly or contingently, to the payment or transfer of any money or stock, whether being or constituting a charge or incumbrance upon the property or not, such debt, money, or stock is to be deemed the whole or part, as the case may be, of the consideration in respect whereof the transfer is chargeable with *ad-valorem* duty :

Provided that noting in this section shall apply to any such certificate of sale as is mentioned in article 18 of Schedule I.

Explanation.—In the case of a sale of property subject to a mortgage or other incumbrance, any unpaid mortgage money or money charged, together with the interest (if any) due on the same shall be deemed to be part of the consideration for the sale :

Provided that, where property subject to a mortgage is transferred to the mortgagee, he shall be entitled to deduct from the duty payable on the transfer the amount of any duty already paid in respect of the mortgage.

Illustrations.

(1.) A owes B Rs. 1,000. A sells a property to B, the consideration being Rs. 500 and the release of the previous debt of Rs 1,000 : Stamp-duty is payable on Rs. 1,500.

(2) A sells a property to B for Rs. 500 which is subject to a mortgage to C for Rs. 1,000 and unpaid interest Rs. 200 : Stamp-duty is payable on Rs. 1,700.

(3) A mortgages a house of the value of Rs. 10,000 to B for Rs. 5,000, B afterwards buys the House from A : Stamp-duty is payable on Rs. 10,000, less the amount of stamp-duty already paid for the mortgage.

Valuation in case of annuity.

25. Where an instrument is executed to secure the payment of an annuity or other sum payable periodically, or where the consideration for a conveyance is an annuity or other sum payable periodically, the amount secured by such instrument or the consideration for such conveyance (as the case may be) shall, for the purposes of this Act, be deemed to be—

* Words and figures quoted were substituted for "Article No. 5 (*b*)" by Act I. of 1912.

(*a*) where the sum is payable for a definite period, so that the total amount to be paid can be previously ascertained—such total amount;

(*b*) where the sum is payable in perpetuity, or for an indefinite time not terminable with any life in being at the date of such instrument or conveyance—the total amount which, according to the terms of such instrument or conveyance, will or may be payable during the period of twenty years *calculated from the date on which the first payment becomes due*; and

(*c*) where the sum is payable for an indefinite time terminable with any life in being at the date of such instrument or conveyance—the *maximum* amount which will or may be payable as aforesaid during the period of twelve years *calculated from the date on which the first payment becomes due.*

Stamp where value of subject-matter is indeterminate.

26. Where the amount or value of the subject-matter of any instrument chargeable with *ad-valorem* duty cannot be or (in the case of an instrument executed before *the commencement of this Act*) could not have been ascertained at the date of its execution or first execution, nothing shall be claimable under such instrument more than the highest amount or value for which, if stated in an instrument of the same description, the stamp actually used would, at the date of such execution, have been sufficient:

* "Provided that, in the case of the lease of a mine in which royalty or a share of the produce is received as the rent or part of the rent, it shall be sufficient to have estimated such royalty or the value of such share, for the purpose of stamp-duty,—

(*a*) when the lease has been granted by or on behalf of the Secretary of State in Council, at such amount or value as the Collector may, having regard to all the circumstances of the case, have estimated as likely to be payable by way of royalty or share to the said Secretary of State in Council under the lease, or,

(*b*) when the lease has been granted by any other person, at twenty thousand rupees a year;

and the whole amount of such royalty or share, whatever it may be, shall be claimable under such lease."

Provided also that, where proceedings have been taken in respect of an instrument under section 31 or 41, the amount certified by the Collector shall be deemed to be the stamp actually used at the date of execution.

* This *proviso* has been substituted for the original first proviso by Act XV. of 1914, s. 4.

Facts affecting duty to be set forth in instrument.

27. The consideration, if any, and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein.

Direction as to duty in case of certain conveyances.

28. (1) Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts by different instruments, the consideration shall be apportioned in such manner as the parties think fit, *provided* that a distinct consideration for each separate part is set forth in the conveyance relating thereto, and such conveyance shall be chargeable with *ad-valorem* duty in respect of such distinct consideration.

(2) Where property contracted to be purchased for one consideration for the whole, by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed in parts by separate instruments to the persons by or for whom the same was purchased, for distinct parts of the consideration, the conveyance of each separate part shall be chargeable with *ad-valorem* duty in respect of the distinct part of the consideration therein specified.

(3) Were a person having contracted for the purchase of any property, but not having obtained a conveyance thereof, contracts to sell the same to any other person, and the property is in consequence conveyed immediately to the subpurchaser, the conveyance shall be chargeable with *ad-valorem* duty in respect of the consideration for the sale by the original purchaser to the subpurchaser.

(4) Where a person having contracted for the purchase of any property, but not having obtained a conveyance thereof, contracts to sell the whole or any part thereof to any other person or persons, and the property is in consequence conveyed by the original seller to different persons in parts, the conveyance of each part sold to a sub-purchaser shall be chargeable with *ad-valorem* duty in respect only of the consideration paid by such sub purchaser, without regard to the amount or value of the original consideration; and the conveyance of the residue (if any) of such property to the original purchaser shall be chargeable with *ad-valorem* duty in respect only of the excess of the original consideration over the aggregate of the considerations paid by the sub-purchasers:

Provided that the duty on such last mentioned conveyance shall in no case be less than one rupee.

(5) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with *ad-valorem* duty in respect of the consideration paid by

him, and is duly stamped accordingly, any conveyance to be afterwards made to him of the same property by the original seller shall be chargeable with a duty equal to that which would be chargeable on a conveyance for the consideration obtained by such original seller, or, where such duty would exceed five rupees, with a duty of five rupees.

E.—Duty by whom payable.

Duties by whom payable.

29. In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne—

(*a*) in the case of any instrument described in *any of the following articles* of *Schedule I., namely*—

No. 2 (Administration Bond),

* "No. 6 (Agreement relating to Deposit of Title-deeds, Pawn, or Pledge),"

No. 13 (Bill of Exchange),

No. 15 (Bond),

No. 16 (Bottomry Bond),

No. 26 (Customs Bond),

No. 27 (Debenture),

No. 32 (Further Charge),

No. 34 (Indemnity Bond),

No. 40 (Mortgage-deed),

No. 49 (Promissory Note),

No. 55 (Release),

No. 56 (Respondentia Bond),

No. 57 (Security Bond or Mortgage-deed),

No. 58 (Settlement),

No. 62 (*a*) (Transfer of Shares in an Incorporated Company or other body corporate),

(*b*) (Transfer of Debentures being Marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8),

(*c*) (Transfer of any interest secured by a Bond, Mortgage-deed, or Policy of Insurance),

by the person drawing, making, or executing such instrument:

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* These words and figure have been substituted for the original by Act XV., of 1904, s. 5.

*(*b*) in the case of a policy of insurance other than fire-insurance—by the person effecting the Insurance:

*(*bb*) in the case of a policy of fire-insurance— by the person issuing the policy:

(*c*) in the case of a conveyance (*including a re-conveyance of mortgaged property*)—by the grantee; in the case of a lease or agreement to lease—by the lessee or intended lessee:

(*d*) in the case of a counterpart of a lease—by the lessor:

(*e*) in the case of an instrument of exchange— by the parties in equal shares:

(*f*) in the case of a certificate of sale—by the purchaser of the propety to which such certificate relates; and

(*g*) in the case of an instrument of partition—by the parties thereto in proportion to their respective shares in the *whole* property *partitioned*, or, when the partition is made in execution of an order passed by a Revenue-authority, *or Civil Court, or arbitrator*, in such proportion as such authority, *Court or arbitrator* directs.

Obligation to give receipt in certain cases.

30. Any person receiving any money exceeding twenty rupees in amount, or any bill of exchange, cheque, or promissory note, for an amonnt exceeding twenty rupees, or receiving in satisfaction, *or part-satisfaction*, of a debt, any moveable property exceeding twenty rupees in value, shall, on demand by the person paying or delivering such money, bill, cheque, note, or property, give a duly-stamped receipt for the same.

"Any person receiving or taking credit for any premium or consideration for any renewal of any contract of fire-insurance, shall, within one month after receiving or taking credit for such premium or considration, give a duly-stamped receipt for the same."†

CHAPTER. III.

ADJUDICATION AS TO STAMPS.

Adjudication as to proper stamp.

31. (1) When any instrument, whether executed or. not and whether previously stamped or not, is brought to the Collector, and the person bringing it applies to have the opinion of that officer as to the duty (if any) with which it is chargeable

* Cls. (*b*) and (*bb*) have been substituted in place of the original cl. (*b*) by Act V. of 1906, s. 4.

† This para. has been added by Act V. of 1906, s. 5.

and pays a fee of such amount (not exceeding five rupees, and not less than eight annas) as the Collector may in each case direct, the Collector shall determine the duty (if any) with which, in his judgment the instrument is chargeable.

(2) *For this purpose, the Collector may* require to be furnished with an abstract of the instrument and also with such affidavit or other evidence as he may deem necessary to prove that all the facts and circumstances affecting the chargeability of the instrument with duty, or the amount of the duty with which it is chargeable, are fully and truly set forth therein, and may refuse to proceed upon any such application until such abstract and evidence have been furnished accordingly.

Provided that—

(*a*) no evidence furnished in pursuance of this section shall be used against any person in any civil proceeding, except in an inquiry as to the duty with which the instrument to which it relates is chargeable ; and

(*b*) every person by whom any such evidence is furnished shall, on payment of the full duty with which the instrument to which it relates is chargeable, be relieved from any penalty *which* he may have incurred under this Act by reason of the omission to state truly in such instrument any of the facts or circumstances aforesaid.

Certificate by Collector.

32. (1) When an instrument brought to the Collector under section 31 is, in his opinion, one of a description chargeable with duty, and—

(*a*) the Collector determines that it is already fully stamped, or

(*b*) the duty determined by the Collector under section 31, or such a sum as, with the duty already paid in respect of the instrument, is equal to the duty so determined, has been paid,

the Collector shall certify, by endorsement on such instrument, that the full duty (stating the amount) with which it is chargeable has been paid.

(2) When such instrument is, in his opinion, not chargeable with duty, the Collector shall certify in manner aforesaid that such instrument is not so chargeable.

(3) Any instrument upon which an endorsement has been made under this section shall be deemed to be duly stamped,

or not chargeable with duty, as the case may be, and, if chargeable with duty, shall be receivable in evidence or otherwise, and may be acted upon and registered as if it had been originally duty stamped :

Provided that nothing in this section shall authorize the Collector to endorse—

(*a*) any instrument executed or first executed in British India, and brought to him after the expiration of one month from the date of its execution, as the case may be ;

(*b*) any instrument executed or first executed out of British India, and brought to him after the expiration of three months after it has been first received in British India ; or

(*c*) any instrument chargeable with the duty of one anna, "or half an anna"* or any bill of exchange or promissory note, when brought to him after the drawing or execution thereof on paper not duly stamped.

CHAPTER IV.

INSTRUMENTS NOT DULY STAMPED.

Examination and impounding of instruments.

33. (1) Every person having by law or consent of parties, authority to receive evidence, and every person in charge of a public office, except an officer of police, before whom any instrument, chargeable in his opinion, with duty, is produced or comes, in the performance of his functions, shall, if it appears to him that such instrument is not duly stamped, impound the same.

(2) For that purpose every such person shall examine every instrument so chargeable, and so produced or coming before him, in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in British India when such instrument was executed or first executed. :

Provided that—

(*a*) nothing herein contained shall be deemed to require any Magistrate or Judge of a Criminal Court to examine or impound, "if he does not think fit so to do" any instrument coming before him in the

* These words have been inserted by Act V. of 1906, s. 3.

course of any proceeding other than a proceeding under Chapter XII. or Chapter XXXVI. of the Code of Criminal Procedure, 1898 ;*

(*b*) in the case of a Judge of a High Court, the duty of examining and impounding any instrument under this section may be delegated to such officer as the Court appoints in this behalf.

(3) For the purposes of this section, in cases of doubt,—

(*a*) "the Governor-General in Council may determine what offices shall be deemed to be public offices and"

(*b*) the Local Government may determine who shall be deemed to be persons in charge of public offices.

"Special provision as to unstamped receipts.

34. " Where any receipt chargeable with a duty of one anna is tendered to or produced before any officer unstamped in the course of the audit of any public account such officer may, in his discretion, instead of impounding the instrument, require a duly-stamped receipt to be substituted therefor."

Instruments not duly stamped inadmissible in evidence, etc.

35. No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having, by law or consent of parties, authority to receive evidence, or shall be acted upon, registered or authenticated by any such person, or by any public officer, unless such instrument is duly stamped :

Provided that—

(*a*) any such instrument not being an instrument chargeable with a duty of one anna only " *or half an anna,*"† or a bill of exchange or promissory note, shall, subject to all just exceptions, be admitted in evidence on payment of the duty with which the same is chargeable, or, in the case of an instrument insufficiently stamped, of the amount required to make up such duty, together with a penalty of five rupees, or when ten times the amount of the proper duty or deficient portion thereof exceeds five rupees, of a sum equal to ten times such duty or portion ;

Instruments admissible on payment of duty and penalty ;

(*b*) " where any person from whom a stamped receipt could have been demanded, has given an unstamped receipt and such receipt, if stamped, would be admissible in

* Act V of 1898.

† These words have been added by Act V. of 1906, s. 3.

evidence against him, then such receipt shall be admitted in evidence against him on payment of a penalty of one rupee by the person tendering it;"

(*c*) " where a contract or agreement of any kind is effected by correspondence consisting of two or more letters, and any one of the letters bears the proper stamp the contract or agreement shall be deemed to be duly stamped;"

(*d*) nothing herein contained shall prevent the admission of any instrument in evidence in any proceedings in a Criminal Court other than a proceeding under Chapter XII, or Chapter XXXVI. of the Code of Criminal Procedure 1898.*

and in certain criminal proceedings ;

(*e*) " nothing herein contained shall prevent the admission of any instrument in any Court when such instrument has been executed by, or on behalf of, the Government, or where it bears the certificate of the Collector as provided by section 32 or any other provision of this Act.

and when executed by, or on behalf of, Government.

36. *Where* an instrument has been admitted in evidence, such admission shall not, except as provided in section 61, be called in question at any stage of the same suit or proceeding on the ground that the instrument has not been duly stamped.

Admission of instrument *where* not to be questioned.

37. " The Governor-General in Council may make rules providing that where an instrument bears a stamp of sufficient amount but of improper description, it may, on payment of the duty with which the same is chargeable, be certified to be duly stamped, and any instrument so certified shall then be deemed to have been duly stamped as from the date of its execution.

Admission of improperly stamped instruments

38. (1) When the person impounding an instrument under section 33 has, by law or consent of parties, authority to receive evidence, and admits such instrument in evidence upon payment of a penalty as provided by section 35 *or of duty as provided by section* 37, he shall send to the Collector an authenticated copy of such instrument, together with a certificate in writing stating the amount of duty and penalty levied in respect thereof, and shall send such amount to the Collector, or to such person as he may appoint in his behalf.

Instruments impounded how dealt with.

* Act V. of 1898.

(2) In every other case, the person so impounding an instrument shall send it, in original to the Collector.

Collector's power to refund penalty paid under section 38 *sub-section* (1).

39. (1) When a copy of an instrument is sent to *the* Collector under *section 38, sub section* (*1*), he may, if he thinks fit,* refund any portion of the penalty in excess of five rupees which has been paid in respect of such instrument.

(2) When such instrument has been impounded only because it has been written in contravention of section *13* or section *14*, *the Collector* may refund the whole penalty so paid.

Collector's power to stamp instrument impounded.

40. (1) When the Collector impounds any instrument under section 33, or receives any instrument sent to him under " section 38, sub-section (*2*), not being an instrument chargeable with a duty of one anna "or half an anna "† only. or a bill of exchange or promissory note, he shall adopt the following procedure :—

(*a*) If he is of opinion that such instrument is duly stamped, or is not chargeable with duty, he shall certify by endorsement thereon that it is duly stamped, or that it is not so chargeable, as the case may be.

(*b*) If *he* is of opinion that such instrument is chargeable with duty, and is not duly stamped, be shall require the payment of the proper duty or the amount required to make up the same, together with a penalty of five rupees; or if *he think, fit*, " an amount not exceeding " ‡ ten times the amount of the proper duty, or of the deficient portion thereof, *whether such amount exceeds or falls short of five rupees* :

Provided that, when such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Collector may, it he thinks fit, remit the whole penalty prescribed by this section.

(2) Every certificate under clause (*a*) of *sub-section* (1) shall, for the purposes of this Act, be concluesive evidence of the matters stated therein.

(3) " Where an instrument has been sent to the Collector under section 38, sub-section (2), the Collector shall, where he has dealt with it as provided by this section, retnrn it to the impounding officer."

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* Words omitted by Act IV. of 1914 have been left out here.

† These words have been inserted by Act V. of 1906, s. 3.

‡ These words have been inserted by Act XV. of 1904, s. 6.

Instruments unduly stamped by accident.

41. If any instrument chargeable with duty, and not duly stamped, not being an instrument chargeable with a duty of one anna "or half an anna"* only, or a bill of exchange or promissory note, is produced by any person of his own motion before the Collector within one year from the date of its execution or first execution, and such person brings to the notice of the Collector the fact that such instrument is not duly stamped, and offers to pay to the Collector the amount of the proper duty, or the amount required to make up the same, and the Collector is satisfied that the omission to duly stamp such instrument has been occasioned by accident, mistake, or urgent necessity he may, instead of proceeding under sections 33 and 40, receive such amount, and proceed as next hereinafter prescribed.

Endorsement of instruments on which duty has been paid under section 35, 40, or 41.

42. (1) When the duty and penalty (if any) leviable in respect of any instrument have been paid under section 35, section 40, or section 41, the person admitting such instrument in evidence or the Collector, as the case may be, shall certify by endorsement thereon, that the proper duty or, as the case may be, the proper duty and penalty (stating the amount of each) have been levied in respect thereof, and the name and residence of the person paying them.

(2) Every instrument so endorsed shall thereupon be admissible in evidence, and may be registered and acted upon and authenticated as if it had been duly stamped, and shall be delivered on his application in this behalf to the person from whose possession it came into the hands of the officer impounding it, or as such person may direct :

Provided that—

(*a*) no instrument which has been admitted in evidence upon payment of duty and a penalty under section 35 shall be so delivered before the expiration of one month from the date of such impounding, or, if the Collector has certified that its further detention is necessary, and has not cancelled such certificate :

(*b*) nothing in this section shall affect the Code of Civil Procedure,† section 144, clause 3.

Prosecution for offence against Stamp-law.

43. The *taking of proceedings or the* payment of a penalty under this chapter in respect of *any* instrument shall not bar the prosecution of any person who appears to have committed an offence against the Stamp-law in respect of such instrument:

* These words have been inserted by Act V. of 1906, s. 3.

† Act XIV. of 1882. (But *see* now Act V. of 1908.)

Provided that no such prosecution shall be instituted in the case of any instrument in respect of which such a penalty has been paid, unless it appears to the Collector that the offence was committed with an intention of evading payment of the porper duty.

Persons paying duty or penalty may recover same in certain cases.

44. (1) When any duty or penalty has been paid under section 35, section 37, section 40, or section 41, by any person in respect of an instrument, and, by agreement, or under the provisions of section 29 or any other enactment in force at the time such instrument was executed, some other person was bound to bear the expense of providing the proper stamp for such instrument, the first mentioned person shall be entitled to recover from such other person the amount of the duty or penalty so paid.

(2) For the purpose of such recovery any certificate granted in respect of such instrument under *this Act* shall be conclusive evidence of the matters therein certified.

(3) Such amount may, if the Court thinks fit, be included in any order as to costs in any suit or proceeding to which such persons are parties, and in which such instrument has been tendered in evidence. If the Court does not include the amount in such order, no further proceedings for the recovery of the amount shall be maintainable.

Power to revenue-authority to refund penalty or excess duty in certain cases.

45. (1) *Where*, any penalty is paid under section 35 or section 40, the Chief Controlling Revenue-authority may, upon application in writing made within one year from the date of the payment, refund such penalty wholly or in part.

(2) Where, in the opinion of the Chief Controlling Revenue-authority, stamp-duty in excess of that which is legally chargeable has been charged and paid under section 25 or section 40, such authority may, upon application in writing made within three months of the order charging the same refund the excess.

Non-liability for loss of instruments sent under section 38.

46 (1) If any instrument sent to *the* Collector under *section*, 38, *sub-section* (2), is lost, destroyed, or damaged during transmission, the person sending the same shall not be liable for such loss, destruction, or damage.

Copy may be made of nstruments so sent.

(2) When any instrument is about to be so sent, the person from whose possession it came into the hands of the person impounding the same may require a copy thereof to be made at the axpense of such first-mentioned person, and authenticated by the person impounding such instrument,

Power of payer to stamp bills, *promissory notes* and cheques received by him unstamped.

47. When any bill of exchange, promissory note *or cheque* chargeable with the duty of one anna, is presented for payment unstamped, the person to whom it is so presented may affix thereto the necessary adhesive stamp, and upon cancelling the same in manner hereinbefore provided, may pay the sum payable upon such bill, note or cheque, and may charge the duty against the person who ought to have paid, the same, or deduct it from the sum payable as aforesaid, and such bill, note, or cheque shall, so far as respects the duty, be deemed good and valid :

"Provided that" nothing herein contained shall relieve any person from any penalty "or proceeding to which he may be liable" in relation to such bill, note, or cheque.

Recovery of duties and penalties.

48. All duties, penalties, and other sums required to be paid under this Chapter may be recovered by the Collector by distress and sale of the moveable property of the person from whom the same are due, or by any other process for the time being in force for the recovery of arrears of land-revenue.

CHAPTER V.

ALLOWANCES FOR STAMPS IN CERTAIN CASES.

Allowance for spoiled stamps.

49. Subject to such rules as may be made by the "Local Government"* as to the evidence "to be required or the enquiry to be made, the Collector may, on application made within the period prescribed in section 50, and if he is satisfied as to the facts, make allowance" for impressed stamps spoiled in the cases hereinafter mentioned namely—

(*a*) the stamp of any paper inadvertently and undersignedly spoiled, obliterated, or, "by error in writing or any other" means rendered unfit for the purpose intended before any instrument written thereon is executed by any person :

(*b*) the stamp on any document which is written out wholly or in part, but which is not signed or executed by any party thereto :

* Words within quotations substituted for the words "Governor-General in Council" by Act IV. of 1914.

(*c*) in the case of bills of exchange, cheques or promissory notes—

(1) the stamp on any bill of exchange or cheque signed by or on behalf of the drawer which has not been accepted or made use of in any manner whatever, or delivered out of his hands for any purpose other than by way of tender for acceptance : provided that the paper on which any such stamp is impressed does not bear any signature intended as or for the acceptance of bill of exchange or cheque to be afterwards written thereon ;

(2) the stamp on any promissory note signed by or in behalf of the maker which has not been made use of in any manner whatever, or delivered out of his hands ;

(3) the stamp used or intended to be used or any bill of exchange, cheque, or promissory note signed by, or on behalf of, the drawer thereof, but which, from any omission or error, has been spoiled or rendered useless, although the same, being a bill of exchange or cheque, may have been presented for acceptance or accepted or endorsed, or, being a promissory note, may have been delivered to the payee ; provided that another completed and duly-stamped bill of exchange, cheque, or promissory note is produced identical in every particular, except in the correction of such omission or error as aforesaid, with the spoiled bill, cheque, or note :

(*d*) the stamp used for an instrument executed by any party thereto which—

(1) "has been" afterwards found to be absolutely void in law from the beginning ;

(2) "has been" afterwards found unfit, by reason of any error or mistake therein for the purpose originally intended ;

(3) by reason of the death of any person, by whom it is necessary that it should be executed, without having executed the same, or of the refusal of any such person to execute the same, cannot be completed so as to effect the intended transaction in the from proposed ;

(4) for want of the execution thereof by some material party, and his inability or refusal to sign the same, is in fact incomplete, and sufficient for the purpose for which it was intended ;

(5) by reason of the refusal of any person to act under the same, "or to advance any money intended to be thereby secured," or by the refusal or non-acceptance of any office thereby granted, totally fails of the intended purpose ;

(6) becomes unless in concequence of the transaction intended to be thereby effected being effected by some other instrument "between the same parties, and bearing a stamp of not less value ;

(7) is deficient in value, and the transaction intended to be thereby effected has been effected by some other instrument between the same parties, and bearing a stamp of not less value :

(8) is inadvertently and undesignedly spoild, and, in lieu whereof, another instrument, made between the same parties, and for the same purpose, is executed and duly stamped :

Provided that, in the case of an executed instrument, no legal proceeding has been commenced in which the instrnment could or would have been given or offered in evidence, and that the instrument is given up to be cancelled.

Explanation—The certificate of the Collector under section 32, that the full duty with which an instrument is chargeable has been paid, is an impressed stamp within the meaning of this section.

Application for relief under section 49 when to be made.

50. The application for relief "under section 49 must be made within the following periods, that is to say :—

(1) "in the case mentioned in clause (*d*) (5), within two months of the date of the instrument ;',

(2) in the case of a stamped paper "on which no instrument has been executed by any of the parties thereto" within six months after the stamp has been spoiled ;

(3) "in the case of a stamped paper on which an instrument has been executed by any of the parties thereto," within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed ;

Provided that—

(*a*) when the spoiled instrument has been, "for sufficient reasons, sent out of British India, "the" application may be made within six months after it has been received back in British India ;

(*b*) when, from unavoidable circumstances, any instrument for which another instrument has been substituted cannot be given up to be cancelled within the aforesaid period, "the application may be made within six months after the date of execution of the substituted instrument.

Allowance in case of printed forms no longer required by Corporations.

51. The Chief Controlling Revenue authority "or the Collector if empowered by the Chief Controlling Revenue-Authority in this behalf"* may, without limit of time, make allowance for stamped papers used for printed forms of instruments "by any banker, or"† by any incorporated company or other body corporate, if for any sufficient reason, such forms have ceased to be required by the said "banker,"† company, or body corporate, provided that such authority is satisfied that the duty in respect of such stamped papers has been duly paid.

Allowance for misused stamps.

52. (1) When any person has inadvertently used, for an instrument chargeable with duty, a stamp of a description other than that prescribed for such instrument by the rules made under this Act, or a stamp of greater value than was necessary, or has inadvertently used any stamp for an instrument not chargeable with any duty, or

(2) when any stamp used for an instrument has been inadvertenly rendered useless under section 15, owing to such instrument having been written in contravention of the provisions of section 13,

the Collector may, on application made within six months after the date of the instrument, or if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, and upon the instrument, if chargeable with duty, being re-stamped with the proper duty, cancel and allow as spoild the stamp so misused or rendered useless,

Allowance *for spoiled or misused stamps* how to be made.

53. In any case in which allowance is made for spoiled or misused stamps, the Collector may give in lieu thereof—

(*a*) other stamps of the same description and value, or,

(*b*) if required, and he thinks fit, stamps of any other description to the same amount in value, or,

(*c*) at his descretion, the same value in money, deducting one anna for each rupee or fraction of a rupee.

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* Words quoted were inserted by Act IV. of 1914.

† In s. 51, the words quoted have been inserted by Act V. of 1906, s. 6.

Allowance for stamps not required for use.

54. When any person is possessed of a stamp *or stamps* which *have* not been spoiled or rendered unfit or useless for the purpose intended, but for which he has no immediate use, the Collector shall repay to such person the value of such stamp *or stamps*, in money, deducting one anna for each rupee or portion of a rupee, upon such person delivering up the same to be cancelled, and proving to the Collector's satisfaction,

(*a*) that *such stamp or stamps were* purchased by such person with a *bona-fide* intention to use *them*, and

(*b*) that he has paid the full price thereof, and

(*c*) that *they were* so purchased within the period of six months next preceding the date on which *they were* so delivered :

"Provided that, where the person is a licensed vendor of stamps, the Collector may, if he thinks fit, make the repayment of the sum actually paid by the vendor without any such deduction as aforesaid."

Allowance on renewal of certain debentures.

"**55.** When any duly-stamped debenture is renewed by the issue of a new debenture in the same terms, the Collector shall, upon application made within one month, repay to the person issuing such debenture the value of the stamp on the original, or on the new debenture, whichever shall be less :

Provided that the original debenture is produced before the Collector, and cancelled by him in such manner as the Governor-General in Council may direct.

Explanation.—A debenture shall be deemed to be renewed in the same terms within the meaning of this section notwithstanding the following charge :—

(*a*) the issue of two or more debentures in place of one original debenture, the total amount secured being the same ;

(*b*) the issue of one debenture in place of two or more original debentures, the total amount secured being the same ;

(*c*) the substitution of the name of the holder at the time of renewal for the name of the original holder ; aad

(*d*) the alteration of the rate of interest or the dates of payment thereof."

CHAPTER VI.

REFERENCE AND REVISION.

Control of and statement of case to Chief Controlling Revenue-authority.

56. (1) The powers exercisable by a Collector under Chapter IV. and Chapter V., "and under clause (*a*) of the first proviso to section 26"* shall in all cases be subject to the control of the Chief Controlling Revenue-authority.

Procedure where Collector feels doubt as to duty chargeable.

(2) If any Collector, acting under section 31, section 40, or section 41, feels doubt as to the amount of duty with which any instrument is chargeable, he may draw up a statement of the case, and refer it with his own opinion thereon for the decision of the Chief Controlling Revenue-authority.

(3) Such authority shall consider the case, and send a copy of its decision to the Collector, *who* shall proceed to assess and charge the duty (if any) in conformity with such decision.

Statement of case by Chief Controlling Revenue-authority to High Court *or Chief Court.*

57. (1) The Chief Controlling Revenue-authority may state any case referred to it under section 56, sub-section (2), or otherwise coming to its notice, and refer such case, with its own opinion thereon—

(*a*) if the case arises in the territories for the time being administered by the Governor of Fort St. George in Council or the Governor of Bombay in Council—to the High Court of Judicature at Madras or Bombay, as the case may be :

(*b*) if it arises in the North-Western Provinces or Oudh *or in Ajmere*—to the High Court of Judicature for the North-Western Provinces :

"(*bb*) if it arises in the territories for the time being administered by the Lieutenant Governor of Bihar and Orissa—to the High Court of Judicature at Patna."†

(*c*) it it arises in the territories for the time being administered by the Lieutenant-Governor of the Punjab *or in British Baluchistan*—to the High Court of Judicature at Lahore."‡

(*d*) if it arises in the Central Provinces—to the High Court of Judicature at Bombay :

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* The words quoted have been added by Act XV. of 1904, s. 7.

† The words within quotations have been added by Act XIII of 1916.

‡ The words within quotations have been substituted by Act XVIII of 1919.

"(1) if it arises in Burma—to the "High Court of Judicature at Rangoon,"*

(*e*) if it arises in any other part of British India—to the High Court of Judicature at Fort William.

(2) Every such case shall be decided by not less than three Judges of the High Court or Chief Court to which it is referred, and, in case of difference, the opinion of the majority shall prevail.

Power of High Court or Chief Court to call for further particulars as to case stated.

58. If the High Court or Chief Court is not satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Revenue-authority by which it was stated to make such additions thereto, or alterations therein, as the Court may direct in that behalf.

Procedure in disposing of case stated.

59. (1) The High Court or Chief Court, upon the hearing of any such case, shall decide the questions raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded.

(2) *The Court* shall send to the Revenue-authority by which the case was stated a copy of such judgment under the seal of the Court and the signature of the Registrar ; and the Revenue authority shall, on receiving such copy, dispose of the case conformably to such judgment.

Statement of case by other Courts to High Court or Chief Court.

60. (1) If any Court other than a Court mentioned in section 57 feels doubt as to the amount of duty to be paid in respect of any instrument under proviso (*a*) to section 35, the Judge may draw up a statement of the case, and refer it, with his own opinion thereon, for the decision of the High Court or Chief Court to which, if he were the Chief Controlling Revenue-authority, he would, under section 57, refer the same.

(2) Such Court shall deal with the case as if it had been referred under section 57 and send a copy of its judgment under the seal of the Court and the signature of the Registrar to the "Chief Controlling Revenue-authority, and another like copy to the" judge making the reference, who shall, on receiving such copy, dispose of the case conformabiy to such judgment.

(3) References made under sub-section (1), when made by a Court sub-ordinate to a District Court, shall be made through the District Court, and when made by any subordinate Revenue Court, shall be made through the Court immediately superior.

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* The words within quotations have been inserted by Act XI of 1922.

Revision of certain decisions of Courts regarding the sufficiency of stamps.

61. (1) When any Court, in the exercise of its civil or revenue jurisdiction "or any Criminal Court in any proceeding under Chapter XII, or Chapter XXXVI, of the Code of Criminal Procedure, 1898* makes any order admitting any instrument in evidence as duly stamped, or as not requiring a stamp, or upon payment of duty and a penalty under section 35, the Court to which appeals lie from, or references are made by such first mentioned Court, may of its own motion, or on the application of the Collector, take such order into consideration.

(2) "If such Court, after such consideration," is of opinion that such instrument should not have been admitted in evidence without the payment of duty and a penalty under section 35, or without the payment of a higher duty and penalty than those paid, it may record a declaration to that effect, and determine the amount of duty with which such instrument is chargeable, and may require any person in whose possession or power such instrument then is to produce the same, and may impound the same when produced.

(3) When any declaration bas been recorded under *sub-section* (2), the Court recording the same shall send a copy thereof to the Collector, and, where the instrument to which it relates has been impounded or is otherwise in the possession of such Court, shall also send him such instrument.

(4) The Collector may thereupon, notwithstanding anything contained in the order admitting such instrument in evidence, or in any certificate granted under section 42, or in section 43, prosecute any person for any offence against the Stamp law which the Collector considers him to have committed in respect of such instrument :

Provided that—

(*a*) no such prosecution shall be instituted where the amount (including duty and penalty) which, according to the determination of such Court, was payable in respect of the instrument under section 35, is paid to the Collector unless he thinks that the offence was committed with an intention of evading payment of the proper duty :

(*b*) except for the purposes of such prosecution, no declaration made under this section shall affect the validity of any order admitting any instrument in evidence, or of any certificate granted under section 42.

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* Act V, of 1898.

CHAPTER VII.

CRIMINAL OFFENCES AND PROCEDURE.

62. (1) Any peson—

Penalty for executing, etc., instrument not duly stamped.

(*a*) drawing making, issuing, endorsing, or transferring or signing otherwise than as a witness, or presenting for acceptance or payment, or accepting, paying, or receiving payment of, or in any mannner negotiating, any bill of exchange, cheque, or promissory note without the same being duly stamped, or

(*b*) executing or signing otherwise than as a witness any other instrument chargeable with duty without the same being duly stamped, or

(*c*) voting or attempting to vote under any proxy not duly stamped.

shall, for every such offence, be "punishable with fine which may extend to five hundred rupees :

Provided that, when any penalty has been paid in respect of any instrument under section 35, section 40, or section 61, the amount of such penalty shall be allowed in reduction of the fine (if any) subsequently imposed under this section in respect of the same instrument, upon the persons who paid such penalty.

(2) If a share warrant is issued without being duly stamped, the company issuing the same, and also every person who, at the time when it is issued, is the managing director or secretary or other principal officer of the company, shall "be punishable with fine which may extend to five hundred rupees."

63. Any person required by section 12 to cancel an adhesive stamp, and failing to cancel such stamp in manner prescribed by that section, shall be *punishable* with fine which may extend to one hundred rupees.

Penalty for failure to cancel adhesive stamp.

Penalty for omission to comply with provisions of section 27.

64. Any person who, with intent to defraud the Government,—

(*a*) executes any instrument in which all the facts and circumstances required by section 27 to be set forth in such instrument are not fully and truly set forth, or,

(*b*) being employed or concerned in or about the preparation of any instrument, neglects or omits fully and truly to set forth therein all such facts and circumstances, *or*

(*c*) does any other act calculated to deprive the Government of any duty or penalty under this Act.

shall be *punishable* with fine which may extend to five thousand rupees.

65. Any person who—

Penalty for refusal to give receipt, and for devices to evade duty on receipts.

(*a*) being required under section 30 to give a receipt, refuses or neglects to give the same, or,

(*b*) with intent to defraud the Government of any duty, upon a payment of money or delivery of property exceeding twenty rupees in amount or value, gives a receipt for an amount or value not exceeding twenty rupees, or separates or divides the money or property paid or delivered.

shall be *punishable* with fine which may extend to one hundred rupees.

66. *Any* person who—

(*a*) receives, or takes credit for, any premium or consideration for any contract of insurance, and does not, within one month after receiving, or taking credit for, such premium or consideration, make out and execute a duly-stamped policy of such insurance, or

Penalty for not making out policy or making one not duly stamped.

(*b*) makes, executes, or delivers out any policy which is not duly stamped, or pays or allows in account, or agrees to pay or allow in account, any money upon, or in respect of, any such policy.

shall be *punishable* with fine which may extend to two hundred rupees.

67. Any person drawing or executing a bill of exchange or a policy of marine insurance purporting to be drawn or executed in a set of two or more, and not at the same time drawing or executing on paper duly stamped the whole number of bills or policies of which such bill or policy purports the set to consist, shall be *punishable* with fine which may extend to one thousand rupees.

Penalty for not drawing full number of bills or marine policies purporting to be in sets.

68. *Any person who*,—

(*a*) with intent to defraud the Government of duty, draws makes, or issues any bill of exchange or promissory note bearing a date subsequent to that on which such bill or note is actually drawn or made ; *or*,

Penalty for post-dating bills ; and

(*b*) knowing that such bill or note has been so post-dated, endorses, transfers, presents for acceptance or payment, or accepts, pays, or receives payment of, such bill or note, or in any manner negotiates the same ;

(*c*) with the like intent practices or is concerned in any act, contrivance, or device not specially provided for by this Act or any other law for the time being in force.

for other devices to defraud the revenue.

shall be *punishable* with fine which may extend to one thousand rupees.

Penalty for breach of rule relating to sale of stamps and for unauthorized sale.

69. (*a*) Any person appointed to sell stamps who disobeys any rule made under section 74, and

(*b*) any person not so appointed who sells or offers for sale any stamp (*other than a one anna or half an anna* "* *adhesive stamp*).

shall be *punishable* with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Institution and conduct of prosecutions.

70. (1) No prosecution in respect of any offence punishable under this Act or any Act *hereby* repealed shall be instituted without the sanction of the Collector or such other officer as the Local Government generally or the Collector specially authorizes in that behalf.

(2) The Chief controlling Revenue-authority, or any officer *generally or specially* authorized by it in this behalf, may stay any such prosecution, or compound any such offence,

(3) " The amount of any such composition shall be recoverable in the manner provided by section 48.

Jurisdiction of Magistrates.

71. No Magistrate other than a Presidency Magistrate *or* a Magistrate whose powers are not less than those of a Magistrate of the second class shall try any offence under this Act.

Place of trial.

72. Every such offence committed in respect of any instrument may be tried in any district or presidency-town in which such instrument is found, as well as is any district or presidency-town in which such offence might be tried under the *Code* of Criminal Procedure† for the time being in force.

* These words have been inserted by Act V. of 1906. s. 3.

† *Now* Act V. of 1898.

CHAPTER VIII.

"Books, etc., to be open to inspection."

73. "Every public officer having in his custody any registers, books, records, papers, documents, or proceedings, the inspection whereof may tend to secure any duty, or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall, at all reasonable times, permit any person authorized in writing by the Collector to inspect for such purpose the registers, books, papers, documents and proceedings, and to take such notes and extracts as he may deem necessary, without fee or charge."

Powers to make rules relating to sale of stamps.

74. The Local Government, subject to the control of the Governor-General in Council, may make rules for regulating—

(*a*) the supply and sale of stamps and stamped papers,

(*b*) the persons by whom alone such sale is to be conducted and

(*c*) the duties and remuneration of such persons :

"Provided that such rules shall not restrict the sale of one anna "or half an anna"* adhesive stamps.

Power to make rules generally to carry out Act.

75. The Governor-General in Council may make rules to carry out generally the purposes of this Act, "and may, by such rules, prescribe the fines, which shall in no case exceed five hundred rupees, to be incurred on breach thereof.

Publication of rules.

76. (1) All rules made under this Act, other than rules made under section 74, shall be published in the "Gazette of India," and all rules made under section 74 shall be published in the local gazette.

(2) All rules published as required by this section shall, upon such publication, have "effect as if enacted by this Act.

Delegation of certain powers.

"**76A.**† The Local Government may, by notification in the local official Gazette, delegate—

(*a*) all or any of the powers conferred on it by section 2 (9), 33 (3) (*b*), 70 (1), 74 and 78 to the chief controlling Revenue authority ; and

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* The words quoted have been inserted by Act V of 1906, s. 3.

† See 76A newly inserted by Act IV of 1914.

(*b*) all or any of the powers conferred on the chief controlling Revenue-authority by sections 45 (1) (2), 56 (1) and 70 (2) to such Subordinate Revenue-authority as may be specified in the notification."

Saving as to court-fees,

77. Nothing "in this Act" contained shall be deemed to affect the duties chargeable under may enactment* for the time being in force relating to court-fees.

Act to be translated and sold cheaply.

78. Every Local Government shall "make provision for the sale of transactions of this Act in" the principal vernacular languages of the territories administered by it at a price not exceeding four annas per copy.

79. "[Repealed by Act X of 1914.]

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* Act VII. of 1870.

SCHEDULE I.*

STAMP-DUTY ON INSTRUMENTS.

(See section 3.)

DESCRIPTION OF INSTRUMENT	PROPER STAMP-DUTY.
1. ACKNOWLEDGMENT of a debt exceeding twenty rupees in amount or value, written or signed by, or on behalf of, a debtor in order to supply evidence of such debt in any book (other than a banker's pass-book), or on a separate piece of paper, when such book or paper is left in the creditor's possession : *provided that such acknowledgment does not contain any promise to pay the debt, or any stipulation to pay interest, or to deliver any goods or other property* ...	*One anna.*
2. ADMINISTRATION-BOND, including a bond given under section 250 of the Indian Succession Act. 1865,† section 6 of the Government Savings Banks Act, 1873‡ section 78 of the Probate and Administration Act, 1881§ or section 9 or section 10 of the Succession Certificate Act, 1889‖—	
(*a*) *where the amount does not exceed Rs. 1000* :	*The same duty as a bond (No. 15) for such amount.*
(*b*) *in any other case*	*Five rupees.*
3. ADOPTION DEED, *that is to say, any* instrument (other than a will) *recording an adoption, or* conferring, or purporting to confer, an authority to adopt	Ten rupees.
ADVOCATE. *See* ENTRY AS AN ADVOCATE (*No 30.*)	
4. AFFIDAVIT, *including an* affirmation *or declaration in the case of persons by law allowed to affirm or declare instead of swearing* ...	One rupee.

* All additions to, and modifications, of the Schedules in the old Act (1879), are in italics.

† Act X. of 1865.

‡ Act V. of 1873.

§ Act V. of 1881.

‖ Act VII. of 1889.

SCHEDULE I.—*contd.*

DESCRIPTION OF INSTRUMENT.	PROPER STAMP DUTY.
Exemptions :	
Affidavit or declaration in writing when made—	
4. AFFIDAVIT—*contd.*	
(*a*) as a condition of enlistment under the Indian Articles of War ;*	
(*b*) for the immediate purpose of being filed or used in any Court, or before the officer of any Court ; or	
(*c*) for the sole purpose of enabling any person to receive any pension or charitable allowance.	
5.† AGREEMENT OR MEMORANDUM OF AN AGREEMENT—	
(*a*) If relating to the sale of a bill of exchange	Two annas.
(*b*) if relating to the sale of a Government security or share in an incorporated Company or other body corporate ;	Subject to a maximum of ten rupees, one anna for every Rs. 10,000 or part thereof of the value of the security or share.
(*c*) if not otherwise provided for ...	Eight annas.
Exemptions :	
Agreement or Memorandum of Agreement—	
(*a*) for or relating to the sale of goods or merchandise exclusively, not being a NOTE or MEMORANDUM chargeable under No. 43 ;	
(*b*) made in the form of tenders to the Government of India for or relating to any loan ;	
(*c*) made under the European Vagrancy Act, 1874,‡ section 17.	

* Act V. of 1869.

† The present Article No. 5 has been substituted for the original Article No. 5 by Act VI. of 1910.

‡ Act IX. of 1874.

SCHEDULE I.—*contd.*

Description of Instrument	Proper Stamp-duty.
AGREEMENT TO LEASE, *See* LEASE (*No. 35*).	
6.* AGREEMENT RELATING TO DEPOSIT OF TITLE DEEDS, PAWN, OR PLEDGE, that is to say, any instrument evidencing and agreement relating to—	
(1) the deposit of title-deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security), or	
(2) the pawn, or pledge of moveable property,	
where such deposit, pawn, or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt—	
(*a*) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement:	The same duty as a Bill of Exchange [No. 13 (*b*)] for the amount secured.
(*b*) if such loan or debt is repayable not more than three months from the date of such instrument.	Half the duty payable on a Bill of Exchange [No. 13 (*b*)] for the amount secured.
Exemption:	
Instrument of pawn or pledge of goods if unattested.	
7. APPOINTMENT IN EXECUTION OF A POWER whether of trustees or of property, moveable or immoveable, where made by any writing not being a Will ...	Fifteen rupees.

* Act 6 has been substituted for the original by Act XV. of 1904, s. 3.

SCHEDULE I.—*contd.*

Description of Instrument.	Proper Stamp duty.
8. APPRAISEMENT OR VALUATION made otherwise than under an order of the Court in the course of a suit—	
(*a*) *where the amount does not exceed Rs. 1,000*	The same duty as a *Bond* (No. 15) *for such amount.*
(*b*) *in any other case*	*Five rupees.*
Exemptions:	
(*a*) Appraisement or valuation made for the information of one party only, and not being in any manner obligatory between parties, either by agreement or operation of law.	
8. APPRAISEMENT OR VALUATION—*contd.*	
(*b*) Appraisement of crops for the purpose of ascertaining the amount to be given to a landlord as rent.	
9. APPRENTICESHIP-DEED including every writing relating to the service or tuition of any apprentice, clerk, or servant, placed with any master to learn any profession, trade, or employment *not being* Articles of Clerkship (*No. 11*) ...	Five rupees.
Exemption:	
Instruments of apprenticeship executed by a Magistrate under *the Apprentices* Act, 1850* or by which a person is apprenticed by or at the charge of any public charity.	
10. ARTICLES OF ASSOCIATION OF A COMPANY	Twenty five rupees.

* Act XIX. of 1850. The former words were "under Act XIX. of 1850" The "Apprentices Act, 1850," is the short title of Act XIX of 1850.—*See* the Indian Short Titles Act (XIV. of 1897).

SCHEDULE I.—*continued.*

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
Exemption: *Articles of any Association not formed for profit, and registered under section 26 of the Indian Companies Act, 1882* *	
See also Memorandum of Association of a Company (*No. 39*).	
11 ARTICLES OF CLERKSHIP or contract whereby any person first becomes bound to serve as a clerk in order to his admission as an attorney in any High Court ...	Two hundred and fifty rupees.
ASSIGNMENT. *See* Conveyance (*No. 23*). Transfer (*No. 62*), *and* Transfer of Lease (*No. 63*), *as the case may be.*	
ATTORNEY. *See* Entry as an Attorney (*No. 30*) *and* Power of Attorney (*No. 48*).	
AUTHORITY TO ADOPT. *See* Adoption deed (*No. 3*).	
12. AWARD that is to say, any decision in writing by an arbitrator or umpire *not being an award directing a partition*, on a reference made otherwise than by an order of the Court in the course of a suit—	
(*a*) where the amount or value of the property to which the award relates as set forth in such award does not exceed Rs. 1,000	The same duty as a Bond (*No 15*) for such amount.
(*b*) in any other case	Five rupees.
Exemption.	
AWARD under *the* Bombay *District Municipal* Act, 1873,† section 81, or the Bombay *Hereditary offices* Act, 1874,‡ section 18.	
13. BILL OF EXCHANGE [*as defined by s.* 2 (2) & (3)] not being a Bond bank-note, or currency-note—	
(*a*) *where* payable on demand ...	One anna.

* *Act VI. of 1882.* † Bom. Act VI of 1873. ‡ Bom. Act III of 1874.

SCHEDULE I.—*continued.*

DESCRIPTION OF INSTRUMENT.				PROPER STAMP-DUTY.		
				If drawn singly	If drawn in set of two, for each part of the set.	If drawn in set of three, for each part of the set.
13. BILL OF EXCHANGE.—*contd.*						
(*b*)* where payable otherwise than on demand, but not more than one year after date or sight—				Rs. A. P.	Rs. A. P.	Rs. A. P.
if the amount of the bill or note does not exceed			Rs. 200	0 3 0	0 2 0	0 1 0
if it exceeds Rs. 200 and does not exceed	...	...	400	0 6 0	0 3 0	0 2 0
Ditto	400	ditto	600	0 9 0	0 5 0	0 3 0
Ditto	600	ditto	800	0 12 0	0 6 0	0 4 0
Ditto	800	ditto	1,000	0 15 0	0 8 0	0 5 0
Ditto	1,000	ditto	1,200	1 2 0	0 9 0	0 6 0
Ditto	1,200	ditto	1,600	1 8 0	0 12 0	0 8 0
Ditto	1,600	ditto	2,500	2 4 0	1 2 0	0 12 0
Ditto	2,500	ditto	5,000	4 8 0	2 4 0	1 8 0
Ditto	5,000	ditto	7,500	6 12 0	3 6 0	2 4 0
Ditto	7,500	ditto	10,000	9 0 0	4 8 0	3 0 0
Ditto	10,000	ditto	15,000	13 8 0	6 12 0	4 8 0
Ditto	15,000	ditto	20,000	18 0 0	9 0 0	6 0 0
Ditto	20,000	ditto	25,000	22 8 0	11 4 0	7 8 0
Ditto	25,000	ditto	30,000	27 0 0	13 8 0	9 0 0
and for every additional Rs. 10,000 or part thereof in excess of Rs. 30,000.				9 0 0	4 8 0	3 0 0

* Cl. (*b*) of Act, No. 13 has been re-enacted by Act I. of 1912.

SCHEDULE I —*contd.*

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
13. BILL OF EXCHANGE—*contd.*	
(*c*) where payable at more than one year after date or sight	The same duty as a Bond (No. 15) for the same amount.
14. BILL OF LADING (including a through bill of lading) ...	Four annas.
N. B.—If a bill of lading is drawn in parts, the proper stamp therefor must be borne by each one of the set.	
Exemptions.	
(*a*) Bill of lading when the goods therein described are received at a place within the limits of any ports as defined under the Indian Ports Act, 1889,* and are to be delivered at another place within the limits of the same port.	
(*b*) Bill of lading when executed out of British India, and relating to property to be delivered in British India.	
15. BOND [as defined by section 2 (5)] not being a DEBENTURE (No. 27) and not being otherwise provided for by this Act or by the Court Fees Act, 1870†—	
where the amount or value secured does not exceed Rs. 10. ...	Two annas.
where it exceeds Rs. 10, and does not exceed Rs. 50. ...	Four annas.
Do. 50 do. 100 ...	Eight annas
Do. 100 do. 200 ...	One Rupee.
Do. 200 do. 300 ...	One rupee eight annas.
Do. 300 do. 400 ...	Two rupees.

* Act X. of 1889.

† Act VII of 1870.

SCHEDULE I.—*contd.*

DESCRIPTION OF INSTRUMENTS.	PROPER STAMP-DUTY.
15. BOND—*concld.*	
Do. 400 do. 500 ...	Two rupees eight annas.
Do. 500 do. 600 ...	Three rupees.
Do. 600 do. 700 ...	Three rupees eight annas.
Do. 700 do. 800 ...	Four rupees.
Do. 800 do. 900 ...	Four rupees eight annas.
Do. 900 do. 1,000 ...	five rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000 ...	Two Rupees eight annas.
See ADMINISTRATION-BOND (No. 2), BOTTOMRY-BOND (No. 16), CUSTOMS BOND (No 26), INDEMNITY-BOND (No. 34), RESPONDENTIA-BOND (No. 56), SECURITY-BOND (No. 57).	
Exemptions.	
Bond, when executed by—	
(*a*) headmen nominated under rules framed in accordance with the Bengal Irrigation Act, 1876,* section 99, for the due performance of their duties under that Act,	
(*b*) any person for the purpose of guaranteeing that the local income derived from private subscriptions to charitable dispensary or hospital, or any other object of public utility, shall not be less than a specified sum per mensem.	
16. BOTTOMRY-BOND, that is to say any instrument whereby the master of a sea-going ship borrows money on the security of the ship to enable him to	

* Ben. Act III of 1876.

SCHEDULE I.—*continued*.

DESCRIPTION OF INSTRUMENT.	PROPER STAMP DUTY.
preserve the ship, or prosecute her voyage	The same duty as a Bond (No. 15) for the same amount.
17. CANCELLATION—INSTRUMENT of (including any instrument by which any instrument previously executed is cancelled) if attested and not otherwise provided for	Five rupees.
See also RELEASE (No. 55), REVOCATION OF SETTLEMENT (No. 58B), SURRENDER OF LEASE (No. 61), REVOCATION OF TRUST (No. 64B).	
18. CERTIFICATE OF SALE. (in respect of each property put up as a separate lot and sold) granted to the purchaser of any property sold by public auction by a Civil or revenue Court or Collector or other Revenue officer—	
18. CERTIFICATE OF SALE—*contd.*	
(*a*) *where the purchase-money does not exceed Rs. 10*	*Two annas.*
(*b*) *where the purchase-money exceeds Rs 10, but does not exceed Rs. 25*	*Four annas.*
(*c*) *in any other case*	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the purchase-money only.
19 CERTIFICATE OR OTHER DOCUMENT evidencing the right or title of the holder thereof, or any other person, either to any shares, scrip or stock in or of any *incorporated* company or *other body corporate*, or to become proprietor of shares, scrip, or stock in or of any *such* Company or *body* ...	"Two annas."*
See also LETTER OF ALLOTMENT OF SHARES (*No. 36.*)	

* The words within quolations have been subatituted by Act 43 of 1923,

SCHEDULE I.—*continued.*

DESCRIPTION OF INSTRUMENT.	PROPER STAMP DUTY.
20. CHARTER PARTY, that is to say, any instrument (except an agreement for the hire of a tug-steamer) whereby a vessel or some specified principal part thereof is let for the specified purposes of the charterer, *whether it includes a penalty clause or not.*	One rupee.
21. CHEQUE [*as defined by section 2 (7)*].	One anna.
22. COMPOSITION-DEED, that is to say, any instrument executed by a debtor whereby he conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors or whereby provision is made for the continuance of the debtor's business under the supervision of inspectors, or under letters of license, for the benefit of his creditors ...	Ten rupees.
23. CONVEYANCE [*as defined by section 2 (10)*], not being a TRANSFER, *charged or exempted under* No. *62*—	
where the amount *or value* of the consideration for such conveyance as set forth therein does not exceed Rs. 50.	Eight annas.
where it exceeds Rs. 50 but does not exceed Rs. 100	One rupee.
Do. 100 *do.* 200	Two rupees.
Do. 200 *do.* 300	Three rupees.
Do. 300 *do.* 400	Four rupees.
Do. 400 *do.* 500	Five rupees.
Do. 500 *do.* 600	Six rupees.
Do. 600 *do.* 700	Seven rupees.
Do. 700 *do.* 800	Eight rupees.
Do. 800 *do.* 900	Nine rupees.
Do. 900 *do.* 1,000	Ten rupees.

SCHEDULE I.—*contd.*

Description of Instrument.	Proper Stamp-duty.
and for every Rs. 50 or part thereof in excess of Rs. 1,000 ...	Five rupees.
Exemption :	
Assignment of copyright by entry made under the Indian Copyright Act, 1847,* section 5.	
CO-PARTNERSHIP-D E E D—*See* PARTNERSHIP (*No.* 46)	
24. COPY OR EXTRACT certified to be a true copy or extract by, or by order of any public officer, and not chareable under the law† for the time being in force relating to court fees—	
(*i*) if the original was not chargeable with duty, or if the duty with which it was chargeable does not exceed one rupee ...	Eight annas.
(*ii*) in any other case ...	One rupee.
Exemptions.	
(*a*) Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office, or for any public purpose.	
"(*b*)‡ Copy of, or extract from, any register relating to births, baptisms, namings, dedications, marriages, divorces § deaths, or burials.	
25. COUNTERPART OR DUPLICATE of any instrument chargeable with duty, and in respect of which the proper duty has been paid—	

* Act XX. of 1847. † Act VII. of 1870.

‡ This new cl. (*b*) has been substituted for the original cl. (*b*) and (*c*) of the *Exemptions* from Art. No. 24, by Act V. of 1906, s. 7 (1).

§ Inserted by Act X. of 1914.

SCHEDULE I.—*contd.*

Description of Instrument.	Proper Stamp-duty.
(*a*) if the duty with which the original instrument is chargeable does not exceed one rupee :	The same duty as is payable on the original.
(*b*) in any other case ...	One rupee.
Exemption :	
Counterpart of any lease granted to a cultivator *when such lease is exempted from duty.*	
26. CUSTOMS-BOND—	
(*a*) *where the amount does not exceed Rs. 1,000.*	The same duty as a *Bond* (*No. 15*) *for such amount.*
(*b*) *in the other case*	*Five rupees.*
27 ‡ DEBENTURE (whether a mortgage-debenture or not), being a marketable security transferable—	
(*a*) by endorsement, or by a separate instrument of transfer :	The same duty as *Bond* (No. 15) for the same amount.
(*b*) by delivery	The same duty as a Conveyance (No. 23) for a consideration equal to the face amount of the debenture.
Explanation—The term 'Debenture' includes any interest coupons attached thereto, but the amount of such coupons shall not be included in estimating the duty.	
Exemption :	
A debenture issued by an incorporated Company or other body corporate in terms of a registered mortgage-deed duly stamped in respect of the full amount of debentures to be issued thereunder, whereby the Company or body borrowing makes	

‡ Art, 27, as it now stands, has been substituted for the original Art. 27 by Act VI. of 1910.

SCHEDULE I.—*contd.*

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
over, in whole or in part, their property to trustees for the benefit of the debenture holders: provided that the debentures so issued are expressed to be issued in terms of the said mortgage-deed.	
See also Bond (No. 15) and sections 8 and 55.	
DECLARATION OF ANY TRUST.—*See* Trust (*No. 64*).	
28. DELIVERY ORDER IN RESPECT OF GOODS, that is to say, any instrument entitling any person therein named, or his assigns, or the holder thereof, to the delivery of any goods lying in any dock or port, or in any warehouse in which goods are stored or deposited on rent or hire, or upon any wharf, such instrument being signed by or on behalf of the owner of such goods, upon the sale or transfer of the property therein, when such goods exceed in value twenty rupees	One anna.
DEPOSIT OF TITLE DEEDS.—"*See* Agreement relating to Deposit of Title-deeds, Pawn, or Pledge (*No. 6*)"*	
DISSOLUTION OF PARTNERSHIP.—*See* Partnershtp (*No. 46*).	
29. DIVORCE.—Instrument of, that is to say any instrument by which any person effects the dissolution of his marriage	One rupee.
DOWER—*Instrument of*, *See* Settlement (*No. 58*).	
DUPLICATE-*See* COUNTERPART (*No. 25*).	

* The words quoted above have been subtituted for the words and figure '*See Agreement by way of equitable mortgage* (*No.* 6),' by Act XV. of 1904, s. 8 (2).

SCHEDULE I.—*contd.*

DESCRIPTION OF INSTRUMENT,	PROPER STAMP-DUTY.
30. ENTRY AS AN ADVOCATE, VAKIL OR ATTORNEY ON THE ROLL OF ANY HIGH COURT in exercise of powers conferred on such Court by Letters Patent or by the the Legal Partitioners Act 1884*—	
(*a*) in the case of an advocate or Vakil	Five hundred rupees.
(*b*) in the case of an Attorney ...	Two hundred and fifty rupees.
Exemption.	
Entry of an advocate, vakil, or attorney on the roll of any High Court when he has previously been enrolled in a High Court.	
31. EXCHANGE OF PROPERTY.—INSTRUMENT OF.	The same duty as a CONVEYANCE (No. 23) for a consideration equal to the value of the property of *greatest* value as set forth in such instrument.
EXTRACT.—*See* Copy (*No 24*)	
32. FURTHER CHARGE—Instrument *of, that is to say, any instrument* imposing a further charge on mortgaged property—	
(*a*) when the original mortgage is one of the description referred to in clause (*a*) *of article No. 40 (that is, with possession)*;	The same duty as a CONVEYANCE (No. 23) for a consideration equal to the amount *of further charge* secured by such instrument.
(*b*) when such mortgage is one of the description referred to in clause (*b*) *of article* No. 40 *(that is, without possession,—*	
(*i*) *if, at the time of execution of the instrument of further charge, possession of the property is given, or agreed to be given, under such instrument.*	*The same duty as a Conveyance (No. 23) for a consideration equal to the total amount of the charge (including the original mortgage and any further charge already made) less the duty already paid on such original mortgage and further charge.*

* Act IX. of 1884.

† Here the entry "EQUITABLE MGRTGAGE," is omitted by Act XV. of 1904, s. 8(3).

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.
(*ii*) *if possession is not given* ...	The same duty as a BOND (No. 15) for the amount *of the further charge* secured by such instrument.
33. GIFT—Instrument of, *not being* a SETTLEMENT (*No. 58*) WILL *or Transfer* (*No,62*).	The same duty as a CONVEYANCE (No. 23) for a consideration equal to the value of the property as set forth in such instrument.
HIRING AGREEMENT *or agreement for service—See* AGREENENT (*No.* 5).	
34 INDEMNITY-BOND	The same duty as a SECURITY-BOND (No. 57) *for the same amount.*
INSPECTORSHIP-DEED.—*See* COMPOSITION-DEED (*No. 22*),	
INSURANCE—*See* POLICY OF INSURANCE (*No.* 47).	
35. LEASE, including an under-lease or sub-lease *and any agreement to let or sublet*—	
(*a*) where, by such lease, the rent is fixed, and no premium is paid or delivered—	
(*i*) *where the* lease purports to be for a term of less than one year;	The same duty as a BOND (No. 15) for the whole amount payable or deliverable under such lease.
(*ii*) *where the* lease purports to be for a term of not less than one year, but not more three years;	The same duty as a BOND (No. 15) for the *amount or value of the* average annual rent reserved.
(*iii*) *where the* lease purports to be for a term *in excess of* three years:	The same duty as a CONVEYANCE (No. 23) for a consideration equal to the amount or value of the average annual rest reserved.
(*iv*) *where the* lease does not purport to be for any definite term.	The same duty as a CONVEYANCE (No. 23) for a consideration equal to the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.

SCHEDULE I.—*continued.*

Description of Instrument.	Proper Stamp-dury.
(*v*) where the lease purports to be in perpetuity.	The same duty as a Conveyance No. 22 for a consideration equal to one fifth of the whole amount of rents which would be paid or delivered in respect of the first fifty years of the lease.
(*b*) where the lease is granted for a fine or premium *or for money advanced*, and where no rent is reserved :	The same duty as a CONVEYANCE (No. 23) for a consideration equal to the amount or value of such fine or premium *or advance* as set forth in the lease.
(*a*) where the lease is granted for a fine or premiunm *or for money advanced* in addition to rent reserved	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium *or advance* as set forth in the lease, in addition to the duty which would have been payable on such lease if no fine or premium *or advance* had been paid or delivered :
	Provided that, in *any case* when an agreement to lease is stamped with the *advalorem* stamp required for a lease, and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed eight annas.
Exemptions :	
(*a*) Lease executed in the case of a cultivator, *and for the purposes of cultivation (including a lease of trees for the production of food or drink)* without the payment or delivery of any fine or premium, when a definite term is expressed, and such term does not exceed one year, or when the average annual rent reserved does not exceed one hundred rupees.	
(*b*) leases of fisheries granted under the Burma Fisher's Act, 1875,* *or the Upper Burma Land and Revenue Regulation, 1889.*†	

* Act VII of 1875.

† Regulation II of 1889,

SCHEDULE I.—*continued.*

Description of Instrument.	Proper Stamp duty.
36. LETTER OF ALLOTMENT OF SHARES in any Company or proposed Company, or in respect of any loan to be raised by any Company or proposed Company ... *See also* Certificate or other Document (No 19).	"two annas"*
37. LETTER OF CREDIT, that is to say, any instrument by which one person authorizes another to give credit to the person in whose favour it is drawn	"two annas"*
LETTER OF GUARANTEE—*See* Agreement (*No.* 5).	
38. LETTER OF LICENSE that is to say, any agreement between a debtor and his creditors that the latter shall, for a specified time, suspend their claims, and allow the debtor to carry on business at his own discretion	Ten rupees.
39. MEMORANDUM OF ASSOCIATION OF A COMPANY—	
(*a*) if accompanied by Articles of Association under section 37 of the Indian Companies Act, 1882 †	Fifteen rupees.
(*b*) if not so accompanied ...	Forty rupees.
Exemption:	
Memorandum of any Association not formed for profit, and registered under section 26 of the Indian Companies Act 1882.†	
40. MORTGAGE-DEED, not being "an agreement relating to Deposit of Title deeds Pawn or Pledge (No. 6.)"‡ Bottomry-bond (No. 16), Mortgage of a Crop (No. 41) Respondentia bond (No. 56) or Security bond (No. 57)—	

* The words within quotations have been substituted by Act, 43 of 1923.

† Act VI. of 1882.

‡ The words quoted are substituted for the words "*an Agreement to mortgage*" by Act XV. of 1904, s. 8 (4)

SCHEDULE I—*contd.*

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
40. MORTGAGE-DEED—*contd.*	
(*a*) when possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given:	The same duty as a Conveyance (No. 23) for a consideration equal to the amount secured by such deed.
(*b*) when* possession is not given or agreed to be given as aforesaid:	The same duty as a Bond (No. 15) for the amount secured by such deed.
Explanation—A mortgagor who gives to the mortgagee a power of-attorney to collect rents or a lease of the property mortgaged or part thereof is deemed to give possession within the meaning of this article.	
(*c*) when a collateral or auxiliary or additional or substituted security, or, by way of further assurance for the above mentioned purpose, where the principal or primary security is duly stamped—	
for every sum secured not exceeding Rs. 1,000	Eight annas.
and for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000	Eight annas.
Exemptions.	
(1) Instruments executed by persons taking advances under the Land Improvement Loans Act, 1883,† or the Agriculturists' Loans Act, 1884,‡ or by their sureties as security for the repayment of such advances.	
(2) Letters of hypothecation accompanying a bill of exchange.	
§ § §	

* Here† the words "*at the time of execution*" are omitted by Act XV, 1904, *ibid*,

† Act XIX of 1883. ‡ Act XII. of 1884.

§ Exemp. (3) in Art. 40 is omitted by Act XV. of 1904, s. (8) (4).

SCHEDULE I—*contd.*

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
41. MORTGAGE OF A CROP, including any instrument evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop, whether the crop is or is not in existence at the time of the mortgage—	
(*a*) when the loan is repayable not more than three months from the date of the instrument—	
for every sum secured not exceeding Rs. 200	One anna.
and for every Rs. 100 or part thereof secured in excess of Rs. 200.	One anna.
(*b*) when the loan is repayable more than three months, but not more than "eighteen months," * from the date of the instrument—	
for every sum secured not exceeding Rs. 100	"Two annas "†
and for every Rs. 100 or part thereof secured in excess of Rs. 100	"Two annas."‡
42. NOTERIAL ACT, that is to say any instrument, endorsement, note, attestation, certificate, or entry *not being a* PROTEST (No. 50) made or signed by a Notary Public in the execution of the duties of his office, or by any other person lawfully acting as a Notary Public	One Rupee.

* These words have been substituted for the words "*one year*" by Act V. of 1906, s. 7 (2).

† Substituted for "*four annas*" by s. 8 (5), Act XV. of 1904.

‡ Substituted for "*four annas*" by s. 8 (5), Act XV. of 1904.

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.
See also PROTEST OF BILL OR NOTE (No. 50).	
"43.* NOTE OR MEMORANDUM sent by a Broker or Agent to his principal intimating the purchase or sale on account of such principal—	
(*a*) of any goods exceeding in value twenty rupees	Two annas.
(*b*) of any stock or marketable security exceeding in value twenty rupees	Subjet to a maximum of ten rupees, one anna for every Rs. 10,000 or part thereof of the value of the stock or security."
44. NOTE OF PROTEST BY THE MASTER OF A SHIP ...	Eight annas.
See also PROTEST BY THE MASTER OF A SHIP (No. 51).	
ORDER FOR THE PAYMENT OF MONEY—	
See BILL OF EXCHANGE (No. 13).	
45. PARTITION—Instrument of [as defined by s. 2 (15)] ...	The same duty as a BOND (No. 15) for the amount of the value or the separated share or shares of the property.
	N. B.—The largest share remaining after the property is partitioned (or if there are two or more shares of equal value, and not smaller than any of the other shares, then one of such equal shares) shall be deemed to be that from which the other shares are separated :

* The present Art 43 has been substituted for the original by Act VI of 1910.

SCHEDULE I.—*contd.*

Description of Instrument.	Proper Stamp-duty.
45. PARTITION—*concld.*	
	Provided always that—
	(*a*) when an instrument of partition containing an agreement to divide property in severalty is executed and a partition is effected in pursuance of such agreement, the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than eight annas;
	(*b*) where land is held on Revenue Settlement for a period not exceeding thirty years, and paying the full assessment, the value for the purpose of duty shall be calculated at not more than times the annual revenue:
	(*c*) where a final order for effecting a partition passed by any Revenue-authority or any Civil Court or an award by an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition, and an instrument of partition, in pursuance of such order or award, is subsequently executed, the duty on such instrument shall not exceed eight annas.
46. PARTNERSHIP—	
A.—INSTRUMENT OF—	
(*a*) where the capital of the partnership does not exceed Rs. 500 ...	Two rupees eight annas.
(*b*) in any other case	Ten rupees.
B.—DISSOLUTION OF ...	Five rupees.
"PAWN OR PLEDGE—*See* AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN, OR PLEDGE (No. 6)"*	

* This entry has been inserted by Act XV. of 1904, s. 8 (6).

SCHEDULE I.—*contd.*

Description of Instrument.	Proper Stamp-duty.	
47. POLICY OF INSURANCE—		
	If drawn singly.	If drawn in duplicate, for each part.
"A."—SEA-INSURANCE (*see* section 7)—		
(1) for or upon any voyage—		
(i) where the premium or consideration does not exceed the rate of two annas or one-eighth per centum of the amount insured by the policy	One anna.	Half an anna.
(ii) in any other case, in respect of every full sum of one thousand rupees and also, any fractional part of one thousand rupees insured by the policy ...	Two annas.	One anna.
(2) for time—		
(iii) in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy—		
where the insurance shall be made for any time not exceeding six months	Do.	Do.
where the insurance shall be made for any time exceeding six months, and not exceeding twelve months	Four annas.	Two annas.
'B.*—"Fire Insurance and other classes of Insurance, not elsewhere included in this Article, covering goods merchandise personal effects, crops, and other property against loss or damage,"†		

* In Act 47, divisions A and B have been substituted for the original by Act V. of 1906, s. 7 (3).

† The words within quotations have been added by Act 43 of 1923.

SCHEDULE I—*contd.*

Description of Instrument.	Proper Stamp-duty.
47. POLICY OF INSURANCE—*contd.*	
(1) in respect of an original policy—	
(i) when the sum insured does not exceed Rs. 5,000 ...	Eight annas.
(ii) in any other case ...	One rupee.
and (2) in respect of each receipt for any payment of a premium on any renewal of an original policy.	One-half of the duty payable in respect of the original policy in addition to the amount, if any, chargeable under No. 53.
C.—ACCIDENT and *Sickness Insurance*—	
(*a*) against railway accident valid for a single journey only ...	One anna.
Exemption:	
When issued to a passenger travelling by the intermediate or the third class in any railway.	
(*b*) in any other case—for the maximum amount which may become payable in the case of any single accident or sickness where such amount does not exceed Rs. 1,000 and also where such amount exceeds Rs. 1,000 for every Rs. 1,000 or part thereof.	Two annas.
D.—LIFE INSURANCE or other INSURANCE not specifically provided for; except such a RE-INSURANCE as is described in Division E of this article—	
for every sum insured not exceeding Rs. 1,000, and also for every Rs. 1,000 or part thereof insured in excess of Rs. 1,000—	
(*i*) if drawn singly	Six annas.
(*ii*) if drawn in duplicate, for each part.	Three annas.

SCHEDULE I.—*continued.*

DESCRIPTION OF INSTRUMENT.	PROPER STAMP DUTY.
Exemption. Policies of life insurance granted by the Director-General of the Post Office of India in accordance with rules for Postal Life Insurance issued under the authority of the Government of India.	
E.—RE-INSURANCE by an Insurance Company which has granted a POLICY "of an insurance or a policy of fire insurance."* with another Company by way of indemnity or guarantee against the payment on the original insurance of a certain part of the sum insured thereby.	One quarter of the duty payable in respect of the original insurance, but not less than one anna or more than one rupee.
47. POLICY OF INSURANCE—*concld.*	
General Exemption. (*a*) Letter of cover or engagement to issue a policy of insurance ; Provided that unless such letter or engagement bears the stamp prescribed by this Act for such policy nothing shall be claimable thereunder, nor shall it be available for any purpose, except to compel the delivery of the policy therein mentioned.	
48. POWER-OF-ATTORNEY [*as defined by s. 2 (21),*] not being a PROXY (No. 52)— (*a*) when executed for the sole purpose of procuring the registration *of one or more documents* in relation to a single transaction, *or for admitting execution of one or more such documents*	Eight annas.

* The words within quotations have been substituted by Act 23 of 1923.

SCHEDULE I.—*continued.*

DESCRIPTION OF INSTRUMENT.	Proper Stamp-duty.
(*b*) when required in suits or proceedings under the Presidency Small Cause Courts Act, 1882*	Eight annas.
(*c*) when authorizing one person or more to act in a single transaction other than *the case* mentioned in *clause* (*a*) ...	One rupee.
(*d*) when authorizing not more than five persons to act jointly and severally in more than one transaction or generally ...	Five rupees.
(*e*) when authorizing more than five but not more than ten, persons to act jointly and severely in more than one transaction or generally.	Ten rupees.
(*f*) when given for consideration, and authorizing the attorney to sell any immoveable property.	The same duty as a CONVEYANCE (No. 23) for the amount of the consideration.
(*g*) in any other case ...	One rupee for each person authorized.
	N. B.—The term "registration" includes every operation incidental to registration under the Indian Registration Act, 1877.†
Explanation.—For the purposes of this *article*, more persons than one, when belonging to the same firm, shall be deemed to be one person.	
49. PROMISSORY NOTE (*as defined by section 2* (22) ...	
"(*a*) when payable on demand—	
(i) when the amount or value does not exceed Rs. 250;	One anna.
(ii) when the amount or value exceeds Rs. 250 but does not exceed Rs. 1,000.	Two annas.
(iii) in any other case.	Four annas.

* Act XV. of 1882.

† Act III. of 1877 (but *see* now the new Registration Act (XVI. of 1908), whereby the Act of 1877, *No.* III., has been repealed in *toto*).

SCHEDULE I.—*contd.*

Description of Instrument.	Proper Stamp-duty.
48. POWER-OF-ATTORNEY—*concld*,	
(*b*) when payable other than on demand.	The same duty as a Bill of Exchange (No. 13) for the same amount payable otherwise than on demand.
50. PROTEST OF BILL OR NOTE, that is to say, any declaration in writing made by a Notray Public or other person lawfully acting as such, attesting the dishononr of a bill of exchange or promissory note.	One rupee.
51. PROTEST BY THE MASTER OF A SHIP, that is to say, any declaration of the particulars of her voyage drawu up by him with a view to the adjustment of losses or the calculation of averages and every declaration in writing made by him against the charterers or the consignees for not loading or unloading the ship, when such declaration is attested or certified by a Notary Public or other person lawfully acting as such	One rupee.
See also NOTE OF PROTEST BY THE MASTER OF A SHIP (No. 44).	
52. PROXY, empowering any person to vote at any one election of the member of a District or Local Board, or of a body of Municipal Commissioners or at any one meeting of (*a*) Members of an incorporated Company or other body corporate whose stock or funds is or are divided into shares and transferable, (*b*) a Local Authority, or (*c*) Proprietors, Members, or Contributors to the funds of any institution	"Two annas"*
53. RECEIPT [*as defined by s. 2* (23)] for any money or other property, the amount or value of which exceeds twenty rupees.	One anna.

* The words within quotation have been added by Act 43 of 1923.

SCHEDULE I,—*contd.*

Description of Instrument.	Proper Stamp-duty.
Exemptions: Receipt— (*a*) endorsed on, or contained in, any instrument duly stamped, or exempted under the proviso to s. 3 (instruments executed on behalf of the Government), acknowledging the receipt of the consideration-money therein expressed, or the receipt of any principal money interest, or annuity, or other periodical payment thereby secured; (*b*) for any payment of money without consideration. (*c*) for any payment of rent by a cultivator on account of land assessed to Government revenue, or (in the Presidencies of Fort St. George and Bombay) of inam lands; (*d*) for pay or allowances by non-commissioned officers or soldiers of Her Majesty's Army or Her Majesty's Indian Army, when serving in such capacity, or by mounted police-constable; (*e*) given by holders of family-certificates in cases where the person, from whose pay or allowances the sum comprised in the receipt has been assigned, is a non-commissioned, officer or soldier of either of the said Armies and serving in such capacity; (*f*) for pensions or allowances by persons receiving such pensions or allowances in receipt of their service as such non-commissioned officers or soldiers, and not serving the Government in any other capacity;	

SCHEDULE I.—*continued.*

Description of Instrument.	Proper Stamp-duty.
53. RECEIPT—*concld.*	
(*g*) given by a headman or lambardar for land-revenue or taxes collected by him ;	
Exemptions—concld.	
(*k*) given for money or securities for money deposited in the hands of any banker, to be accounted for :	
Provided *that* the same *is* not expressed to be received of, or by the hands of any other than the person to whom the same is to be accounted for :	
Provided also that this exemption shall not extend to a receipt or acknowledgment for any sum paid or deposited for or upon a letter of allotment of a share or in respect of a call upon any scrip or share of or in any incorporated Company or other body corporate or such proposed or intended Company or body, or in respect of a debenture being a marketable security.	
"See also Policy of Insurance (No. 47, (2)."]*	
54. RE-CONVEYANCE OF MORTGAGED PROPERTY—	
(*a*) if the consideration for which the property was mortgaged does not exceed Rs. 1,000	The same duty as a Conveyance (No. 23) for the amount of such consideration as set forth in the Re-conveyance.
(*b*) in any other case ...	Ten rupees.
55. RELEASE, that is to say, any instrument "(not being such a release as is provided for by section 23A)"† whereby a person re-	

* This note is added to Act. 53 by Act V. of 1906, s. 7. (4)

†-These parenthesied words above quoted are inserted by Act XV. of 1904, s. 8 (7).

SCHEDULE I.—*continued.*

Description of Instrument.	Proper Stamp-duty.
nounces a claim upon another person, or against any specified property—	
(*a*) if the amount or value of the claim does not exceed Rs. 1,000	The same duty as a Bond (No. 15) for such amount or value as set forth in the Release.
(*b*) in any other case ...	Five rupees.
56. RESPONDENTIA-BOND, that is to say, any instrument securing a loan on the cargo laden or to be laden on board a ship and making repayment contingent on the arrival of the cargo at the port of destination,	The same duty as a bond (No. 15) for the amount of the loan secured.
REVOCATION OF ANY TRUST OR SETTLEMENT.—*See* Settlement (No. 58); Trust (No. 64).	
57. SECURITY BOND OR MORTGAGE-DEED executed by way of security for the due execution of an office, or to account for money or other property received by virtue thereof, or executed by a surety to secure the due performance of a contract—	
(*a*) when the amount secured does not exceed Rs. 1,000.	The same duty as a Bond (No. 15) for the amount secured.
(*b*) in any other case ...	Five rupees.
Exemptions.	
Bond or other instrument, when executed—	
(*a*) by headmen nominated under rules framed in accordance with the Bengal Irrigation Act, 1876,* section 99, for the due performance of the duties under that Act;	
(*b*) by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other	

* Ben Act III of 1876.

SCHEDULE I—*contd.*

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
object of public utility shall not be less than a specified sum per mensem ;	
(*c*) under No. 3A of the Rules made by the Governor of Bombay in Council under section 70 of the Bombay Irrigation Act, 1879 ;*	
(*d*) executed by persons taking advances under the Land Improvement Loans Act, 1883† or the Agriculturists' Loans Act, 1884,‡	
57. SECURITY-BOND OR MORTGAGE-DEED—*contd*	
Exemptions—contd.	
or by their sureties, as security for the repayment of such advances ;	
(*e*) executed by officers of Government of their sureties to secure the due execution of an officer or the due accounting for money *or other property* received by virtue thereof	
58. SETTLEMENT—	
A—INSTRUMENT of (including a deed of dower).	The same duty as a BOND (No. 15) for a sum equal to the amount orvalue of the property settled as set forth in such Settlement. Provided that, where an agreement to settle is stamped with the stamp required for an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed eight annas.
Exemptions.	
(*a*) Deed of Dower executed on the occasion of a marriage between Muhammadans ;	

* Bom. Act V. of 1879. † Act XIX of 1883. ‡ Act XII. of 1884.

SCHEDULE I—*contd.*

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
(*b*) Hludansa, that is to say, any settlement of immoveable property executed by a Budhist in Burma for a religious purpose, in which no value has been specified, and on which a duty of Rs. 10 has been paid.	
B—REVOCATION OF	The same duty as a BOND (No. 15) for a sum epual to the amount or value of the property concerned as set forth in the instrument of Revocation, but not exceeding ten rupees.
See also TRUST (No. 64)	
59. SHARE-WARRANTS to bearer issued under the Indian Companies Act, 1882 *	"One and a half times" † the duty payable on a CONVEYANCE (No. 23) for a consideration equal to the nominal amount of the shares specified in the warrant.
Exemptions:	
Share-warrant when issued by a Company in pursuance of the Indian Companies Act, 1882,* section 30, to have effect only upon payment, as composition for that duty, to the Collector of Stamp revenue, of—	
(*a*) "one and a half" † per centum of the whole subscribed capital of the Company, or,	
(*b*) if any Company, which has paid the said duty or composition in full, subsequently issues an addition to its subscribed capital—"one and a half" † per centum of the additional capital so issued.	
SCRIP.—See CERTIFICATE (No. 19).	
60. SHIPPING ORDER for or relating to the conveyance of goods on board of any vessel.	One anna.

* Act VI. of 1882.

† Substituted for the words "three quarters" by Act VI. of 1910.

SCHEDULE.—*continued.*

DESCRIPTION OF INSTRUMENT.	PROPER STAMP-DUTY.
61. SURRENDER OF LEASE—	
(*a*) when the duty with which the lease is chargeable does not exceed five rupees.	The duty with which such lease is chargeable.
(*b*) in any other case	Five rupees.
Exemption :	
Surrender of lease, when such lease is exempted from duty.	
62. TRANSFER—	
(*a*) of shares in an incorporated Company or other body corporate.	"one half"* of the duty payable on a CONVEYANCE (No 23) for a consideration equal to the value of the share.
(*b*) of debentures being marketable securities whether the debenture is liable te duty or not, except debentures provided for for by section 8.	"One half"* of the duty payable on a CONVEYANCE (No. 93) for a considerrtion equal to the face amount of the debentures
(*c*) of any interest secured by a Bond, Mortgage deed, or Policy of Insurance—	
(*i*) if the duty on such Bond, Mortgage-deed, or Policy does not exceed five rupees.	The duty with which such Bodd, Mortgage deed, or Policy of Insurance is chargeable.
(*ii*) in any other case ...	Five rupees.
(*d*) of any property uuder the Administrator-Generals Act, 1874,† section 31.	Ten rupees.
(*e*) of any trust-property without codsideration from one trustee to another trustee, *or from a trustee to a beneficiary.*	Five rupees *or such smaller amount as may be chargeable under clause* (*a*) *to* (*c*) *of this article.*
Exemptions :	
Transfers by endorsement—	
(*a*) of a bill of exchange, cheque, or promissory note ;	

* Substituted for "one quarter" by Act VI. of 1910.

† Act II. of 1874.

SCHEDULE I,—*concluded*,

Description of Instrument.	Proper Stamp-duty.
(*b*) of a bill of lading, *delivery order*, *warrant for goods*, *or other mercantile document of title to goods*; (*c*) of a policy of insurance; (*d*) of securitiee of the Government of India. *See also sectian 8*	
63. TRANSFER OF LEASE by way of assignment, and not by way of under-lease. *Exemption*: Transfer of any lease exempt from duty.	The same duty as a Conveyance (No. 23) for aconsideration equal to the amount of the consideration for the Transfer.
64. TRUST—	
A.—Declaration of—of or concerning any property when made by any writing not being a Will.	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the instrument, but not exceeding fifteen rupees.
B—Revocation of—of or concerning any property when made by any instrument other than a Will.	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth is the instrument, not exceeding ten rupees.
See also Settlement (No. 58).	
VALUATION.—*See* Appratsement (No. 8).	
VAKIL.—*See* Entry as a Vakil (No. 30).	
65. WARRANT FOR GOODS, that is to say, any instrument evidencing the title of any person therein named, or his assigns or the holder thereof, to the property in any goods lying in or upon any dock, warehouse, or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be	

ACT NO III OF 1899 :

Presidency Small Cause Courts Act, 1899.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 27th January 1899.

An Act to further to amend the Presidency Small Cause Courts Act, 1882.

WHEREAS it is expedient to further amend the Presidency Small Cause Courts Act, 1882 ; * It is hereby enacted as follows :—

Short title and Commencement.

1. (1) This Act may be called the Presidency Small Cause Courts Act, 1899 ;†

(2) It shall come into force at once.

Amendment of section 4, Act XVI, 1882.

2. To section 4 of the Presidency Small Cause Courts Act, 1882* (hereinafter referred to as " the said Act "), the words " and the expression " Registrar " includes a Deputy Registrar "

shall be added,

Substitution of new section for section 8A, Act XV., 1882, as amended by section 4, Act I, 1895.

3. For section 8A of the said Act, as amended by the Presidency Small Cause Courts Act, 1895† the following section shall be substituted, namely :—

[Vide Vol. II p. 817.]

Amendment of section 9, Act XV., 1882, as amended by section 5, Act I., 1895.

4. In section 9, sub-section (1), of the said Act as so amended, after clause (*a*), the following clause shall be added, namely.

[Vide Vol. II p. 818.]

Amendment of section 13, Act XV., 1882.

5. In section 13 of the said Act, between the word " appoint " and the words " as many clerks," the words. " a Deputy Registrar and," shall be inserted.

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* Act XV. of 1882.

† The word " and " after this repealed by Act 10 of 1914 has been omitted.

‡ Act I. of 1895.

ACT NO. IV. OF 1899.

Government Buildings Act, 1899.

PASSED BY THE GOVENOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor General on the 3rd February 1899.

An Act to provide for the exemption from the Operation of Municipal Building Laws of certain Buildings and Lands which are the Property, or in the Occupation, of the Government, and situate within the limits of a Municipality.

WHEREAS it is expedient to provide for the exemption from the operation of municipal building laws of certain buildings and lands which are the property, or in the occupation, of the Government and situate within the limits of a municipality ; It is hereby enacted as follows :

Short title, extent, and commencement.

1. (*1*) This Act may be called the Government Buildings Act, 1899.

(2) It extends to the whole of British India ;*

(3) It shall come into force at once.

"Municipal authority" defined.

2. In this Act the expression "municipal authority" includes a municipal corporation or a body of municipal commissioners constituted by, or under the provisions of, any law or enactment for the time being in force.

Exemption of certain Government buildings from municipal laws to regulate the erection, etc, of buildings within municipalities.

3. Nothing contained in any law or enactment for the time being in force to regulate the erection, re-erection, construction, alteration or maintenance of buildings within the limits of any municipality, shall apply to any building used or required for the public service, or for any public purpose, which is the property, or in the occupation, of the Government, or which is to be erected on land which is the property, or in the occupation, of the Government :

Provided that, where the erection, re erection, construction, or material structural alteration, of any such building as aforesaid (not being a building connected with Imperial defence, or a building the plan or construction of which ought, in the opinion of the

* The word "and" after this repealed by Act X of 1914 has been omitted.

Government, to be treated as confidential or secret) is contemplated, reasonable notice of the proposed work shall be given to the municipal authority before it is commenced.

Objections or suggestions as to erection, etc, of certain Government buildings within municipalities how to be made and dealt with.

4. (1) In the case of any such building as is mentioned in the last preceding section (not being a building connected with Imperial defence. or a building the plan or construction of which ought. in the opinion of the Government to be treated as confidential or secret), the municipal authority, or any person authorized by it in this behalf, may, with the permission of the Local Government previously obtained, but not otherwise and subject to any restrictions or conditions which may, by general or special order, be imposed by the Local Government, inspect the land and building and all plans connected with its erection, re-erection, construction, or material structural alteration, as the case may be, and may submit to the Local Government a statement in writing of any objections or suggestions which such municipal authority may deem fit to make with reference to such erection, re-erection, construction, or material structural alteration.

(2) Every objection or suggestion submitted as aforesaid shall be considered by the Local Government, which shall, after such investigation (if any) as it shall think advisable, pass orders thereon, and the building referred to therein shall be erected, re-erected constructed, or altered, as the case may be, in accordance with such orders :

Provided that, if the Local Government overrules or disregards any such objection or suggestion as aforesaid, it shall give its reasons for so doing in writing.

(3) Every order passed by the Local Government under this section " in regard to any building which is used or required for the administration of a central subject as defined in section 45 A of the Government of India Act or which is the property of the Government of India "* shall be subject to revision by the Gover nor-General in Council, but not otherwise, and the decision of the Governor-General in Council thereon shall be final.

* The words within quotations have been added by Act 38 of 1920

ACT No. V. OF 1899.

THE INDIAN EVIDENCE ACT, 1899.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 10th February 1899.

*An Act to further amend the Indian Evidence Act, 1872.**

Whereas it is expedient to further amend the Indian Evidence Act, 1872;* It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Indian Evidence Act, 1899;†

(2) It shall come into force at once.

Addition to section 37, Act I., 1872.

2. To section 37 of the Indian Evidence Act, 1872,* the following shall be added, namely :—

"This section applies also to any Act of the Lieutenant-Governor in Council of the North-Western Provinces and Oudh, the Punjab, or Burma."

Amendment of section 45, and addition to section 73, Act I., 1872

3. (1) In section 45 of the said Act, as amended by section 4 of the Indian Evidence Act Amendment Act,‡ after the word "handwriting," in each of the two places in which it occurs, the words, "or finger-impressions," shall be inserted.

(2) To section 73 of the said Act, the following shall be added, namely :—

"This section applies also, with any necessary modifications, to finger impressions."

Amendment of section 86, Act I., 1872.

4. In section 86 of the said Act, as amended by section 8 of the Indian Evidence Act (1872) Amendment Act, 1891,§ for the second paragraph, the following shall be substituted, namely:—

"An officer who, with respect to any territory or place not forming part of Her Majesty's dominions, is a Political Agent therefor, as defined in section 3, clause (40), of the General Clauses Act, 1897, || shall, for the purposes of this section, be deemed to be a representative of the Government of India in and for the country comprising that territory or place."

Partial repeal of section 8, Act III, 1891.

5. In section 8 of the Indian Evidence Act (1872) Amendment Act, 1891,§ the words and figures from "and to the same" to the end of the section are hereby repealed.

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* Act I. of 1872.

† The word "and" before this repealed by Act V. of 1914 has been omitted.

‡ Act XVIII. of 1872. § Act III. of 1891. || Act X. of 1897.

ACT NO. VI OF 1899.

THE INDIAN CONTRACT ACT (1872) AMENDMENT ACT, 1899.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 17th February 1899.

An Act to amend the Indian Contract Act, 1872.

Whereas it is expedient to amend the Indian Contract Act, 1872;† It is hereby enacted as follows:—

Short title, commencement, and application.

1. (1) This Act may be called the Indian Contract Act Amendment Act, 1899.

(2) It shall come into force on the first day of May 1899; and

(3) It shall apply to every contract in respect of which any suit is instituted, or which is put in issue in any suit, after the commencement of this Act.

Substitution of new section 16, Act IX., 1972.

2. Section 16 of the Indian Contract Act, 1872,† in hereby repealed, and the following is substituted therefor, numely:—

[*Vide vol. I. p. 113.*]

Amendment of section 19 of, and addition of new section to, Act IX., 1872.

3. In section 19 of the said Act, the words, "undue influence," are hereby repealed and after the same section, the following is inserted, namely:—

[Vide Vol I p. 1115.]

Amendment of section 74, Act IX., 1872.

4. (1) Section 74, paragraph one, of the said Act is hereby repealed, and the following is subsituted therefor namely:—

[Vide Vol I. p. 1138]

* Act III. of 1891.

† Act IX. of 1872.

ACT No. VIII. OF 1899.

The Indian Petroleum Act, 1899.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 17th February 1899.

An Act to consolidate and amend the Law relating to the Importation, possession, and transport of petroleum and other substances.

WHEREAS it is expedient to consolidate and amend the law relating to the importation, possession, and transport of petroleum and other substances ; It is hereby enacted as follows :—

Preliminary.

Short title, commencement, and extent.

1. (1) This Act may be called the Indian Petroleum Act, 1899;*

(2) It shall come into force at once.

(3) Sections 1 to 3, section 25, and all the provisions of this Act in so far as they relate to dangerous petroleum and the importation of petroleum, extend to the whole of British India. The rest of this Act extends only to such local areas as the Local Government may, by notification in the local official Gazette, direct.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "petroleum" includes also—

(*i*) the liquids commonly known by the names of rock oil, Rangoon oil, Burma oil, paraffin oil, mineral oil, kerosine, petroline, gasoline, benzoline, benzine, and benzol ;

(*ii*) any inflammable liquid which is made from petroleum, coal, schist, shale, peat, or any other bituminous substance, or from any product of petroleum ; and

(*iii*) any liquid, or viscous mixture having in its composition any of the liquids aforesaid ;

but it does not include any oil ordinarily used for lubricating purposes, and having its flashing point at or above two hundred degrees of Fahrenheit's thermometer :

* Certain word after this repealed by Act of 1914 has been omitted.

(*b*) "dangerous petroleum" means petroleum having its flashing point below seventy-six degrees or Fahrenheit's thermometer :

Provided that, when all or any of the petroleum on board a ship, or in the possession of a dealer, is declared by the master of the ship or the consignee of the cargo, or by the dealer, as the case may be, to be of one uniform quality, the petroleum shall not be deemed to be dangerous, if the samples selected from the petroleum have their flashing points, on an average, at or above seventy-three degrees of Fahrenheit's thermometer, and if no one of these samples has its flashing point below seventy degrees of that thermometer :

(*c*) to "import" means to bring into British India by sea or land :

(*d*) to "transport" means to remove within British India from one place to another :

(*e*) "prescribed" means prescribed by rules made under this Act : and

(*f*) "ship" includes anything made for the conveyance by water of human beings or property.

Matters supplemental to definition

3. (1) The "flashing point" of petroleum means the lowest temperature at which the petroleum yields a vapour which will furnish a momentary flash or flame when tested in accordance with the directions in the first schedule with an apparatus which has been stamped and certified as provided by this Act within a period of five years immediately preceding the date on which the apparatus is used for the testing, and after the corrections (if any) which the certificate declares are to be applied to the results of the testing, have been made.

(2) Notwithstanding anything in the definitions of "import" and "transport" the Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the local official Gazette, declare—

(*a*) that petroleum imported into the Province from any part of British India, by sea or across intervening territory not being part of British India, shall, for all or any of the purposes of this Act, be deemed to be transported ; and

(*b*) that petroleum transported into the Province from any place in British India shall, for all or any of those purposes, be deemed to be imported ;

and thereupon the provisions of this Act of the rules made under this Act, with respect to transport and import, respectively, shall apply to petroleum so imported or transported.

Power to vary tests and prescribe new tests.

4. (1) The Governor-General in Council may, by notification in the Gazette of India, alter or add to the first schedule by laying down new or varied tests and directions for preparing and using them ; and, after the issue of any such notification as aforesaid, the reference in section 3, sub-section (1), to the first schedule shall be constructed as referring to the said schedule as so altered or added to for the time being,

(2) The Governor-General in Council may, in like manner, lay down special tests, and issue special instructions in respect of the testing of any substance other than petroleum to which the whole or any portion of this Act may be applied in exercise of the power conferred by section 22, and for which the tests in the first schedule are unsuitable.

(3) The provisions of section 23 of the General Clauses Act, 1897,* shall apply to notifications under this section as if they were rules or orders required to be made after previous publication.

Dangerous Petroleum.

Dangerous petroleum in quantities exceeding forty gallons.

5. (1) No quantity of dangerous petroleum exceeding forty gallons shall be imported or transported or kept by any one person or on the same premises, except under, and in accordance with the conditions (if any) of, a license from the Local Government "or an officer appointed by the local Governmet."† granted as next hereinafter provided.

(2) Every application for such a license shall be in writing in the prescribed form, and shall contain the prescribed particulars.

Dangerous petroleum in quantities not exceeding forty gallons.

6. No quantity of dangerous petroleum equal to, or less than forty gallons shall be kept or transported without a license :

Provided that nothing in this section shall apply in any case where the quantity of the petroleum kept by any one person or on the same premises, or transported, does not exceed three gallons, and the petroleum is placed in separate glass, stoneware, or metal vessels, each of which contains not more than a pint, and is securely stopped.

Vessels containing dangerous petroleum to be labelled.

7. Dangerous petroleum,—

(*a*) which is imported and is kept at any place after seven days from the date of its importation, or

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* Act X. of 1897.

† The words within quotations have been added by Act IV of 1904,

(*b*) which is transported, or

(*c*) which is sold or exposed for sale,

shall be contained in vessels having attached thereto labels in conspicuous characters stating the description of the petroleum, with the addition of the words "highly inflammable," and with the addition,—

(*d*) in the case of a vessel kept, of the name and address of the consignee or owner ;

(*e*) in the case of a vessel transported, of the name and address of the sender and,

(*f*) in the case of a vessel sold or exposed for sale, of the name and address of the vendor.

Petroleum generally.

Power for Governor-General in Council to make rules.

8. (1) The Governor-General in Council may make rules to carry out the purposes and objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for the granting of licenses to transport petroleum from any part of British India to any other part of British India in cases in which such licenses are by law required.

Power for Local Government to make rules.

9. (1) The Local Government, with the previous sanction of the Governor General in Council, may make rules to regulate the importation of petroleum and the granting of licenses to possess or to transport petroleum within the Province in caees in which such licenses are by law required.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) determine the ports at which alone petroleum may be imported ;

(*b*) provide for ascertaining the quantity and description of any petroleum on board any ship ;

(*c*) determine the places at which, and the conditions on and subject to which, petroleum may be discharged into boats, landed transhipped, or stored ;

(*d*) provide for the selection by an officer appointed by the Local Government in this behalf, and for the delivery to him, either after or before petroleum has been landed, of samples of all petroleum landed or intended to be landed ;

(*e*) provide, in the case of each consignment which is stated to be of one uniform quality, for the number of samples to be selected, and for the averaging of the results of the testing of those samples ;

(*f*) provide, where the results of the testing of the samples raise a doubt as to the uniformity of the quality of the petroleum in any such consignment, for the division of the consignment into lots, and for the selection and testing of samples of each lot, and for the treatment of the lot in accordance with the results of the testing of thbse semples ;

(*g*) fix fees for the sampling and testing of petroleum ;

(*h*) fix fees for the storage of petroleum unless any local authority is empowered in that behalf ;

(*i*) define, with respect to any petroleum produced within the Province, the limits of the places in which such petroleum is to be refined ;

(*j*) provide for the testing at or near those places of petroleum so produced ;

(*k*) prevent the removal from those limits, otherwise than under the provisions of this Act applicable to dangerous petroleum, of petroleum so produced which has not satisfied the prescribed tests ;

(*l*) prescribe the authority by which licenses to possess or to transport petroleum may by granted ;

(*m*) fix the fee to be charged for any such license ;

(*n*) limit the quantity of petroleum to be covered by any such license ;

(*o*) prescribe the conditions which may be inserted in any such license;

(*p*) limit the time during which any such license is to continue in force ;

(*q*) provide for the renewal of any such license;

(*r*) provide for the nature and situation of the premises in respect of which licenses to possess petroleum may be granted, the inspection of premises so licensed, and the testing of petroleum found thereon ; and

(*s*) prescribe the manner in which the petroleum covered by a license to transport is to be packed, the mode and time of its transit, the route by which it is to be taken, and its stoppage and inspeetion during transit.

Procedure after petroleum has been discharged or landed.

10. (1) Petroleum discharged into boats or landed in accordance with rules made under section 9, sub-section (2), shall not be removed from the boats or places in or at which it is stored until the samples selected therefrom in accordance with those rules have been tested by an officer appointed by the Local Government in this behalf, and the officer has given a certificate that the petroleum is not dangerous petroleum.

(2) If the officer, after testing the samples, refuses to give the certificate in respect of any petroleum, the Local Government may permit the consignee, within a time to be fixed by the Local Government in this behalf,—

(*a*) to rectify the petroleum.

(*b*) to apply for a license to import the petroleum as dangerous petroleum, or

(*c*) to re-export the petroleum.

(3) If the consignee does not, within the time fixed under sub-section (2), avail himself of the permission granted under that sub-section, the petroleum may be disposed of as the Local Government may direct.

(4) Notwithstanding anything in the foregoing provisions of this section, the Local Government, in its discretion, may, where the officer has refused the certificate, direct that the petroleum be re-tested by another officer appointed by it in this behalf, and may, if that officer advises that the petroleum is not dangerous petroleum, authorize its removal from the boats or places in or at which it is stored.

Possession and transport of petroleum.

11. No quantity of petroleum exceeding five hundred gallons shall be kept by any one person or on the same premises, or shall be transported, except under, and in accordance with the conditions of, a license granted under this Act:

Provided that the Local Government may, by notification in the local official Gazette, exempt from the operation of this section petroleum when transported in such particular manner and under such particular conditions as may be set forth in the notification.

Power to inspect and require dealer to sell samples.

12. Any officer specially authorized in this behalf by the Local Government may require any dealer in petroleum to show him any place and any of the vessels in which any petroleum in his possession is stored or contained, to give him such assistance as he may require for examining the same, and to deliver to him samples of the petroleum on payment of the value of the samples.

Notice to be given when officer proposes to test samples.

13. When any such officer has, in exercise of the powers conferred by section 12, or by purchase, obtained a sample of petroleum in the possession of a dealer, he may give a notice in writing to the dealer informing him that he is about to test the sample, or cause it to be tested, at a time and place to be fixed in the notice, and that the dealer or his agent may be present at the testing.

Certificate as to result of testing.

14. On any such testing, if it appears to the officer or other person so testing that the petroleum from which the sample has been taken, is or is not dangerous petroleum, the officer or other person may certify the fact; and the certificate so given shall be receivable as evidence in any proceedings which may be taken under this Act against the dealer in whose possession the petroleum was found, and shall, until the contrary is proved, be proof of the fact stated therein; and a certified copy of the certificate shall be given, free of charge, to the dealer at his request.

Penalties.

Penalty for illegal importation, possession, or transport of petroleum, or for refusal to comply with section 12.

15. Whoever,—

(*a*) in contravention of this Act or of any of the rules thereunder, imports, possesses, or transports any petroleum; or

(*b*) otherwise contravenes any such rules as aforesaid; or

(*c*) breaks any condition contained in a license granted under this Act; or,

(*d*) being a dealer in petroleum, refuses or neglects to show to any officer authorized under section 12 any place or any of the vessels in which petroleum in his possession is stored or contained, or to give him such assistance as he may require for examining the same, or to give him samples of the petroleum on payment of the value of the samples;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Penalty for contravention of section 7.

16. Whoever keeps, sells, or exposes for sale dangerous petroleum in vessels not labelled as prescribed by section 7 shall be punishable with fine which may extend to five hundred rupees.

Confiscation of petroleum.

17. In any case in which an offence under section 15, clause (*a*), clause (*b*), or clause (*c*), or section 16 has been committed, the convicting Magistrate may direct that—

(*a*) the petroleum in respect of which the offence has been committed, or,

(*b*) where the offender is importing or transporting, or is in possession of, any petroleum exceeding the quantity (if any) which he is permitted to import, transport, or possess, as the case may be, the whole of the petroleum which he is importing or transporting, or is in possession of,

shall, together with the tins or other vessels in which it is contained, be confiscated.

Jurisdiction.

18. The criminal jurisdiction under this Act shall, in the Presidency-towns, be exercised by a Presidency Magistrate, and, elsewhere, by a Magistrate of the first class or (where specially empowered by the Local Government to try cases under this Act) a Magistrate of the second class.

Test-apparatus.

Model-test apparatus.

19. A model of the apparatus for testing petroleum under this Act shall be deposited in the office of the Chemical Examiner to Government, Calcutta, and be marked with the words, "Model test-apparatus."

Verification of test-apparatus.

20. (1) The Chemical Examiner shall, on payment of the prescribed fee (if any), compare with the said model test-apparatus, and verify every apparatus for testing petroleum which is submitted to him for the purpose.

(2) If any apparatus for testing petroleum, when compared and verified as provided by sub-section (1), is found correct, or correct subject to certain corrections to be applied to the results of the tests, the Chemical Examiner shall stamp the same with a special number, and with the date of the verification, and shall further give a certificate in writing under his hand, in the prescribed form, to the effect that, on the date aforesaid, the apparatus was compared and verified by him and found to be correct or correct subject to certain specified corrections to be applied to the results of the tests,

(3) A certificate granted under this section shall, until the contrary is proved, be proof of the matters stated therein.

(4) The Chemical Examiner shall keep a register, in the prescribed form, of all certificates granted under this section.

(5) Subject to the payment of the prescribed fees (if any), the said model test-apparatus shall be at all reasonable times open to inspection by any person desiring to inspect it.

Miscellaneous.

Power to exempt petroleum from operation of Act.

21. The Local Government may, by notification in the local official Gazette, exempt from the operation of all or any of the provisions of this Act, or of all or any of the rules made under this Act, any petroleum which has its flashing point at or above one hundred and twenty degrees of Fahrenheit's thermometer, and is imported as ordinary cargo and in quantity not exceeding that specified in the notification.

Power to apply Act to other substances.

22. (1) The Governor-General in Council may, by notification in the *Gazette of India*, apply the whole or any portion of this Act to any substance, other than petroleum, and may, by the notification, fix, in substitution for the quantities of petroleum fixed by sections 5, 6, and 11, the quantities of the substance to which those sections shall apply.

(2) When the whole or any portion of this Act has been applied as aforesaid to any substance other than petroleum, the provisions so applied shall be construed with all necessary modifications, and shall have effect as if such other substance had been included in the difinition of petroleum,

Power to limit operation of enactments, relating to possession or transport of petroleum, in municipalities.

23. The Governor-General in Council may, by notification in the *Gazette of India*, and in the local official Gazette, limit, in any manner he deems fit. the operation of any enactment for the time being in force relating to local authorities in any local area, or to any particular local authority, and the exercise of any power conferred by any such enactment, in so far as the enactment relates to the possession or transport of petroleum.

Previous publication, etc., of rules.

24. (1) Every power to make rules conferred by this Act is subject to the condition of the rules being made after previous publication in such manner as the Governor-General in Council may, by notification in the *Gazette of India*, direct.

(2) All rules made by the Governor General in Council or by the Local Government under this Act shall be published in the *Gazette of India* or the local official Gazette, as the case may be, and on such publication shall have effect as if enacted by this Act.

25. [Repealed by Act X of 1914].

THE FIRST SCHEDULE.

TESTING.

(*See section* 3,)

1—*Nature of the Test-apparatus.*

The apparatus consists of the following parts :

(1) the oil-cup ;

(2) the cover, with slide, test-lamp, and clockwork arrangement for opening and closing the holes in the cover and for dipping the test-flame ;

(3) the water-bath or heating vessel ;

(4) the tripod stand with jacket and spirit-lamp for heating the water-bath ;

(5) the thermometer for indicating the temperature of the oil in the oil-cup ;

(6) the thermometer for indicating the temperature of the water in the water-bath ;

(7) the thermometer for indicating the temperature of the oil before it is poured into the oil-cup ;

(8) the dropping bottle or *pipette* for replenishing the test-lamp ; and

(9) a barometer standardised at the Meteorological Office of the Province, or at any other place appointed by the Local Government.

The oil cup is a cylindrical flat-bottomed vessel made of gun-metal or brass, and tinned or silvered inside. A gauge is fixed to the inside of the cup to regulate the height to which it is to be filled with the sample under examination.

The cup is provided with a close-fitting overlapping cover, which carries the thermometer, the test-lamp and the adjuncts thereto. The test-lamp is suspended upon two supports by means of trunnions, which allow it to be easily inclined to a particular angle, and restored to its origmal position. The socket in the cover, which is to hold a round bulb thermometer for indicating the temperature of the oil during the testing operation, is so adjusted that the bulb of the latter is always inserted in a definite position below the surface of the liquid.

The cover is provided with three holes, one in the centre and two smaller ones close to the sides. These are closed and opened by means of a pivoted slide When the slide is moved so as to uncover the holes, the suspended lamp is caught by a projection fixed on the slide, and tilted in such a way as to bring the end of the spout just below the surface of the lid. As the slide moves back so as to cover the holes, the lamp returns to its original position. Upon the cover, in front of and in a line with the nozzle of the lamp, is fixed a white bead, the diameter of which represents the size of the test-flame to be used.

The water-bath or heating vessel is so constructed that, when the oil-cup is placed in position in it, an air-space or air-chamber intervenes between the two ; consequently, in applying the test under ordinary circumstances, the heat is transmitted gradually to the oil from the hot water through the air-space. The water-bath is fitted with a socket for receiving a long bulb thermometer, to indicate the temperature of the water. It is also provided with a funnel, an overflow-pipe, and two handles.

The water-bath rests upon a tripod stand, which is fitted with a copper cylinder or jacket, so that the bath is surrounded by an enclosed air-space, which retains and regulates the heat. One of the legs of the stand serves as a support for a spirit-lamp, which is attached to it by a small swing bracket.

The clockwork arrangement, by which, during the operation of testing, the slide is withdrawn, and the test-flame dipped into the cup and raised again as the slide is replaced, is provided with a ratchet key for setting it in action for each test, and with a trigger for starting it each time that the test-flame is applied.

II.—Directions for drawing the Sample and preparing it for testing.

1. *Drawing the sample.*—In all cases the testing officer or some person duly authorized by him shall personally superintend the drawing of the sample from an original unopened tin or other vessel.

An opening sufficiently large to admit of the oil being rapidly poured or cyphoned from the tin or other vessel shall be made.

Two bottles, each of the capacity of about forty fluid ounces, are to be filled with the oil. One of these, the contents of which is intended to be preserved for reference in case of need, is to be carefully corked, the cork being well driven home, cut off level with the neck, and melted sealing-wax worked into it. The other bottle may be either stoppered or corked.

2. *Preparing the sample for testing.*—About ten fluid ounces of the oil, sufficient for three tests, are transferred from the bottle into which the sample has been drawn to a pint flask or bottle, which is to be immersed in water artificially cooled until a thermometer, introduced into the oil, indicates a temperature not exceeding 50° Fahrenheit.

III.—Directions for preparing and using the Test-apparatus.

1.—*Preparing the water-bath.*—The water-bath is filled by pouring water into the funnel until it begins to flow out at the overflow-pipe. The temperature of the water as the commencement of each test, as indicated by the long bulb thermometer, is to be 13° Fahrenheit, and this is attained in the first instance by mixing hot and cold water, either in the bath or in a vessel from which the bath is filled, until the thermometer which is provided for testing the temperature of the water gives the proper indication; on the water is heated by means of the spirit-lamp (which is attached to the stand of the apparatus) until the required temparature is indicated.

2. *Preparing the test-lamp.*—The test-lamp is fitted with a piece of cylindrical wick of such thickness that it fills the wick-holder, but may readily be moved to and fro for the purposose of adjusting the size of the flame. In the body of the lamp, upon the wick, which is coiled within it, is placed a small tuft of cotton wool, moistened with petroleum, any oil not absorbed by the wool being removed. When the lamp has been lighted, the wick is adjusted by means of a pair of forceps until the flame is of the size of the bead fixed on the cover of the oil cup; should a particular test occupy so long a time that the flame begins to get smaller, through the supply of oil in the lamp becoming exhausted, three or four drops of petroleum are allowed to fall upon the tuft of wool in the lamp from the dropping bottle or *pipette* provided for that purpose. This can be safely done without interrupting the test.

3. *Filling the oil-cup* —The oil-cup having ben previously cooled, by placing it bottom downwards in water at a temperature not exceeding 50° Fahrenheit, is to be rapidly wiped dry, placed on a level surface in a good light, and the oil to be tested is poured in very slowly, without splashing, until its surface is level with the point of the gauge which is fixed in the cup The round bulb thermometer if inserted into the lid of the cup, care being taken that the projecting rim of the collar touches the edge of the socket; the test-lamp, prepared as already described, is placed in position, and the cover is then put on to the cup and pressed down so that its edge rests on the rim of the cup.

4. *Application of the test.*—The water-bath, with its thermometer in position, is placed in some locality where it is not exposed to currents of air, and where he light is sufficiently subdued to admit of the size of the entire test-flame

being compared with that of bead on the cover. The cup is carefully lifted without shaking it, and placed in the bath, the test-lamp is lighted, and the clockwork wound up by turning the key. The thermometer in the oil-cup is now watched, and, when the temperature has reached 56° Fahrenheit, the clockwork is set in motion by pressing the trigger.

If no flash takes place, the clokwork is at once rewound, and the trigger pressed at 57° Fahrenheit, and so on, at every degree rise of temperature, until the flash occurs, or until a temperature of 95° Fahrenheit has been reached.

If the flash takes place at any temperature below 77° Fahrenheit, the temperature at which it occurs is to be recorded. Two fresh portions of the sample are then to be successively tested in a similar manner, and the results recorded If no greater difference than 2° Fahrenheit exists between any two of the three recorded results, and if in no instance the flash has taken place, within eight decrees of the temperature at which the testing is commenced, each result is to be corrected for atmospheric pressure as hereafter described, and the average of the three corrected results is the flashing point of the sample. In the event of there being a greater difference than 2° Fahrenheit between any two of the results, while in no instance has the flash taken place within eight degrees of the temperature at which the testing was commenced, the series of tests is to be rejected, and a fresh series of three similarly obtained, and so on, until a sufficiently concordant series is furnished, when the results are to be corrected, and the average taken in the manner already described.

If, however, a flash has occured at or below 64° when the test is applied, in the manner above described the next testing shall be commenced ten degrees lower than the temperature at which the flash had been previously obtained (that is to say, at 54" or thereunder), and this procedure shall be continued until the results of three consecutive tests do not show a greater difference than 2° and until a flesh has not occurred in any of the three tests within eight degrees of the temperature at which the testing is commenced: Provided always that, if, at the commencement of the series of tests a flash has occurred on the first application of the test-flame at 56°, and if a flash has also occurred on the first application of the flame in each of three successive tests in which, thereupon, the test-flame is first applied at 46° as above directed, the testing officer shall certify that the petroleum has a flashing point below 47° and the sample shall be reported dangerous.

If a temperature of 76° Fahrenheit has been reached without a flash occurring, the application of the test-flame is to be continued at every degree rise of temperature until a temperature of 95° Fahrenheit has been reached. If no flash has occured up to this point, and if the petroleum is declared to be imported subject to the provisions of the Act, the tests shall not be continued, and the testing officer shall certify that the petroleum has a flashing point over 95° and is not dangerous. But, if the petroleum is oil ordinarily used for lubricating purposes, and is declared to have its flashing point at or above 200°, or is oil to which a notification of the Local Government exempting it from the operation of the Act will be applicable in the event of the flashing point being found to be at or above 120°, the test shall be continued as follows: The oil cup is to be removed from the water-bath, and the temperature of the water in the water-bath is to be reduced to 95°, Fahrenheit by pouring cold water into the funnel (the hot water escaping by the overflow-pipe). The air-chamber is then to be filled to a depth of 1½ inches with water at a temperature of about 95° Fahrenheit, the oil cup is to be replaced in the water-bath and the spirit-lamp attached to the water-bath is to be lighted and placed underneath. The test-flame is then to be again applied, from 95° Fahrenheit, at every degree rise of temperature as indicated by the thermometer in the oil-cup until a flash takes place or until a temperature of 200° Fahrenheit or

120° Fahrenheit, as the case may be, has been reached. If, during this operation, the test-flame appears to diminish in size, the lamp is to be replenished in the manner prescribed at (2) without interrupting the test.

If a flash occurs at any temperature between 76° and 200° Fahrenheit, the temperature at which it occurs, subject to correction for atmospheric pressure, is the flashing point of the sample.

In repeating a test a fresh sample of oil must always be used, the tested sample being thrown away, and the cup must be wiped dry from any adhering oil, and cooled, as already described, before receiving the fresh sample.

5. *Correction for atmospheric Pressure.*—As the flashing point of an oil is influenced by changes in atmospheric pressure to an average extent of 1·6° Fahrenheit for every inch of the barometer, a correction of the observed flashing point may become necessary. The height of the barometer must therefore be determined at the time of making the test for the flashing point. The true height of the barometer for the purpose of the test shall be considered to be the height of the column of mercury measured at 32° Fahrenheit, which is supported by the air pressure at the time of the experiment; that is, the actual height of the barometer at the time of observation duly corrected for any error of the instrument and for its temperature, if necessary. For the purpose of applying the correction to the flashing point of the oil obtained by the test, a table is appended to this schedule giving the flashing points of oils ranging from 65° to 80° Fahrenheit, under pressure ranging from 27 to 31 inches of mercury,

The table is used in the following manner :—

Example.—An oil has given a flashing point of 71°, the barometer being at 28·6 inches; take the nearest number to 71° in the vertical column headed 28·6 This number is 70·8 Substitute for this the number in the same horizontal line in the column headed 30 (the normal height of the barometer). The substituted number, that is, the true flashing point of the oil, is 73°.

IV.—Directions for determining the flashing point of petroleum which is not fluid at ordinary temperatures,

1. *Nature of the test-apparatus.*—The instrument employed is the Abel-Pensky petroleum testing apparatus, fitted with an additional thermometer to indicate the temperature of the oil in close proximity to the walls of the cup. This thermometer has a cylindrical bulb, $\frac{3}{8}$ inch in length and $\frac{3}{16}$ inch in diameter. It is scaled from 45° to 105° Fahrenheit, ten degrees on the scale occupying $\frac{3}{4}$ inch. The thermometer is held vertically in a socket attached to the cover of the oil-cup in such a position that the bulb is $\frac{1}{10}$ inch from the side of the cup.

(The thermometer can be removed, and the orifice which is provided for it closed by means of an India-rubber plug if the apparatus is required for testing petroleum in the ordinary way.)

2. *Directions for preparing the sample for testing.*—About ten fluid ounces of oil are placed in a pint-flask, the mouth of which is then closed with an India-robber stopper, and the sample is liquified by placing the flask in water-bath, the temperature of which is only raised sufficiently high to liquify the oil.

3. *Directions for preparing and using the test-apparatus.*—The water-bath and test-lamp are to be prepared in the manner prescribed in Part III. of this Schedule. The oil cup is to be filled with the liquified oil, and the cover (into

which both thermometers are to be previously inserted) placed on it, care being taken that the bulb of the additional thermometer is not brought into contact with the bracket-guage fixed inside the cup. The oil-cup is then to be placed in a refrigerator, or plunged up to the projecting collar in water maintained at sufficientiy low temperature, until both thermometers indicate the temperature at which the testing of petroleum is directed in Part III. of this Schedule to be commenced. The oil-cup is then to be removed, wiped dry placed in the water-bath, and the testing effected in the manner prescribed in Part III, of this Schedule, the temperature indicated by the additional (vertical) thermometer alone being noted, and the average of three determinations, duly corrected, for atmospheric pressure, being recorded as the flashing point of the sample, provided that no greater defference than 4° Fahrenheit exists between any two such results.

Table for correction of Flashing Points indicated by the test for Variations in Barometric Pressure on either side of Thirty Inches.

THE SECOND SCHEDULE. [Repealed by Act X of 1914.]

Barometer in Inches.																			
27	27·2	27·4	27·6	27·8	28	28·2	28·4	28·6	28·8	29	29·2	29·4	29·6	29·8	30	30·2	30·4	30·6	30·8	31
Flashing Point in Degrees Fahrenheit.																			
60·2	60·5	60·8	61·2	61·5	61·8	62·1	62·4	62·8	63·1	63·4	63·7	64	64·4	64·7	65	65·3	65·6	66	66·3	66·6
61·2	61·5	61·8	62·2	62·5	62·8	63·1	63·4	63·8	64·1	64·4	64·7	65	65·4	65·7	66	66·3	66·6	67	67·3	67·6
62·2	62·5	62·8	63·2	63·5	63·8	64·1	64·4	64·8	65·1	65·4	65·7	66	66·4	66·7	67	67·3	67·6	68	68·3	68·6
63·2	63·5	63·8	64·2	64·5	64·8	65·1	65·4	65·8	66·1	66·4	66·7	67	67·4	67·7	68	68·3	68·6	69	69·3	69·6
64·2	64·5	64·8	65·2	65·5	65·8	66·1	66·4	66·8	67·1	67·4	67·7	68	68·4	68·7	69	69·3	69·6	70	70·3	70·6
65·2	65·5	65·8	66·2	66·5	66·8	67·1	67·4	67·8	68·1	68·4	68·7	69	69·4	69·7	70	70·3	70·6	71	71·3	71·6
66·2	66·5	66·8	67·2	67·5	67·8	68·16	68·4	68·8	69·1	69·4	69·7	70	70·4	70·7	71	71·3	71·6	72	72·3	72·6
67·2	67·5	67·8	68·2	68·5	68·8	69·1	69·4	69·8	70·1	70·4	70·7	71	71·4	71·7	72	72·3	72·6	73	73·3	73·6
68·2	68·5	68·8	69·2	69·5	69·8	70·1	70·4	70·8	71·1	71·4	71·7	72	72·4	72·7	73	73·3	73·6	74	74·3	74·6
69·2	69·5	69·8	70·2	70·5	70·8	71·1	71·4	71·8	72·1	72·4	72·7	73	73·4	73·7	74	74·3	74·6	75	75·3	75·6
70·2	70·5	70·8	71·2	71·5	71·8	72·1	72·4	72·8	73·1	73·4	73·7	74	74·4	74·7	75	75·3	75·6	76	76·3	76·6
71·2	71·5	71·8	72·2	72·5	72·8	73·1	73·4	73·8	74·1	74·4	74·7	75	75·4	75·7	76	76·3	76·6	77	77·3	77·6
72·2	72·5	72·8	73·2	73·5	73·8	74·1	74·4	74·8	75·1	75·4	75·7	76	76·4	76·7	77	77·3	77·6	78	78·3	78·6
73·2	73·5	73·8	74·2	74·5	74·8	75·1	75·4	75·8	76·1	76·4	76·7	77	77·4	77·7	78	78·3	78·6	79	79·3	79·6
74·2	74·5	74·8	75·2	75·5	75·8	76·1	76·4	76·8	77·1	77·4	77·7	78	78·4	78·7	79	79·3	79·6	80	80·3	80·6
75·2	75·5	75·8	76·2	76·5	76·8	77·1	77·4	77·8	78·1	78·4	78·7	79	79·4	79·7	80	80·3	80·6	81	81·3	81·6

ACT NO. IX OF 1899.

THE INDIAN ARBITRATION ACT, 1899.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

Received the Assent of the Governor-General on the 3rd March 1899.

An Act to amend the Law relating to Arbitration.

Whereas it is expedient to amend the law relating to arbitration by agreement without the intervention of a Court of Justice; It is hereby enacted as follows:—

Short title, extent, and commencement

1. (1) This Act may be called the Indian Arbitration Act, 1899.

(2) It extends to the whole of British India; and

(3) It shall come into force on the first day of July 1899.

Application.

2. Subject to the provisions of section 23, this Act shall apply only in cases where, if the subject-matter submitted to arbitration were the subject of a suit, the suit could, whether with leave or otherwise, be instituted in a Presidency-town:

Provided that the Local Government,* may, by notification in the local official Gazette, declare this Act applicable in any other local area as if it were a Presidency-town.

Exclusion of certain enactments in certain cases where Act applies.

3. The last thirty-seven words of section 21 of the Specific Relief Act, 1877,† and sections 523 to 526 of the Code of Civil Procedure‡ shall not apply to any submission of arbitration to which the provisions of this Act for the time being apply:

Provided that nothing in this Act shall affect any arbitration pending in a Presidency town at the commencement of this Act or in any local area at the date of the application thereto of this Act, as aforesaid, but shall apply to every arbitration commenced after the commencement of this Act or the date of the application thereof, as the case may be, under any agreement or order previously made:§

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* Certain words after this repealed by Act 38 of 1920 have been omitted.

† Act I. of 1877. ‡ Act XIV. of 1882.

§ Certain words after this repealed by Act VII. of 1913 have been omitted.

Definitions.

4. In this Act, unless there in anything repugnant in the subject or context,—

(*a*) "the Court" means, in the Presidency-towns, the High Court, and, elsewhere, the Court of the District Judge; and

(*b*) "submission" means a written agreement to submit present or future differences to arbitration, whether an arbitrator is named therein or not.*

Submission to be irrevocable except by leave of Court.

5. A submission, unless a different intention is expressed therein, shall be irrevocable, except by leave of the Court.

Provisions implied in submissions.

6. A submission, unless a different intention is expressed therein, shall be deemed to include the provisions set forth in the first schedule, in so far as they are applicable to the reference under submission.

Reference to arbitrator to be appointed by third person.

7. The parties to a submission may agree that the reference shall be to an arbitrator or arbitrators to be appointed by a person designated therein.

Such person may be designated either by name or as the holder for the time being of any office or appointment.

Illustration.

The parties to a submission may agree that any dispute arising between them in respect of the subject-matter of the submission shall be referred to an arbitrator to be appointed by the Bengal Chamber of Commerce, or, as the case may be, to an arbitrator to be appointed by the President for the time being of the Bengal Chamber of Commerce.

Power for the Court in certain cases to appoint an arbitrator, umpire, or third arbitrator.

8. (1) In any of the following cases:—

(*a*) where a submission provides that the reference shall be to a single arbitrator, and all the parties do not, after differences have arisen, concur in the appointment of an arbitrator;

(*b*) if an appointed arbitrator neglects or refuses to act, or is incapable of acting, or dies, or is removed, and the submission does not show that it was intended that the vacancy should not be supplied, and the parties do not supply the vacancy;

(*c*) Where the parties or two arbitrators are at liberty to appoint an umpire or third arbitrator, and do not appoint him;

* Vide U. P. Act I. of 1912.

(*d*) where an appointed umpire or third arbitrator refuses to act, or is incapable of acting, or dies, or is removed, and the submission does not show that it was intended that the vacancy should not be supplied, and the parties or arbitrators do not supply the vacancy;

any party may serve the other parties or the arbitrators, as the case may be, with a written notice to concur in appointing an arbitrator, umpire, or third arbitrator.

(2) If the appointment is not made within seven clear days after the service of the notice, the Court may, on application by the party who gave the notice, and after giving the other party an opportunity of being heard, appoint an arbitrator, umpire, or third arbitrator, who shall have the like power to act in the reference, and make an award, as if he had been appointed by consent of all parties.

Power for parties in certain cases to supply vacancy.

9. Where a submission provides that the reference shall be to two arbitrators, one to be appointed by each party, then, unless a different intention is expressed therein,—

(*a*) if either of the appointed arbitrators refuses to act, or is incapable of acting, or dies, or is removed, the party who appointed him may appoint a new arbitrator in his place;

(*b*) if, on such a reference, one party fails to appoint an arbitrator, either originally, or by way of substitution as aforesaid, for seven clear days after the other party, having appointed his arbitrator, has served the party making default with a written notice to make the appointment, the party who has appoined an arbitrator may appoint that arbitrator to act as sole arbitrator in the reference, and his award shall be binding on both parties as if he had been appointed by consent :

Provided that the Court may set aside any appointment made in pursuance of clause (b) of this section.

Powers of arbitrator.

10. The arbitrators or umpire acting under a submission shall, unless a different intention is expressed therein,—

(*a*) have power to administer oaths to the parties and witnesses appearing ;

(*b*) have power to state a special case for the opinion of the Court on any question of law involved ; and

(*c*) have power to correct in an award any clerical mistake or error arising from any accidental slip or omission.

Award to be signed and filed.

11. (1) When the arbitrators or umpire have made their award, they shall sign it, and shall give notice to the parties of the making and signing thereof, and of the amount of the fees and charges payable to the arbitrators or umpire in respect of the arbitration and award.

(2) The arbitrators or umpire shall, at the request of any party to the submission or any person claiming under him, and upon payment of the fees and charges due in respect of the arbitration and award, and of the costs and charges of filing the award, cause the award, or a signed copy of it, to be filed in the Court ; and notice of the filing shall be given to the parties by the arbitrators or umpire.

(3) Where the arbitrators or umpire state a special case under section 10, clause (*b*), the Court shall deliver its opinion thereon ; and such opinion shall be added to, and shall form part of, the award.

Power for Court to enlarge time for making award.

12 The time for making an award may, from time to time, be enlarged by order of the Court, whether the time for making the award has expired or not.

Power to remit award.

13. (1) The Court may, from time to time, remit the award to the reconsideration of the arbitrators or umpire.

(2) Where an award is remitted under sub-section (1), the arbitrators or umpire shall, unless the Court otherwise directs, make a fresh award within three months after the date of the order remitting the award.

Power to set aside award.

14. Where an arbitrator or umpire has misconducted himself, or an arbitration or award has been improperly procured, the Court may set aside the award.

Award when filed to be enforceable as a decree

15. (1) An award on a submission, on being filed in the Court in accordance with the foregoing provisions, shall (unless the Court remits it to the reconsideration of the arbitrators or umpire, or sets it aside) be enforceable as if it were a decree of the Court.

(2) An award may be conditional or in the alternative.

Illustration

A dispute concerning the ownership of a diamond ring is referred to arbitration. The award may direct that the party in possession shall pay the other party Rs. 1,000, the said sum to be reduced to Rs. 5 if the ring is returned within fourteen days.

Power to remove arbitrator or umpire.

16. Where an arbitrator or umpire has misconducted himself, the Court may remove him.

Cost.

17. Any order made by the Court under this Act may be made on such terms as to costs or otherwise as the Court thinks fit.

Forms.

18. The forms set forth in the second schedule, or forms similar thereto, with such variationns as the circumstances of each case require, may be used for the respective purposes there mentioned, and, if used, shall not be called in question.

Power to stay proceedings where there is a submission.

19. Where any party to a submission to which this Act applies, or any person claiming under him, commences any legal proceedings against any other party to the submission or any person claiming under him, in respect of any matter agreed to be referred, any party to such legal proceedings may, at any time after appearance and before filing a written statement, or taking any other steps in the proceedings, apply to the Court to stay the proceedings; and the Court, if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the submission, and that the applicant was, at the time when the proceedings were commenced, and still remains, ready and willing to do all things necessary to the proper conduct of the arbitration, may make an order staying the proceedings.

Power for High Court to make rules.

20. The High Court may make rules consistent with this Act as to—

(*a*) the filing of awards and all proceedings consequent thereon or incidental thereto ;

(*b*) the filing and hearing of special cases and all proceedings consequent thereon or incidental thereto ;

(*c*) the transfer to Presidency Courts of small Causes for execution of awards filed, where the sum awarded does not exceed two thousand rupees ;

(*d*) the staying of any suit or proceeding in contravention of a submission to arbitration ; and,

(*e*) generally, all proceedings in Court under this Act.

Amendment of section 21, Act I., 1877.

21. In section 21 of the Specific Relief Act, 1877,* after the words, "Code of Civil Procedure," the words and figures, "and the Indian Arbitration Act, 1899, shall be inserted ; and for the words, "a controversy," the words, "present or future differences," shall be substituted.

* Act I of 1877.

Crown to be bound.

22. The provisions of this Act shall be binding on the Crown.

Special provision as to application of Act to Rangoon.

23.* (1) This Act shall apply within the local limits of the ordinary civil jurisdiction of the "High Court of Judicature at Rangoon"† in cases where and if the subject matter submitted to arbitration were the subject of a suit, the suit could whether with leave or othewise, be instituted within those local limsts.

"(2) For the purposes of this Act, the local limits aforesaid shall be deemed to be a presidency-town."

THE FIRST SCHEDULE.

(*See section 6.*)

PROVISIONS TO BE IMPLIED IN SUBMISSIONS.

I. If no other mode of reference is provided, the reference shall be to a single arbitrator.

II. If the reference is to two arbitrators, the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award.

III. The arbitrators shall make their award in writing within three months after entering on the reference, or after having been called on to act by notice in writing from any party to the submission, or on or before any later day to which the arbitrators, by any writing signed by them, may, from time to time, enlarge the time for making the award.

IV. If the arbitrators have allowed their time or extended time to expire without making an award, or have delivered to any party to the submission, or to the umpire, a notice in writing stating that they cannot agree, the umpire may forthwith enter on the reference in lieu of the arbitrators.

V. The umpire shall make his award within one month after the original or extended time appointed for making the award of the arbitrators has expired, or on or before any later day to which the umpire, by any writing signed by him, may, from time to time, enlarge the time for making his award.

VI. The parties to the reference, and all persons claiming through them respectively, shall, subject to the provisions of any law for the time being in force, submit to be examined by the arbitrators or umpire on oath or affirmation in relation to the matters in dispute, and shall, subject as aforesaid, produce before the arbitrators or umpire all books, deeds, papers, accounts, writings, and documents within their possession or power respectively which may be required or called for, and do all other things which, during the proceedings on the reference, the arbitrators or umpire may require.

VII. The witnesses on the reference shall, if the arbitrators or umpire think fit, be examined on oath.

VIII. The award to be made by the arbitrators or umpire shall be final and binding on the parties and the persons claiming under them respectively.

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* Section 23 has been substituted by Act 6 of 1900 S. 47.

† The words within the quotations has been substituted by Act 11 of 1923.

IX. The costs of the reference and award shall be in the discretion of the arbitrators or umpire, who may direct to and by whom, and in what manner, those costs or any part thereof shall be paid, and may tax or settle the amount of costs to be so paid or any part thereof, and may award costs to be paid as between solicitor and client.

THE SECOND SCHEDULE.

(*See section 18.*)

FROM I.

Submission to Single Arbitrator.

In the matter of the Indian Arbitration Act, 1899 :—

Whereas differences have arisen and are still subsisting between A. B. of and C. D. of concerning ;

Now we, the said A. B. and C. D, do hereby agree to refer the said matters in difference to the award of X. Y.

(*Signed*) A. B.
C. D.

Dated the *189* .

FORM II.

Submission of Particular Dispute to Single Arbitrator.

In the matter of the Indian Arbitration Act, 1899 :—

Whereas differences have arisen and are still subsisting between A. B. of and C. D. of concerning ;

Now we, the said A. B. and C. D., do hereby agree to refer the said matters in difference to the award of X. Y.

(*Signed*) A. B.
C. D.

Dated the *189*

FORM III.

Appointment of Single Arbitrator under Agreement to refer future Differences to Arbitration.

In the matter of the Indian Arbitration Act, 1899 :—

Whereas, by an agreement in writing, dated the day of , 18 , and made between A. B. of and C. D. of , it is provided that differences arising between the parties thereto shall be referred to an arbitrator as therein mentioned ;

And whereas differences within the meaning of the said provision have arisen and are still subsisting between the said parties concerning.

Now we, the said parties, A. B. and C. D., do hereby refer the said matters in difference to the award of X. Y.

(*Signed*) A. B.
C. D.

Dated the , *189*

FORM IV.

Enlargement of Time by Arbitrator by Endorsement on Submission.

In the matter of the Indian Arbitration Act, 1899, and an arbitration between A. B. of and C. D. of :—

I hereby enlarge the time of making my award in respect of the matters in difference referred to me by the within (*or* above) submission until the day of 189 .

(*Signed*) X. Y.,
Arbitrator.

Dated the , *189* .

FORM V.

Special Cases.

In the matter of the Indian Arbitration Act, 1899, and an arbitration between A. B. of and C. D. of :—

The following special case is, pursuant to the provisions of section 10, clause (*b*), of the said Act, stated for the opinion of the * :—

(*Here state the facts concisely in numbered paragraphs.*)

The questions of law for the opinion of the said Court are':

First, whether_____

_____

Secondly whether_____

_____

(*Signed*) X. Y.
Dated the *189* . *Arbitrator*

FORM VI.

Award.

In the matter of the Indian Arbitration Act, 1899, and an arbitration between A. B. of and C. D. of :—

Whereas, in pursuance of an agreement in writing dated the day of , 189 , and made between A. B. of and C.D. of , the said A. B. and C. D. have referred to me, X. Y., the matters in difference between them concerning *or as the case may be*);

Now I, the said X. Y , having duly considered the matter submitted to me, do hereby make my award as follows :—

I award—

(1) that_____

_____

(2) that_____

_____

(*Signed*) X. Y.,
Dated the *189* , *Arbitrator*

* Here specify the Court.

ACT NO. V. OF 1899.

The Carriers Act, 1899.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the Assent of the Governor-General on the 3rd March 1899.

An Act to amend the Law relating to Carriers.

WHEREAS it is expedient to amend the law relating to carriers; It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Carriers Act, 1899 ; and

(2) It shall come into force on the first day of May 1899.

Addition of new section after section 9, Act III., 1865.

2 After section 9 of the Carriages Act, 1865,* the following section shall be added namely :—

" 10. No suit shall be instituted against a common carrier for the loss of, or injury to, goods entrusted to him for carriage, unless notice in writing of the loss or injury has been given to him before the institution of the suit and within six months of the time when the loss or injury first came to the knowledge of the plaintiff."

Notice of loss or injury to be given within six months.

3. (Repealed by Act 9 of 1908).

* Act III, of 1865.

ACT NO. XI OF 1899.

The Court-fees Amendment Act, 1899.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the Assent of the Governor-General on the 10th March 1899.

An Act to further amend the Court-fees Act, 1870.

WHEREAS it is expedient to further amend the Court-fees Act, 1870; * It is hereby enacted as follows:—

Short title and commencement,

1. (1) This Act may be called the Court fees Amendment Act, 1899;†

(2) It shall come into force at once.

Addition of four new section after section 19G, Act VII., 1870.

2. After section 19G of the Court-fees Act, 1870,* the following sections shall be added, namely:—

Vide Vol. I p. p. 923-925.

Addition of schedule to Act VII., 1870.

3. To the Court-fees Act 1870,* the following schedule shall be added, namely:—

SCHEDULE III.

[Vide vol I p. 970-971].

4. [Repealed by Act X of 1914].

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* Act VII. of 1870.

† Certain word after this repealed by Act X of 1914 has been ommitted. Act VII. of 1876.

ACT NO. XII. OF 1899.

THE CURRENCY NOTES FORGERY ACT, 1899.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL

[*Received the Assent of the Governor-General on the 10th March* 1899.

An Act to amend the Law relating to the Forgery of Currency-notes and Bank-notes.

WHEREAS it is expedient to amend the Law relating to the forgery of currency-notes and bank-notes; It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Currency Notes Forgery Act, 1899;*

(2) It shall come into force at once.

Addition of new sections after section 489, Act XLV., 1860.

2. After section 489 of the Indian Penal Code,† the following sections shall be added, namely :—

[Vide vol I p. 519.]

Addition to Schedule II, Act V., 1898.

3. In the Code of Criminal Procedure, 1898,‡ Schedule II. after the entries relating to section 489 of the Indian Penal Code,§ the following shall be added, namely :—

"*Of Currency-notes and Bank-notes.*

489A.	Counterfeiting currency-notes or bank notes.	May arrest without warrant	War-rant.	Not bailable	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
489B.	Using as genuine forged or counterfeit currency-notes or bank-notes.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
489C.	Possession of forged or counterfeit currency-notes or bank-notes.	Ditto ...	Ditto ...	Bailable	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
489D.	Making or possessing instruments or materials for forging or counterfeiting currency-notes or bank-notes.	Ditto ...	Ditto ...	Not bailable	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.

* Certain word after this repealed by Act 10 of 1914 has been omitted.

† Act XLV. of 1860. ‡ Act V. of 1898. § Act XLV. of 1860.

ACT NO. XIII. OF 1899.

THE GLANDERS AND FARCY ACT' 1899.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 20th March 1899.

An Act to consolidate and amend the Law relating to Glanders and Farcy.

WHEREAS It is expedient to consolidate and amend the Law relating to glanders and farcy ; It is hereby enacted as follows :—

Short title, extent, and commencement.

1. (1) This Act may be called the Glanders and Farcy Act, 1899.

(2) It extends to the whole of British India ;*

(3) It shall come into force at once.

Definition of "diseased."

2. (1) In this Act, unless there is anything repugnant in the subject or context, "diseased" means affected with glanders or farcy or any other dangerous epidemic disease among horses which the "Local Government"† may, by notification in the "Local official Gazette,"† specify in this behalf.

(2) The provisions of this Act relating to horses shall apply also to "camels" asses and mules.

Application of Act to local areas by local Government.

‡**3.** (1) The Local Government may by notification in the local official Gazette, apply this Act or any portion of this Act to any local area, to be specified in such notification, within the province.

(2) In any such notification the Local Government may further direct that the Act or any portion so applied shall apply in respect of—

(*a*) all or any of the diseases mentioned or specified in a notification under section 2, sub-section (1).

(*b*) all animals or any class animals mentioned in section 2, subsection (2).

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* Certain used after this repealed by Act X of 1914 has been omitted.

† The words within quotations have been substituted by Act 38 of 1910.

‡ Section 3 has been substituted by Act 9 of 1920.

Local Government to appoint Inspectors.

4. (1) When this Act has been so applied to a local area, the Local Government may, by notification in the local official Gazette, appoint such persons as it thinks fit to be Inspectors under this Act, and to exercise and perform, within the whole of the local area or such portions thereof as it may prescribe, the powers conferred and the duties imposed by this Act on such officers.

(2) Every persons so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code.*

Power of entry and search.

5. Within the local limits for which he is so appointed, any such Inspector as aforesaid may, subject to such rules as the Local Government may, make in this behalf, enter and search any field, building or other place for the purpose of ascertaining whether there is therein any horse which is diseased.

Power of seizure.

6. Within such limits as aforesaid, the Inspector may seize any horse which he has reason to believe to be diseased.

Horse to be examined by Veterinary Practitioner.

7. (1) On any such seizure as aforesaid, the Inspector shall cause the horse seized to be examined as soon as possible by such Veterinary Practitioner as the Local Government may appoint in this behalf :

Provided that, when the Inspector is also a Veterinay Practitioner so appointed, he may make the examination himself.

(2) For the purposes of the examination, the Veterinary Practitioner may submit the horse to any test or tests which the Local Government may prescribe.

Horse to be destroyed if found diseased : otherwise restored.

8. (1) If the Veterinary Practitioner certifies in writing that the horse is diseased, the Inspector shall cause the same to be immediately destroyed :

Provided that, in the case of any disease other than glanders or farcy, horses certified to be diseased as aforesaid may, subject to any rules which the Local Government may make in this behalf, be either destroyed or otherwise treated or dealt with as the Veterinary Practitioner may deem necessary.

(2) If, after completing the examination, the Veterinary Practitioner does not certify that the horse is diseased, the Inspector shall at once deliver the same to the person entitled to the possession thereof.

* Act XLV. of 1860.

9. (1) When any diseased horse has been in any building, shed or other enclosed place, or in any open lines, the Inspector may issue a notice to the owner of the building, shed, place, or lines, or to the person in charge thereof, directing him to have the same disinfected, and the internal fittings thereof, or such other things found therein or near thereto as the Local Government may by rule prescribe, destroyed.

When horse diseased, place where it has been to be disinfected, etc.

(2) On the failure or neglect of such owner or other person as aforesaid to comply with the notice within a reasonable time, the Inspector shall cause the building, shed, place, or lines to be disinfected, and the fittings or other things to be destroyed, and the expense (if any) thereby incurred may be recovered from the owner or other person as if it were a fine.

10. The owner or any person in charge of a diseased horse shall give immediate information of the horse being diseased to the Inspector or to such authority as the Local Government may appoint in this behalf.

Owner or person in charge of diseased horse to give notice.

11. No person in charge of any horse which has been in the same field, building, or place as, or in contact with, a diseased horse, shall remove such horse except in good faith for the purpose of preventing infection, or under a license to be granted by the Inspector, and subject to the conditions of the license

Prohibition against removal, without license, of horse which has been with diseased horse.

12. (1) Whoever, being an Inspector appointed under this Act, vexatiously and unnecessarily enters or searches any field, building, or other place, or seizes or detains any horse on the pretence that it is diseased, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Vexatious entries, searches, and seizures.

(2) No prosecution under this section shall be instituted after the expiry of three months from the date on which the offence has been committed.

13. Whoever refuses or neglects to comply with any notice issued by the Inspector under section 9, or removes any horse in contravention of section 11, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Penalty for refusing to comply with notice under section 9, or for removing horse contrary to section 11.

14. (1) The Local Government may make rules to carry out the purposes and objects of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules as aforesaid may—

(*a*) regulate entries, searches, and seizures by Inspectors under this Act;

(*b*) regulate the use of tests and the isolation of horses subjected thereto, and provide for recovering the expense of detaining, isolating, and testing horses from the owners or persons in charge thereof as if it were a fine;

(*c*) regulate the destruction or treatment, as the case may be, of horses certified under section 8 to be diseased, and the disposal of the carcases of diseased horses;

(*d*) regulate the disinfecting of buildings and places in which diseased horses have been, and prescribe what things found therein or near thereto shall be destroyed; and

(*e*) regulate the grant of licenses under section 11 and the conditions on which those licenses shall be granted.

(3) All rules under this section shall be published in the local official Gazette, and, on such publication, shall have effect as if enacted by this Act.

(4) In making any rule under this section, the Local Government may direct that a breach of it shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

15. Any Veterinary Practitioner may be appointed by the Local Government to be both Inspector and Veterinary Practitioner for all or any of the purposes of this Act or of any rule thereunder.

Appointment of some person to be both Inspector and Veterinary Practitioner.

16. No suit, prose cution, or other legal proceeding, shall lie against any person for anything which is, in good faith, done or intended to be done under this Act.

Protection to persons acting under Act.

17. (*Repealed by Act X. of* 1914.)

THE SCHEDULE.

[*Repealed by Act X of* 1914.]

ACT NO. XIV. 1899.

The Indian Tariff (Amendment) Act 1899.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 20th March 1899.

*An Act to further amend the Indian Tariff Act, 1894.**

WHEREAS it is expedient to further amend the Indian Tariff Act, 1894;* It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Indian Tariff (Amendment) Act 1899;†

(2) It shall come into force at once.

Addition of new section 8A after section 8, Act VIII., 1894.

2. After section 8 of the Indian Tariff Act, 1894,* the following section shall be added, namely:—

[Vide Vol III. p. 611 Supra.]

Act not to apply in certain cases.

3. This Act shall not apply to any imported article the bill of lading for which was signed and given before the commencement of this Act.

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* Act VIII. of 1894.

† Certain word after this repealed by Act and of 1914 has been omitted.

ACT NO. XVI. 1899.

The Northern India Canal and Drainage Amendment) Act 1899

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 14th July 1899.

*An Act further to amend the Northern India Canal and Drainage Act, 1873.**

WHEREAS it is expedient further to amend the Northern India Canal and Drainge Act, 1873,* It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Northern India Canal and Drainage (Amendment) Act, 1899;†

(2) It shall come into force at once.

Addition to section 36, Act VIII., 1873.

2. To section 36 of the Northern India Canal and Drainage Act, 1873,† the following paragraph shall be added, namely :—

"The rules hereinbefore referred to may prescribe and determine what persons or classes of persons are to be deemed to be occupiers for the purposes of this section, and may also determine the several liabilities, in respect of the payment of the occupier's rate, of tenants and of persons to whom tenants may have sublet their lands, or of proprietors and of persons to whom proprietors may have let the lands held by them in cultivating occupancy."

Amendment of section 47, Act VIII., 1873.

3. In section 47 of the said Northern India Canal and Drainage Act, 1873,* for the words "or tenants," the words "tenants or sub-tenants" shall be substituted.

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* Act VIII. of 1873.

† Certain word after this repeald by Act XVII of 1914 has been omitted.

ACT NO. XVIII. OF 1899.

The Land Improvement Loans (Amendment) Act, 1899.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 14th July 1899.
*An Act to amend the Land Improvement Loans Act, 1883.**

WHEREAS it is expedient to amend the Land Improvement Loans Act, 1883,* It is hereby enacted as follows :

Sort title and Commencement.

1. (1) This Act may be called the Land Improvement Loans (Amendment) Act, 1899 †

(2) It shall come into force at once.

Amendment, with retrospective effect, of section 6, Act XIX, 1883.

2. In section 6, sub section (1) of the Land Improvement Loans Act, 1883,* for the words " from the date of the actual advance of the last instalment," the words, " from the date of the advance of the last instalment actually paid," shall be substituted, and shall be deemed to have been substituted, with effect from the commencement of the said Act.

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* Act XIX. of 1883.

† Certain word after this repealed by Act X of 1914 has been omitted.

ACT NO. XIX. OF 1899.

The Currency Conversion (Army Act) 1899.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 28th July, 1899.

An Act to provide for the Conversion into British Indian Currency of sums expressed in British Currency in the Army Act.

WHEREAS it is provided by section 169 of the Army Act* that the Governor-General in Council may declare the amount of the local currency which is to be deemed, for the purposes of the said Act, to be equivalent of any sum of British currency mentioned therein ;

And whereas it is expedient, in exercise of the power so conferred, to provide for the conversion into British Indian currency of sums expressed in British currency in the said Act ;
It is hereby enacted as follows :—

Short title, extent, and Commencement.

1. (1) This Act may be called the Currency Conversion (Army)† Act, 1899.

(2) It extends to whole of British India ;‡

(3) It shall come into force at once.

Rate of exchange fixed for calculating the equivalent in British Indian currency of sums of British currency mentioned in the Army Act.

2.§ For the purposes of the Army Act,* "or of any similar Act for the time being in force" fifteen rupees of British Indian currency shall be deemed to be the equivalent of one pound of British currency, and any sum of British currency mentioned in the said Act, or any similar Act as aforesaid shall be deemed to be the equivalent of a sum of British Indian currency calculated at that rate of exchange.

Duration of Act.

3. This Act shall continue in force until the thirty-first day of March 1900.

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* Stat. 44 & 45 Vict., c. 58.

† Certain word after this repealed by Act 7 of 1900 has been omitted.

‡ Certain word after this repealed by Act X of 1914 has been omitted.

§ Section 2 has been substituted by Act VII of 1900.

ACT NO. XXIII. OF 1899.

THE CHURCH OF SCOTLAND KIRK SESSIONS ACT, 1899.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 27th September 1899.

An Act to provide for the Incorporation of Kirk Sessions of the Church of Scotland in British India.

Whereas there are in British India Kirk Sessions of the Church of Scotland which have been duly constituted to be Church Courts for ecclesiastical purposes in pursuance of Acts of the General Assembly of the Church of Scotland ;

And whereas it is expedient that such Kirk Sessions, and any others which may hereafter be so constituted, should be incorporated with the powers hereinafter provided ;

It is hereby enacted as follows :—

Short title, extent, and commencement.

1. (1) This Act may be called the Church of Scotland Kirk Sessions Act, 1899 ;

(2) It extends to the whole of British India ;

(3) It shall come into force at once.

Scotch Kirk Sessions to be bodies corporate

2. (1) Every Kirk Session which has been, or may hereafter be, duly constituted to be a Church Court for ecclesiastical purposes in pursuance of an Act of the General Assembly of the Church of Scotland, is hereby declared to be, and the same shall be, a body corporate having perpetual succession and a common seal.

(2) A notification by the Governor-General in Council in the *Gazette of India* that a Kirk Session has been duly constituted in pursuance of an Act of the General Assembly of the Church of Scotland shall be conclusive proof that it has been so constituted.

Power to hold and dispose of property.

3. (1) Every Kirk Session constituted as aforesaid shall, as a body corporate have power to acquire and hold any property which has been, or may hereafter be, vested in it for the purposes of the Congregation

* Certain word after this repealed by Act X of 1914 has been omitted.

for which it has been, or may hereafter be, constituted, or of any trust which may have been, or may hereafter be, accepted by it, to transfer the same, to contract and to do all other things necessary for, or incidental to, the purposes of its constitution or of any such trust as aforesaid.

(2) The signature of the Moderator and Treasurer or Session-clerk for the time being of a Kirk Session constituted as aforesaid shall, if affixed on behalf and by order of the Kirk Session, be sufficient for all purposes for which the signature of the Kirk Session is required.

ACT NO. XXIV. OF 1899.

THE CENTRAL PROVINCES COURT OF WARDS ACT, 1899.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor-General on the 13th October 1899.

An Act to consolidate and amend the law relating to the Court of Wards in the Central Provinces.

Whereas it is expedient to consolidate and amend the law relating to the Court of Wards in the Central Provinces ; It is hereby enacted as follows :—

PRELIMINARY.

Short title, extent, and commencement.

1. (1) This Act may be called "The Central Provinces Court of Wards Act 1899,

(2) It extends to the territories for the time being administerted by the Local Government of the Central Provinces ; and

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) the expression "Government ward" means any person of whose property, or of whose person and property, the Court of Wards may, for the time being, have the superintendence under this Act :

(*b*) "land" includes the rights of a landholder in respect of the land of which he is the málguzár or zamindár, or the muáfidár, jugirdár ubáridár, or other assignee of land-revenue, or in which he is interested : and

(*c*) "landholder" means málguzár as defined in the Central Provinces Land-revenue Act, 1881,* and the zamindár of any zamindari in a Scheduled District, and includes a muafidar, jagirdar, ubaridar, or other assignee of land-reveune, and any person not hereinbefore specified who is interested in land and belongs to a class of which the Local Government† has declared the members to be landholders for the purposes of this Act.

Commissioner to be Court of Wards.

3. Subject to the provisions of section 9, the Commissioner shall be the Court of Wards for the limits of his division.

Superintendence by Court of Wards of property of disqualified landholder.

4. The Court of Wards may, with the previous sanction of the Local Government, assume the superintendence of the property of any landholder owing land within the local limits of its jurisdiction who is disqualified to manage his property.

Landlords to be deemed disqualified in certain cases.

5. (1) The following persons shall, for the purposes of section 4, be deemed to be disqualified to manage their own property, namely ;

(*a*) minors ;

(*b*) persons adjudged by a competent Civil Court to be of unsound mind and incapable of managing their affairs ; and.

(*c*) persons declared by the Local Government to be incapable of manging their property owing to —

(i) any physical or mental defect or infirmity ;

(ii) their having been convicted of a non-bailable offence, and being unfitted by vice or bad character ; or

(iii) their being females,

(2) No suit shall be brought in any Civil Court in respect of any declaration made by the Local Government under sub-section (1) clause (*c*).

Superintendence by Court of Wards on application of proprietor.

6. (1) Any landholder may apply to the Local Government to have his property placed under the superintendence of the Court of Wards, and the Local Government may on such application, if it thinks it expedient in the public interests, order the Court of Wards to assume the superintendence of the property.

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* Act XVIII. of 1881.

† Certain words after this repealed by Act 38 of 1920 have been omitted.

(2) An order made by the Local Government under sub-section (1) shall be sufficient to authorize the Court of Wards to assume the superintendence of the property referred to therein, and no suit shall be brought in any Civil Court in respect of any such order.

Temporary provisions for custody of heirs and protection of property in certain cases.

7. (1) Whenever the Court of Wards receives information that any landholder has died, and has reason to believe that the heir of the landholder is a person who is, or should be adjudged or declared to be, disqualified under section 5, the Court may—

(*a*) take such steps and make such order for the temporary custody and protection of the property inherited as it thinks fit ; and,

(*b*) if the heir is a minor, direct that the person (if any) having the custody of the minor, shall produce him or cause him to be produced at such place and time and before such person as the Court may appoint, and make such order for the temporary custody and protection of the minor as it thinks it :

Provided that, where the minor is a female, and belongs to a class the females of which do not usually appear in public, her production shall be required only in accordance with the manners and customs of the country.

(3) Whenever the Court of Wards proceeds under this section, it shall forthwith report its action for the information of the Local Government,

Superintendence by Court of Wards of persons of disqualified landlord.

8. Where the Court of Wards assumes the superintendence of the property of a minor, or of a person who has been adjudged by a competent Civil Court to be of unsound mind and incapable of managing his affairs, it may, with the previous sanction of the Local Government, assume the superintendence of his person also ;

Provided that nothing in this section shall authorize the Court of Wards to assume the superintendence of the person of a female who is married to a man of full age and is in his custody.

Superintendence by Court of Wards where disqualified landholder owns land in more than one division.

9. Where a landholder owns land within two or more divisions such one only of the Courts of Wards as the Local Government may determine in this behalf shall assume the superintendence of the property, or of the person and property, of the landholder,

Assumption of superintendence to be notified and to extend to whole of Government ward's property.

10. (1) Whenever the Court of wards assumes the superintendence of the property of any person under this Act, the fact of such assumption, and the date on which it was sanctioned by the Local Government, shall be notified in the local official Gazette.

(2) On and with effect from the date of such sanction, the whole of the property, moveable and immoveable, of such person, whether the existence of any such property may be known to the said Court or not, shall be deemed to be under the superintendence of the Court of Wards.

(3) Any property which the Government ward may inherit subsequently to the date of such sanction shall also be deemed to be under the superintendence of the Court of Wards.

(4) The Court of Wards may, in its discretion, assume, or refrain from assuming, the superintendence of any property which the ward may aquire, otherwise than by inheritance, subsequently to the date of such notification.

Barring of suits to contest authority to assume superintendence.

11. No suit shall be brought in any Civil Court to contest the authority of the Court of Wards in respect of the property, or of the person and property, of any person under this Act, on the ground that such person was not, or is not a landholder or a minor.

Notices to claimants against Government ward.

12. (1) On the issue of a notification under section 10, the Court of Wards shall publish in the local official Gazette, and in such other manner as the Local Government may, by general or special order, direct, a notice in English, and also in the vernacular, calling upon all person having claims against the Government ward or his immoveable property to submit the same in writing to it within six months from the date of the publication of the notice aforesaid.

(2) Every such claim (other than a claim on the part of the Government) not submitted to the Court of Wards in compliance with the provisions of sub section (1) shall, save in the case provided for by section 16, sub-section (2) clause (3), be deemed for all purposes and on all occasions, whether during the continuance of the management or afterwards, to have been duly discharged :

Provided that, if the Court of Wards is satisfied that the claimant was unable to comply with the provisions of sub section (1) it may receive his claim at any time after the date of the expiry of the period aforesaid, but any claim so received shall,

notwithstanding any law, contract, decree or award to the contrary, cease to carry interest from the date of the expiry of the period aforesaid.

Claimants to furnish full particulars and documents.

13. (1) Every claimant submitting his claim in compliance, with the provisions of section 12, sub-section (1) shall furnish, along with his written statement of claim, full particulars thereof, and shall, at the same time, produce all documents (including entries in books of account) on which he relies to support his claim, together with a true copy of every such document.

(2) The Court of Wards 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 claimant.

(3) If any document, which is in the possession or under the control of the claimant, is not produced by him as required by sub-section (1), the document shall not be admissible in evidence against the Government ward, whether during the continuance of the management or afterwards, in any suit brought by the claimant or by any person claiming under him.

Stay of proceedings of Civil Courts.

14. If a Civil Court has directed any process of execution to issue against any immoveable property of a Government ward, or the rents thereof, or any crops standing thereon, the Court of Wards may, at any time within one year after the issue of a notification under section 10, apply to the Civil Court to stay proceedings in the matter of such process, and the Civil Court may, on such terms regarding interest or compensation for delay as may appear to it to be just and reasonable, stay such proceedings accordingly.

Adjudication of claims.

15. (1) On receipt of all claims submitted in compliance with the provisions of sections 12 and 13, the Court of Wards shall proceed to investigate such claims, and shall decide which of them are to be wholly or partly admitted, or wholly or partly rejected, as the case may be, and shall communicate its decision in writing to each claimant concerned.

(2) When the Court of Wards has admitted any claim under sub-section (1), in may make to the claimant a proposal in writing for the reduction of the claim, or of the rate of interest to be paid in future, or of both; and if such proposal, or any modification of it, is accepted by the claimant, and his acceptance is finally recorded and attested by the Court of Wards, or by any

Revenue-officer not being below the rank of an Assistant Commissioner whom the Local Government may, by general or special order, appoint in this behalf, it shall be conclusively binding upon the claimant:

Provided that, if when the superintendence of the property by the Court of Wards is relinquished or otherwise terminates, any portion of the claim reduced as aforesaid is still unsatisfied, the claimant shall be entitled to recover a sum bearing the same proportion to the original claim admitted under sub-section (1) as the unsatisfied portion bears to the reduced claim.

(3) Subject to the provisions of sub-section (2), nothing in this section shall be construed to bar the institution of a suit in a Civil Court for the recovery of a claim against a Government ward or his property which has been submitted to and received by the Court of Wards:

Provided that no decision of the Court of Wards under this section shall be proved in any such suit as against the defendant.

Report to Chief Commissioner.

16. (1) When all claims have been investigated under section 15, the Court or Wards shall submit to the Local Government a sehedule of the debts and liabilities of the Government ward, and the Local Government may, when the estate appears to be involved beyond all hope of extrication or for any other sufficient reason, by an order published in the local official Gazette, direct that, on a date to be fixed by the order, the superintendence of the property and person of the ward shall be relinquished by the Court of Wards.

(2) On the date so fixed—

(*a*) the superintendence shall terminate;

(*b*) the owner of the property under superintendence shall be restored to the possession thereof, subject to any contracts entered into by the Court of Wards for the preservation or benefit of such property;

(*c*) the claims referred to in section 12, sub-section (2), shall revive.

(3) In calculating the periods of limitation applicable to suits to recover and enforce debts and liabilities revived under this section, the time during which such superintendence has continued shall be excluded.

Appointment, etc., of mangers by Court of Wards.

17. The Court of Wards may appoint a manager of the property of any Government ward under its superintendence.

Delegation of powers by Court of Wards

18. (1) With the general or special sanction of the Local Government, the Court of Wards may, from time to time, delegate all or any of its powers to the Deputy Commissioner of any district in which any part of the property of a Government ward is situated, or to any other person whom it may appoint in this behalf, and may at any time, with the like sanction, revoke such delegation.

(2) Subject to any general or special orders of the Local Government, the Court of Wards may exercise all or any powers conferred on it by this Act through the Deputy Commissioner of any district in which any part of the property of a Government ward is situated, or through any other person whom it may appoint in this behalf, and, subject to the like orders, any such Deputy Commissioner may exercise all or any powers delegated to him under this Act through any Revenue officer subordinate to him.

Liabilities, etc., of managers and other servants of Court of Wards.

19. (1) Every manager appointed by the Court of Wards shall—

(*a*) give such security as the Court thinks fit duly to account for what he receives in respect of the rents and profits of the property under his management ;

(*b*) be entitled to such allowance as the Court thinks fit for his care and pains in the execution of his duties ; and

(*c*) be responsible for any loss occasioned to the property under his management by his wilful default or gross negligence.

(2) Every manager or other servant of the Court of Wards shall be deemed a "public servant" within the meaning of sections 161, 162, 163, 164, and 165 of the Indian Penal Code;* and in the definition of "legal remuneration" contained in the said section 161, the word "Government" shall, for the purposes of this subsection, be deemed to include the Court of Wards.

Power for Court of Wards to appoint guardians of certain Government wards.

20. The Court of Wards may appoint guardians for the care of the persons of Government wards whose persons are, for the time being, under its superintendence.

General powers of Court of Wards.

21. Subject to the provisions of this Act and of any rules thereunder, the Court of Wards—

* Act XLV. of 1860.

(*a*) may, of itself or through the manner (if any) appointed by it under this Act, do all such things requisite for the proper care and management of any property, of which it assumes the superintendence under this Act, as the owner of the property, if it were not under the superintendence of the Court of Wards, might do for its care and management ; and

(*b*) may, of itself or through the guradian (if any) appointed by it under this Act, do, in respect of the person of any Government ward whose person is, for the time being, under its superintendence, all such things as may lawfully be done by a guardian.

Custody, education, and residence of certain Government wards.

22. The Court of Wards may pass such orders as it thinks fit in respect of the custody and residence of any Government ward whose person is, for the time being, under its superintendence, and, when he is a minor, in respect of his education.

Allowance for Government ward and his family.

23. The Court of Wardt may, from time to time, determine what sums shall be allowed in respect of the expenses of any Government ward and of his family and dependants.

Duties of Court of Wards or manager.

24. The Court of Wards, or the manager (if any) appointed by it under this Act, shall manage the property of every Government ward under its superintendence or under his management diligently and faithfully for the benefit of the Government ward, and shall in every respect act to the best of its or his judgment for the Government ward's interest as if the property were its or his own.

Powers of Court of Wards as to property of Government wards.

25. The Court of Wards may let the whole or any part of the property of any Government ward under its superintendence, and may, with the previous sanction of the Local Government, mortgage, sell, or exchange the whole or any part of such property, and may do all such other acts as it may judge to be best for the benefit of the property and the advantage of the Government ward.

Notice of suit.

26. No. suit relating to the person or Property of any Government ward shall be brought in any Civil Court until the expiration of two months after notice in writing, stating the name and place of abode of the intending plaintiff, the cause of action, and the relief claimed, has been delivered to, or left at the office of the Court of Wards ; and the plaint shall contain a statement that such notice has been so delivered or left :

Provided that notice under this section shall not be required in the case of any suit the period of limitation for which will expire witnin three months from the date of a notification issued under section 10, sub section (1).

Manager of Court of Wards to be next friend or guardian in suit by or against Government wards.

27. In every suit brought by or against a Government ward, the manager of the ward's property, or, if there is no manager, the Court of Wards having the superintendence of the ward's property, shall be named as the next friend or guardian for the suit, as the case may be.

Payment of costs.

28. If, in any suit brought by or against a Government ward, any Civil Court decrees any costs against the Government ward's next friend or guardian for the suit, the Court of Wards shall cause the costs to be paid out of any property of the Government ward which may, for the time being, be in its hands.

Processes against Government ward to be served on next friend or guardian.

29. Every process which may be issued out of any Civil or Revenue Court against any Government ward shall be served on the Government ward's next friend or guardian for the suit.

Authority of Court of Wards required in case of suits brought on behalf of Government wards.

30. No suit shall be brought, and no appeal in any suit shall be preferred, on behalf of any Government ward unless it is authorized by an order in writing of the Court of Wards:

Provided as follows :

(1) a manager may authorize a plaint to be filed in order to prevent a suit from being barred by the law of limitation, but the suit shall not afterwards be proceeded with except under the sanction of the Court of Wards;

(2) a suit for arrears of rent may be brought on behalf of a Government ward, if authorized by an order of the manager of the property on which the rent is due.

Disabillties of a Government ward.

31. (1) A Government ward shall be incompetent to transfer or create any charge on, or interest in, his property, or any part thereof (except such interest as may be created by a will made in accordance with section 32), or to enter into any contract which may involve him in pecuniary liability ; " nor shall his property

be liable under section 68 of the Indian Contract Act, 1872,"* and no suit shall be brought in any Civil Court whereby to charge any person upon any promise made after he has ceased to be a Government ward or pay any debt contracted "or discharge any liability arising under section 68 of the Indian Contract Act, 1872"* during the period when he was a Government ward, or upon any ratification made after he has ceased to be a Government ward of any promise or contract made during the period aforesaid, whether there is or is not any new consideration for such promise or ratification. "Nothing in this section shall preclude the Court of wards from satisfying, in whole or in part, as it may deem fit, any claim under section 68 of the Indian Contract Act, 1872."*

(2) Nothing in this section shall be deemed to affect the capacity of a Government ward to enter into a contract of marriage :

Provided that a Government ward shall not incur in connection with such a contract any pecuniary liability, except such as, having regard to the personal law to which he is subject, and to his rank and circumstances, the Court of Wards may, in writing, declare to be reasonable.

Consent of Local Government necessary to adoptions or wills made by Government wards.

32. No adoption by a Government ward, and no written or verbal permission to adopt given by a Government ward, or will made by a Government ward, shall be valid without the consent of the Local Government, obtained either previously or subsequently to the adoption, or to the giving of the permission, or the making of the will, on application made to it through the Court of Wards.

Procedure when succession to Government ward's property is disputed.

33. Whenever, on the death of any Government ward, the succession to his property or any part thereof is disputed, the Court of Wards may, with the previous sanction of the Local Government, either direct that the property or the part thereof be made over to any person claiming the property, or retain the superintendence of the property until one of the claimants has established his claim to the same in a competent Civil Court, or institute a suit of interpleader against all the claimants.

Withdrawal of superintendence of Court of Wards.

34. (1) The Court of Wards may, with the sanction of the Local Government, at any time withdraw its superintendence from the person or property, or both, of a Government ward, and shall withdraw its superintendence as soon as,—

* The words within quotations have been added by Act I of 1915.

(*a*) in the case of a person disqualified under clause (*a*) of section 5, sub-section (1), he attains his majority ;

(*b*) in the case of a person disqualified under clause (*b*) of the same, he ceases to be of unsound mind and incapable of managing his affairs ;

(*c*) in the case of a person disqualified under sub-clause (1) of clause (*c*) of the same, his physical or mental defect or infirmity is removed or ceases :

Provided as follows :—

(i) whenever a Government ward dies or ceases to be disqualified, and his property is still encumbered with debts and liabilities, the Court of Wards may, with the previous sanction of the Local Government, either release such property, or retain it under its superintendence until such debts and liabilities have been discharged ; and,

(ii) if one or more of the proprietors of a property remain disqualified, although another or others may have ceased to be disqualified, the Court of Wards may, with the previous sanction of the Local Government, retain the whole of the property under its superintendence, paying any proprietor who has ceased to be disqualified the surplus income accruing from his share of the estate.

(2) Where any question arises as to whether the superintendence of the Court of Wards should be withdrawn from any person or property, or both, under clause (*a*), or from any property under clause (*c*) of sub section (1), the decision of the Local Government thereon shall be final, and no suit shall be brought in any Civil Court in respect of such decision.

Appointment of guardian in certain cases.

35. (1) Where, in exercise of the power conferred by section 34 the Courts of Wards decides to withdraw its superintendence from the person and property of any minor, it shall, before such withdrawal, by an order in writing, appoint some person to be guardian of the person or property, or both, of the minor, and such appointment shall take effect from the date of such release.

(2) In appointing a guardian under this section, the Court of Wards shall be guided by the provisions of the Guardians and Wards Act, 1890 ;* and every guardian so appointed shall have, and be subject to, the same rights, duties, and liabilities as if he had been appointed under that Act.

* Act VIII of 1890.

Withdrawal to be notified in Gazette.

36. Where the Court of Wards withdraws its superintendence from any person or property under this Act, the fact of such withdrawal shall be notified in the local official Gazette.

Appeals.

37. An appeal shall lie from every order passed under this Act, whether original or on appeal,—

(*a*) if the order is that of a Commissioner, to the Local Government ;

(*b*) if the order is that of a Deputy Commissioner, to the Commissioner ;

(*c*) in all other cases, to the Deputy Commissioner ;

Provided that in no case shall a third appeal lie,

Control of Local Government.

38. All orders or proceedings under this Act shall be subject to the supervision and control of the Local Government ; and the Local Government may, if it thinks fit, revise, modify, or reverse any such order or proceeding, whether an appeal is presented against any such order or proceeding or not,

Exercise of discretion not to be questioned in Civil Conrt.

39 No suit shall be brought in any Civil Court in respect of the exercise of any discretion conferred by this Act.

Power for Local Government to make rules,

40. (1) The Local Government may make rules to carry out the purposes and objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe the matters to which regard should be had in appointing or removing guardians and managers, and in fixing their remuneration :

(*b*) regulate the amount of security to be given by manager ;

(*c*) prescribe the cases in which proposals or arrangements connected with the administration of the properties of Government wards shall be reported for the sanction of the Local Government ;

(*d*) prescribe the accounts and other returns which, and the periods and form at and in which, they shall be rendered to the Court of Wards, and by the Court of Wards to the Local Government ;

(*e*) regulate the custody of securities and title deeds belonging to the estate or property of a Government ward ;

(*f*) regulate the procedure in inquiries by, and in appeals from orders of, the Court of Wards under this Act, and fix the periods of limitation which shall apply to such appeals ;

(*g*) confer upon the Court of Wards for the purposes of this Act any of the powers exercised by a Civil Courts in the trial of suits ;

(*h*) prescribe the mode in which powers delegated to managers are to be notified for the information of persons concerned ; and

(*i*) generally, prescribe the manner in which the powers and duties of the Court of Wards under this Act shall be exercised and performed.

(3) All rules made under this section shall be published in the local official Gazette, and shall, on such publication, have effect as if enacted by this Act.

Repeal.

41. The enactments mentioned in the schedule are repealed to the extent specified in the fourth column thereof.

THE SCHEDULE.

Year.	No.	Short title.	Extent of repeal.
1	2	3	4
1885.	XVII.	The Central Provinces Government Wards Act, 1885.	The whole.
1890.	VIII.	The Guardians and Wards Act, 1890.	So much of section 2 and the schedule as relates to Act XVII. of 1885.
1801.	XII.	The Repealing and Amending Act, 1891.	So much as relates to Act X VII of 1885.

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