

THE INDIA ACTS
AND
THE MADRAS ACTS
1928



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MADRAS ACTS, 1928.

THE MADRAS HINDU RELIGIOUS ENDOWMENTS (AMENDMENT) ACT, 1928.

ACT No. I OF 1928.

Prefatory Note.—The following extract from the statement of objects and reasons would show the necessity for the passing of this Amending Act :—

“Elections have to be held to new committees, constituted under the Madras Hindu Religious Endowments Act, the first members of which were appointed for a period of one year with reference to section 22 of the Act. This period expires on or before 1st November, 1927, in the case of eight committees. Electoral rolls have to be prepared before elections can be held to these committees. There are difficulties in the way of electoral rolls being prepared and elections being held before the expiry of the terms of office of the appointed members. Further, most of the committees are at present unable to meet the election expenses. In these circumstances it is proposed to take power to appoint the members of the Committees for a further period of two years.” (See Statement of Objects and Reasons.)

An Act to amend the Madras Hindu Religious Endowments Act, 1926.

WHEREAS it is expedient to amend the Madras Hindu Religious Endowments Act, 1926 ; It is hereby enacted as follows :—

Preamble.

1. This Act may be called THE MADRAS HINDU RELIGIOUS ENDOWMENTS (AMENDMENT) ACT, 1927.

Short title.

2. To section 22 of the Madras Hindu Religious Endowments Act, 1926 (hereinafter referred to as the said Act) the following proviso shall be added, viz. :—

Amendment of section 22 of Madras Act II of 1927.

“Provided that, if, for any reason, elections to such new committee are not held at the expiry of the period fixed under this section, the Local Government may make fresh appointments thereto for a period not exceeding one year. An out-going member shall, if otherwise qualified, be eligible for reappointment.”

THE MADRAS PREVENTION OF ADULTERATION (AMENDMENT) ACT, 1928.

ACT No. II OF 1928.

Prefatory Note.—The following extracts from the Statement of Objects and Reasons would show the necessity for the passing of this Act :—

The Public Analyst has reported that the Madras Prevention of Adulteration Act, 1918, is defective in certain respects and that it requires amendment if it is to be of practical effect. The object of this Bill is to remedy the defects pointed out by the Public Analyst and thereby to render the Act more useful. The necessity for each amendment is explained in the notes on clauses.

NOTES ON CLAUSES.

Clause 2.—The object of the amendment is to prevent the sale as milk of 'fore-milk', the first portion of the yield, as 'fore-milk' contains less than the essential quantity of fat.

'Cream' is referred to in the definition of 'butter', 'cheese' and 'ghee' and it is therefore desirable that there should be a general definition of the word. The definition is taken from the English Public Health (Milk and Cream) Regulations, 1912, made under the Public Health Acts.

Clause 3 (i) (a).—This is consequential on the amendments proposed in clause 3 (4).

Clause 3 (i) (b).—This is to make the clause to conform to the provisions of section 1 (b) of the Act. The inclusion of 'tea' in this clause is consequential on the amendments proposed in clause 4 (1).

Clause 3 (i) (c).—Under section 20 of the Act and sub-section 1 (d) of section 5 as proposed to be amended by clause 3 (i) (b) the standard of purity of articles of food is to be prescribed by the "Local Government". The words "Governor in Council" should therefore be altered into "Local Government".

Clause 3 (ii).—This amendment is framed so as to include persons who 'store' articles of food for sale. The Bengal Food Adulteration Act has a similar provision. The amendment is necessary if the working of the Act is to be effective.

Clause 4 (i).—The existing Act does not enable the Government to fix standards of purity for tea. It is considered necessary to fix standards in order to prevent the sale of tea, which is unfit for human consumption.

Clause 4 (ii), sub-clause (f).—The sale of watered milk as such cannot be prohibited under the existing Act. The sale of watered milk with or without notice has been totally prohibited in England. The prohibition of the addition of water to milk is essential in India where water-borne diseases are widely prevalent.

Sub-clauses (g) and (h).—Although rules can be made under section 20 (d) of the existing Act defining preparations made from full cream milk and skimmed milk, and prescribing labels in the case of skimmed milk products stating that such foods are unfit for babies, the provisions of the Act are not specific in this respect. It is, therefore, desirable that the Act should contain specific provision to regulate the sale of tinned milk. The addition of clauses (g) and (h) is intended for this purpose.

Sub-clause (i).—The addition of this clause is necessary to enable sample-takers to add preservatives to milk samples. If this is not permitted, there is a possibility particularly in the case of samples sent from a distance, that the sample-bottle may burst on route, or that on arrival at the Analyst's laboratory the sample may be in such a state of decomposition as to render an analysis impossible. Under the existing Act, a rule cannot be framed enabling sample-takers to add preservatives. If they do so without legal authority, the vendor may plead that the sample as analysed by the Public Analyst was not of the kind sold by him.

Clause 4 (iii).—This is consequential on the amendments proposed in clause 4 (4). (Statement of Objects and Reasons.)

An Act to amend the Madras Prevention of Adulteration Act, 1918.

WHEREAS it is expedient to amend the Madras Prevention of Adulteration Act, 1918 ; It is hereby enacted as follows —

Preamble.

1. This Act may be called THE MADRAS PREVENTION OF ADULTERATION (AMENDMENT) ACT, 1927.

Short title.

2. In section 2 of the Madras Prevention of Adulteration Act, 1918 (hereinafter referred to as the said Act), after the definition of "food" the following definitions shall be inserted, namely :—

Amendment of Section 2 of Madras Act III of 1918.

“ ‘Milk’ means the normal clean secretion drawn from the under of a healthy cow or buffalo either completely, or, after the first portion of such secretion has been drawn off, to completion.”

“ ‘Cream’ means that portion of milk rich in milk-fat which has risen to the surface of milk on standing and has been removed or which has been separated from milk by centrifugal force.”

3. In section 5 of the said Act—

Amendment of section 5 of Madras Act III of 1918.

(a) in sub-section (1)—

(i) for the words “manufactures for sale or offers for sale” the words “manufactures, stores or offers for sale” shall be substituted;

(ii) for clause (d) the following clause shall be substituted, namely :—

“ (d) offers for sale or hawks about or sells milk, cream, butter, ghee, cheese or any food which is not up to the standard of purity prescribed by the Local Government” ; and

(iii) in paragraph (iii) of the proviso, for the words “Governor in Council” the words “Local Government” shall be substituted ; and

(b) in sub-section (2), for the words “who is in the habit of manufacturing like articles of food, has been manufactured for sale” the following shall be substituted, namely :—

— “who is in the habit of manufacturing or storing like articles for sale, has been manufactured or stored by such person for sale.”

4. In section 20 of the said Act,—

Amendment of Section 20 of Madras Act III of 1918.

(i) In clause (e), for the words “ghee and cheese” the words “ghee, cheese and any food” and for the words “ghee or cheese” the words “ghee, cheese or any food” shall respectively be substituted;

(ii) after clause (e) the following clauses shall be inserted, namely :—

“(f) prohibiting or regulating in the interests of public health—

(i) the addition of water or other diluent or adulterant to any food;

(ii) the abstraction of any ingredient from any food; and

(iii) the sale of any food to which such addition or from which such abstraction has been made or which has been otherwise artificially treated;

“(g) providing for the manner in which any receptacle containing dried, condensed, skimmed or separated milk is to be labelled or marked;

“(h) authorizing the persons taking samples of any food for the purpose of analysis under this Act to add preservatives to such sample for the purpose of maintaining it in a suitable condition for analysis and regulating the nature of such preservatives and the method of adding them”;

(iii) in the last paragraph for the words, letters and brackets “under clauses (c) and (d)” the words, letters and brackets “under clauses (c), (d), (f) and (g)” shall be substituted.

THE TUTICORIN PORT TRUST (AMENDMENT) ACT, 1928.

ACT No. III OF 1928.

Prefatory Note.—The following extracts from the Statement of Objects and Reasons would show the necessity for the passing of this Act :—

“At the time the Tuticorin Port Trust Act, 1924, was passed, the Indian Chamber of Commerce was denied representation on the Trust Board. In order to safeguard the interests of various branches of business and to introduce elective element in the constitution of the Board, it was however provided pending the organization of the Indian Chamber of Commerce and as a temporary measure, that two trustees might be elected by the Tuticorin Municipal Council and two others might be appointed by the Local Government from among those who carry on sea-borne trade in Tuticorin. Besides these four trustees, three trustees are elected by the Tuticorin Chamber of Commerce (which consists of European merchants only) while the remaining trustees including Chairman and Vice-Chairman are appointed by Local Government. Since then the Legislature has conceded the principle of representation of the Municipal Council on the Port Trust Board of the town of Cochin.

After the Indian Chamber of Commerce was put on working basis, a Bill was introduced in 1924 to amend section 6 of the Act. But the Bill was thrown out.

The Indian Chamber of Commerce, Tuticorin, is now a registered body looking after the mercantile interests of Tuticorin and its efficient working and financial condition is testified to by various distinguished visitors to the Chamber. It is time adequate representation be provided by giving

three seats to be filled by election by the members of the Indian Chamber of Commerce as in the case of the other Chamber. (See Statement of Objects and Reasons.)

An Act to amend the Tuticorin Port Trust Act, 1924.

WHEREAS it is expedient to amend the Tuticorin Port Trust Act, 1924 ; It is hereby enacted as follows :—

1. This Act may be called THE TUTICORIN PORT TRUST (AMENDMENT) ACT, 1927. Short title.

2. In sub-section (1) of section 6 of the Tuticorin Port Trust Act between the words "Tuticorin Chamber of Commerce" and "and two by the members for the time being of the Tuticorin Municipal Council" insert the following words "three by the members for the time being of the Indian Chamber of Commerce, Tuticorin," and for the words "at a meeting of the Chamber or Council" substitute "at meetings of the Chambers and Council". Amendment of Section 6 of Madras Act II of 1924.

THE MADRAS CHRISTIAN MARRIAGES VALIDATION ACT, 1928.

ACT No. IV OF 1928.

Prefatory Note.—The following extract from the Statement of Objects and Reasons would show the necessity for the passing of this Act :—

"Licenses under section 9 of the Indian Christian Marriage Act, 1872, were granted to Messrs. Onukuri Nagayya, Gundham Guravayya and Pulikoory Joshua, all of the American Baptist Telugu Mission, Nellore District, on 30th January 1907, 18th November 1911 and 26th May 1921, respectively. In December 1924, the District Magistrate, Nellore, suggested the deletion of the names of the aforesaid persons from the list of persons licensed under the Act on the ground that they had been absent from their villages for more than a year. The Government accordingly issued orders revoking their licenses on the 28th January 1925.

The District Magistrate, Nellore, subsequently reported that Messrs. Nagayya, Guravayya and Joshua had been solemnizing marriages even after the date of the revocation of their licenses. Fresh licenses under the said section 9 have been granted to Messrs. Onukuri Nagayya, Gundham Guravayya and Pulikoory Joshua on 30th May 1927, 22nd June 1927 and 30th May 1927, respectively. But as the marriages solemnized, the certificates granted and other acts done by Messrs. Nagayya, Guravayya and Joshua between the 28th January 1925 and the dates of issue of such fresh licenses to them are liable to be considered invalid, legislation for validating such marriages, certificates and acts is necessary." (See Statement of Objects and Reasons.)

An Act to validate certain marriages solemnized by certain members of the American Baptist Telugu Mission, Nellore district.

WHEREAS licences were granted by the Local Government to Messrs. Onukuri Nagayya, Gundham Guravayya and Pulikoory Preamble.

Joshua, all of the American Baptist Telugu Mission, Nellore district (hereinafter referred to as the said Mr. Nagayya, the said Mr. Guravayya and the said Mr. Joshua respectively), under section 9 of the Indian Christian Marriage Act, 1872, on the dates specified against their names in the second column of the schedule ;

AND WHEREAS the said licenses were revoked by the said Government on the dates specified against their names in the third column of the schedule ;

AND WHEREAS after the date of the said revocation, the said Mr. Nagayya, the said Mr. Guravayya and the said Mr. Joshua continued to solemnize marriages and to grant certificates of marriage as if the said licences had not been revoked ;

AND WHEREAS fresh licences have been granted to the said Mr. Nagayya, the said Mr. Guravayya and the said Mr. Joshua under the said section 9 on the dates specified against their names in the fourth column of the schedule ;

AND WHEREAS it is doubtful whether the marriages solemnized by the said Mr. Nagayya, the said Mr. Guravayya and the said Mr. Joshua and the certificates granted and the other acts done by them in virtue of the said revoked licences on and from the dates specified against their names in the third column of the schedule up to and including the dates specified against their names in the fourth column thereof are legally valid ;

AND WHEREAS there is no reason to doubt that the parties to said marriages believed in good faith that the said Mr. Nagayya, the said Mr. Guravayya or the said Mr. Joshua, as the case may be, was legally entitled to act on his said revoked licence on the dates of their respective marriages ;

AND WHEREAS it is expedient that all such marriages, certificates and acts on and between the dates specified in the said third and fourth columns should be validated ;

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

Short title.

1 This Act may be called THE MADRAS CHRISTIAN MARRIAGES' VALIDATION ACT, 1928.

Validation of certain irregular marriages, certificates and acts.

2. All marriages solemnized, all certificates granted and all acts done by the said Mr. Nagayya, the said Mr. Guravayya and the said Mr. Joshua on and from the dates specified against their names in the third column of the schedule up to and including the dates specified against their names in the fourth column of the schedule which would be valid if the licences granted to them on the dates specified against their names in the second column of the schedule had not been revoked shall be deemed to be as valid as if they had held licences under section 9 of the Indian Christian Marriage Act, 1872, on and between the dates specified in the said

third and fourth columns and no such marriage, certificate or act shall be deemed to be invalid by reason only of the fact that the said licences were revoked.

3. Certificates of marriages to which section 2 applies and register books and certified copies of true and duly authenticated extracts therefrom deposited in compliance with the provisions of the Indian Christian Marriage Act, 1872, shall, in so far as the register books and extracts relate to such marriages, be received as evidence of such marriages as if such marriages had been duly solemnized under the said Act.

Validation of records of the said irregular marriages.

THE SCHEDULE.

The name of the licensee.	The date on which the original licence was granted.	The date on which the licence mentioned in the second column was revoked.	The date on which a fresh licence was issued.
(1)	(2)	(3)	(4)
Onokuri Nagayya.	30th day of January 1907	28th day of January 1925.	30th day of May 1927.
Gundham Gura-vayya.	18th day of November 1911	Do.	22nd day of June 1927.
Pullkoory Joshua ..	26th day of May 1921.	Do.	30th day of May 1927.

THE JAGGAMPETA A AND D ESTATES IMPARTIBLE ESTATES ACT, 1928.

ACT NO. V OF 1928.

An Act to declare the Jaggampeta A and D Estates to be impartible within the meaning of the Madras Impartible Estates Act II of 1904.

WHEREAS it is expedient to declare that the Jaggampeta A and D Estates are impartible and that the Proprietors thereof cannot exercise unrestricted powers of alienation over the same;

Preamble.

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

1. This Act may be called "THE JAGGAMPETA A AND D ESTATES IMPARTIBLE ESTATES ACT, 1928,"

Short title.

Jaggampeta
A and D
Estates to be
impartible
within the
meaning of
the Madras
Impartible
Estates
Act, 1904.

2. Notwithstanding any decision of Court, rule of law or enactment to the contrary, the Jaggampeta A and D Estates, in the district of East Godavari are hereby declared to be impartible estates within the meaning of the Madras Impartible Estates Act, II of 1904, and shall, in the hands of their present owner as well as her heirs and successors, be subject to the provisions of that Act.

Saving.

3 This Act shall not affect any alienation made or debt incurred before the commencement of this Act.

THE MADRAS CHILDREN (AMENDMENT) ACT, 1928.

ACT No. VI OF 1928.

Prefatory Note.—The following extract from the Statement of Objects and Reasons would indicate the necessity for the passing of this Act :—

“Under the Madras Children Act, as it stands at present, a child detained in a junior certified school may be transferred to a senior certified school only if such child is found to be exercising an evil influence over the other children in the school or is guilty of a serious breach of the rules of the school or of escaping from the school. There is no provision for effecting such transfer in cases like the following :—

- (1) when the transfer is necessary in the interest of the child, e.g., for training in a handicraft for which there is provision only in the senior certified school ;
- (2) when there is overcrowding in the junior certified school ; or
- (3) when a boy over fourteen years of age has to be transferred from a junior to a senior certified school for the reason that the other boys in the former school are much younger.

It is considered necessary to provide for transfers in the above cases. It is also considered desirable that the Local Government should have power to transfer youthful offenders over the age of 16 years from a senior certified school to a Borstal school in the interest of discipline or for other sufficient reason.

The Bill provides for the above objects.” (See Statement of Objects and Reasons.)

An Act further to amend the Madras Children Act, 1920.

Preamble

WHEREAS it is expedient to further amend the Madras Children Act, 1920 ;

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

Short title.

1. This Act may be called THE MADRAS CHILDREN (AMENDMENT) ACT, 1928.

Amendment
of section 35
of Madras
Act IV of
1920.

2. For sub-section (2) of section 35 of the Madras Children Act, 1920, the following sub-sections shall be substituted :—

“(2) The Local Government may order

(a) a youthful offender under the age of fourteen years detained in a senior certified school to be transferred to a junior certified school;

(b) a youthful offender or child to be transferred from one senior certified school to another, or from one junior certified school to another;

(c) a child over the age of twelve years detained in a junior certified school to be transferred to a senior certified school,

(i) when such transfer is for the welfare of the child, or

(ii) when the child is found to be exercising an evil influence over any other child or children in the school or is guilty of a serious breach of the rules of the school or of escaping from the school;

(d) a youthful offender over the age of fourteen years detained in a junior certified school to be transferred to a senior certified school when a majority of the other children in the junior certified school are much below his age, or when there is not sufficient accommodation in the junior certified school;

(e) a youthful offender over the age of sixteen years detained in a senior certified school to be transferred to a Borstal school established under the Madras Borstal Schools Act, 1925, in the interest of discipline or for other special reasons.

(3) Upon the transfer of a youthful offender to a Borstal school under clause (e) of sub-section (2) above, the provisions of the Madras Borstal Schools Act, 1925, shall apply to such offender as if he had been originally sentenced to detention in a Borstal school under that Act.

(4) The total period of detention of the youthful offender or child shall not be increased by any transfer under this section.”

THE MAPPILLA WILLS ACT, 1928.

ACT No. VII OF 1928.

Prefatory Note.—The following extracts from the Statement of Objects and Reasons would show the necessity for the passing of this Act :—

“Though the Mappillas generally follow the Muhammadan Law, yet in the matter of inheritance the Mappillas of North Malabar and the southern part of Kasaragod taluk in the South Kanara district have been following the Marumakkathayam Law. In order to bring this Law in conformity with the Muhammadan Law, the Malabar Mappilla Succession Act of 1918 was passed. According to this Act, Muhammadan Law of Inheritance has been made applicable to the self-acquired properties of Mappillas following the Marumakkathayan Law of Inheritance.

The Malabar Wills Act (Madras Act V of 1898) applies to persons who are governed by Marumakkathayam Law of Inheritance and are domiciled in the Madras Presidency and enables such persons to dispose of their entire separate property by will. Although when this Act was passed, it might not have been the intention of the Legislature to make it applicable to Mappillas, yet Mappillas also have been taking advantage of it. According to the Muhammadan Law, a Muhammadan may dispose by will only one-third of his estate left after defraying funeral expenses and debts. Bequests in excess of the bequeathable one-third of bequests to the heirs will not be valid unless the other heirs consent thereto after the death of the testator. It was supposed that the passing of the Malabar Mappilla Succession Act will make the Malabar Wills Act inoperative in respect of wills by Mappillas. But this point is not yet clear. Therefore in order to bring the testamentary Law of the Mappillas also into conformity with the Muhammadan Law relating to wills, it was proposed to amend the Malabar Wills Act by adding a proviso to section 4 of the Malabar Wills Act." (See Statement of Objects and Reasons). Subsequently the Legislature thought that the matter might be provided for by a separate enactment. Hence this Act.

An Act to define the Law relating to Wills by Mappillas.

Preamble.

WHEREAS it is expedient to define the law relating to testamentary dispositions by Mappillas governed by the Marumakkattayam or the Aliyasantana Law of Inheritance;

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

Short title.

1. This Act may be called the Mappilla Wills Act, 1928.

Commencement

2. (i) It shall come into force on the 1st day of January, 1929.

Extent.

(ii) It extends to the whole of the Presidency of Madras.

Persons to whom and properties to which this Act is applicable.

(iii) It applies to testamentary dispositions by Mappillas governed by the Marumakkattayam or the Aliyasantana Law of Inheritance in respect of property which, but for such testamentary disposition, would devolve in accordance with the provisions of the Mappilla Succession Act, 1918.

Testamentary dispositions by Mappillas to be governed by this Act and not by Madras Act V of 1898.

3. Testamentary dispositions to which this Act applies, shall be governed by the Muhammadan Law relating to wills and not by the Malabar Wills Act, 1898.

THE MADRAS STATE AID TO INDUSTRIES
(AMENDMENT) ACT, 1928.

ACT No. VIII OF 1928.

Prefatory Note.—The following extract from the Statement of Objects and Reasons would show the necessity for the passing of this Amending Act:—

“Although the State Aid to Industries Act has been in force for a period of nearly four years, very few applications for aid to cottage and

small scale industries have been received. There is reason to believe that this paucity of applications is due to the provision in section 9 of the Act which stipulates that concerns applying for aid should show assets equivalent to double the amount of the loan applied for. If the Act is materially to assist in the development of cottage and other small scale industries, it seems necessary that the restriction of the maximum limit of loan to 50 per cent. of the assets should be relaxed.

Another difficulty with regard to these industries is that they are required under section 11 of the Act to maintain detailed accounts, to render several returns and statements and to submit them to the audit of auditors approved by Government for the purpose. In the majority of cases, these industrialists will be unable to maintain the accounts on the lines required as they cannot reasonably be expected, in view of the small margin of profits they will be able to realise, to incur the expense of employing a clerk or accountant to look after that side of the work and further it would be scarcely fair to expect them to incur the expense involved in the audit of their accounts by approved auditors. It will therefore be necessary to exempt such concerns from the operation of section 11 of the Act in proper cases.

Similarly these small scale and cottage industries cannot apply for any guarantee of a cash, credit, overdraft or fixed advance with a bank as such guarantee can be given only if the conditions prescribed in sections 9 to 12 of the Act are satisfied. It has been explained above that it is necessary to exempt these concerns from the operations of sections 9 and 11 of the Act which govern the grant of aid under section 6 (a) of the Act. For the same reasons, it is necessary that these small scale and cottage industries should also be made eligible for the forms of aid referred to in section 6 (b) and be exempted from the operation of section 14 of the Act. (See Statement of Objects and Reasons).

An Act to amend the State Aid to Industries Act, 1922.

WHEREAS it is expedient to amend the Madras State Aid to Industries Act, 1922 ; It is hereby enacted as follows :—

Preamble.

1. This Act may be called "THE MADRAS STATE AID TO INDUSTRIES (AMENDMENT) ACT, 1928."

Short title.

2. After section 14 of the Madras State Aid to Industries Act, 1922 (hereinafter referred to as the said Act), the following section shall be inserted, namely :—

Insertion of new section 14-A in Madras Act V of 1923.

"14-A Save as otherwise may be prescribed by rules made under this Act, nothing in sections 9, 10, 11 and 14 shall apply to any industrial business or enterprise with a capital outlay not exceeding one thousand rupees or to cottage industries."

Exemption of small and cottage industries.

3. After clause (14) of sub-section (b) of section 19 of the said Act, the following clause shall be inserted, namely :—

Amendment of section 19 Madras Act V of 1923.

"(15) the conditions under which and the security on which loans shall be granted or guarantees of a cash credit, over-

draft or fixed advance with a bank given to the industries referred to in section 14 A."

Amendment
of section 19,
Madras
Act V of
1923.

4. The word "and" at the end of clause (13) of sub-section (b) of section 19 of the said Act shall be omitted, and the word "and" shall be inserted at the end of clause (14) of sub-section (b) of section 19 of the said Act.

INDIA ACTS, 1928.

THE BURMA SALT (AMENDMENT) ACT, 1928.

Act No. I of 1928.

[8th March, 1928.]

An Act to amend the Burma Salt Act, 1917, for a certain purpose.

WHEREAS, by the Devolution Rules, made under section 45-A of the Government of India Act, central and provincial subjects have been classified, for the purpose of distinguishing the functions of Local Governments from the functions of the Governor-General in Council, and it is, therefore, expedient to amend the Burma Salt Act, 1917, which relates to a subject classified in the aforesaid rules as a central subject, so as to vest in the Governor-General in Council powers of control in respect of that subject; It is hereby enacted as follows :—

1. (1) This Act may be called THE BURMA SALT (AMENDMENT) ACT, 1928.

Short title and commencement.

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

2. The sections of the Burma Salt Act, 1917 (hereinafter referred to as the said Act), shown in the first column of the Schedule are hereby amended in the manner specified in the second column thereof.

Amendment of Burma Act II of 1917.

3. Where anything done under the said Act is in force immediately prior to the commencement of this Act, it shall be deemed, as from the commencement of this Act, to have been done under the said Act as hereby amended.

Saving of acts done under Burma Act II of 1917.

THE SCHEDULE.

(See section 2.)

Sections of Burma Act II of 1917 to be amended.

Amendments.

Section 2 . . .

The following definitions shall be added, namely :—
“(f) ‘Central Board of Revenue’ means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924;

Sections of Burma
Act II of 1917
to be amended.

Amendments.

- Section 2 (*contd.*) (g) 'Commissioner' means the officer appointed by the Governor-General in Council to perform the duties of the Commissioner under this Act;
- (h) 'Collector' means the officer appointed by the Governor-General in Council to perform the duties of the Collector under this Act;
- (i) 'notification' and 'notified' have reference, notwithstanding anything contained in clauses (24) and (40) of section 2 of the Burma General Clauses Act, 1898, to notification in the Gazette of India."
- Section 3 . . . For the words "Local Government or the Financial Commissioner" the words "Central Board of Revenue or the Commissioner" shall be substituted.
- Section 4 . . . For the words "Local Government" the words "Central Board of Revenue" shall be substituted.
- Section 5 . . . (i) For the words "Local Government" where they occur in two places the words "Central Board of Revenue" shall be substituted.
- (ii) Clause (a) shall be omitted.
- (iii) In clause (d), for the words "Financial Commissioner, to a Commissioner or to the Excise Commissioner" the word "Commissioner" shall be substituted.
- (iv) For clause (e) the following shall be substituted, namely:—
- "(e) permit the delegation, subject to such conditions as it may think fit, by the Commissioner or by the Collector, of any powers in respect of salt revenue conferred on them by this Act or by any other enactment for the time being in force."
- (v) Clauses (b), (c), (d), (e) and (f), as so amended, shall be re-lettered as clauses (a), (b), (c), (d) and (e), respectively.
- Section 6 . . . For the words "Financial Commissioner" the words "Central Board of Revenue" shall be substituted.
- Section 7 . . . For section 7 the following section shall be substituted, namely:—
- "7. The Governor-General in Council may, by notification, impose a duty, at such rate or rates as he may think fit, on salt manufactured in, or imported by land into, Burma."
- Section 8 . . . For the words "Local Government" the words "Central Board of Revenue" shall be substituted.
- Section 17 . . . In sub-section (2), for the word "Collector", where it occurs in three places the word "Superintendent" shall be substituted.
- Section 22 . . . For the words "Subject to such restrictions as the Local Government may prescribe, any Salt, Excise or Police Officer and any Revenue or Customs Officer duly empowered in this behalf", the words "Subject to such restrictions as the Central Board of Reve-

Sections of Burma
Act II of 1917
to be amended.

Amendments.

- Section 22 (*contd.*) nue, with the approval of the Local Government, may prescribe, any Salt or Customs Officer empowered in this behalf, or any Police, Revenue or Excise Officer empowered in this behalf with the approval of the Local Government" shall be substituted.
- Section 25 . In sub-sections (1) and (3), for the words "Local Government" the words "Central Board of Revenue" shall be substituted.
- Section 27 . For the word "Collector" the word "Superintendent" shall be substituted.
- Section 31 . In sub-section (3), for the words "Except with the special sanction of the Local Government", the words "Except with special sanction, given by the Central Board of Revenue with the approval of the Local Government," shall be substituted.
- Section 32 . (i) In sub-section (1), for the words "Financial Commissioner, subject to the control of the Local Government," the words "Central Board of Revenue" shall be substituted.
 (ii) In sub-section (2), for the words "Financial Commissioner subject to the like control" the words "Central Board of Revenue" shall be substituted.
- Section 38 . After the word "Gazette", the words "of India" shall be inserted.
- Section 34 . In sub-section (2), for the word "Collector" the word "Superintendent" shall be substituted.

THE INDIAN SECURITIES (AMENDMENT) ACT, 1928.

ACT No. II OF 1928.

PRELIMINARY NOTE.—The following extracts from the statement of objects and reasons indicate the necessity for the passing of the Act.

The object of this Act is to enable a company to hold Government securities jointly with a private individual or another corporate body and to empower Government to pay the amount of the security to the surviving joint holder in any case that may arise.

Section 4 (1) (a) of the Indian Securities Act, 1920, laid down that when a Government Security was payable to two or more persons jointly, and either or any of them died, the security should be payable to the survivor or survivors of those persons. Though by virtue of section 3 (89) of the General Clauses Act, 1897, 'person' included a company or association or body of individuals, whether incorporated or not, this definition had been held to be repugnant to section 4 (1) of the Indian Securities Act, as a corporation or association may be dissolved but could not die and there could therefore, be no survivorship as contemplated in the latter section.

Thus the law as it stood precluded the possibility of a Government promissory note being held by a corporate body jointly with an individual or with another corporate body. The position as regards joint ownership of this nature was the same in England before the passing of the Bodies Corporate (Joint Tenancy) Act, 1899.

In accordance with the above view of the law, Government and the Public Debt Offices had been treating as invalid all endorsements on Government promissory notes in favour of a company jointly with an individual. The Public Debt Office, Bombay, had been addressed on more than one occasion by corporate bodies regarding the admissibility of joint ownership of Government securities on the lines recognized by the law in England, and the Controller of the Currency had reported that instances of such endorsements were coming to his notice and that he had been compelled to treat them as invalid. This Act is intended to remove this technical difficulty by an amendment of section 4 of the Indian Securities Act, 1920, (*See Statement of Objects and Reasons, cited in the Gazette of India*).

[8th March, 1928.]

*An Act further to amend the Indian Securities Act, 1920,
for a certain purpose.*

WHEREAS it is expedient further to amend the Indian Securities Act, 1920, for the purpose hereinafter appearing; It is hereby enacted as follows :—

Short title. • 1. This Act may be called THE INDIAN SECURITIES (AMENDMENT) ACT, 1928.

Amendment of Section 4, Act X of 1920 • 2. To section 4 of the Indian Securities Act, 1920, the following sub-section shall be added, namely :—

“(4) For the purposes of this section, a body incorporated under the Indian Companies Act, 1913, or the Co-operative Societies Act, 1912, or any other enactment for the time being in force whether within or without British India, relating to the incorporation of associations of individuals, shall be deemed to die when it is dissolved.”

THE INDIAN INCOME-TAX (AMENDMENT) ACT, 1928.

ACT No. III OF 1928.

PREFATORY NOTE.—The following are extracts from the Statements of Objects and Reasons :—

1. It has been held that draught animals and other live stock are not ‘plant’ within the meaning of section 10 (2) (vi) of the income-tax Act, 1922 (XI of 1922). But as horses, bullocks, elephants, etc., used for draught purposes are analogous to ‘plant’. It is proposed in clause 2 (a) of the bill to permit an assessee in computing his income from business to deduct as a business expense the cost of the live stock purchased for use in his business (not as stock in trade) to replace his stock so used.

2. The Calcutta High Court have held that road cess levied on coal mines is an admissible deduction from the assessable profits of the mine. The cess

though nominally levied on immoveable property is actually calculated with reference to the annual profits of the mine. It is therefore a tax on profits and generally speaking anything that is of the nature of a tax on profits is not allowed as a deduction in assessing income-tax. Moreover the Central Government have always contended that provincial or local taxes on profits should not take precedence of central taxes on the same profits and if this principle is sacrificed, serious loss to Central revenues may result. Clause (2) (b) of the bill makes it clear that an assessee is not entitled to deduct in computing income, any sums paid to a local authority in respect of any tax (cess, rate, etc.), assessed on the basis of profits even though it may be nominally imposed on immoveable property.

8. The Act is silent as to the correct procedure for the assessment in the year following the one in which partition is effected in a Hindu undivided family; Clause (4) of the bill provides for assessment in such cases.

4. There are conflicting rulings pronounced by the Bombay and Allahabad High Courts as to how the assessment should be made in the year after there has been a change in the 'constitution' of an assessee, where for example, a Firm has become a company. While the Allahabad High Court have held that where a firm has become a Company, the assessment should be made as though the firm were still in existence at the time of assessment, the Bombay High Court have ruled that the assessment should be made as though the Company had been in existence when the profits that have to be taxed were earned. Clause 5 of the bill follows the Allahabad High Court ruling and also extends to income-tax the principle of the proviso to section 56 under which, where there has been a change in the personnel, of firm, the partners of the firm at the time of assessment are assessed to super-tax on the profits of the firm in the previous year with reference to the shares that each then holds.

5. It is necessary to confer on the Assistant Commissioners of Income-tax and Commissioners of Income-tax the power to rectify mistakes in their appellate or review orders which they do not at present possess. Clause 6 of the bill confers such powers.

6. Clause 7 of the bill makes the law more definite in regard to the assessment of the profits of (1) export trade conducted by (a) residents and (b) agencies or branches in British India of non-residents and (2) import trade conducted by agencies or branches in British India of non-residents. Section 42 of the Act which deals with the assessment of non-residents is vague and this is neither satisfactory from the view of the Government nor fair to the tax-payer. Moreover, conflicting decisions on this subject have been pronounced by the High Courts of Madras, Calcutta, and Rangoon.

7. At present an income-tax officer has no power to impose a penalty of less than the maximum amount mentioned in section 46 of the Act. It is considered desirable to empower an income-tax officer to impose a penalty less than the maximum and to increase it successively up to the maximum, should the default in payment of tax be persisted in by the assessee.

8. Following the British Income-tax law, it is proposed to withhold the grant of refunds under section 48 (small incomes relief) in respect of dividends of companies and interest on Indian Securities from non-residents who are not British subjects while refunds to non-resident subjects of Indian States, British subject or subjects of Indian States will be allowed and calculated not with reference, as at present, to the claimant's total income taxable in British India, but with reference to his total income wherever derived which would be taxable if it accrued, arose or was received in British India.

To non-residents who are not British subjects except subjects of Indian States there seems to be no reason why India should be more generous than the United Kingdom. As the law at present stands large sums are refunded to non-resident shareholders many of whom may be in receipt of considerable income in other countries and the non-resident therefore enjoys an unfair advantage over residents in British India. Clause 9 of the bill gives effect to the above proposal.

9. At present many bogus partnership deeds are produced for registration before the income-tax officers under section 2 (14) of the Act even when the accounts are incomplete and show no division of profits amongst the partners. It appears, therefore, desirable to provide that a firm should not be registered, unless it not merely files a deed of partnership specifying the partners' shares, but also actually divides the profits in accordance with those shares. Clause 11 of the Bill gives effect to the proposal. (*Statement of Objects and Reasons*).

The following extracts from the Reports of Select Committee may also be noted :—

Clause 2.—We have enlarged the scope of the proposed new clause (vii-a) of sub-section (2) of section 10, by making it cover all animals which die or become useless, and not only such animals when they have been replaced. We have done this as it frequently happens that dead or useless live-stock is not replaced for some time. We have also deleted the words " or realisable " as this restriction is small and difficult to apply.

As regards the new proviso proposed in sub-clause (b) of clause 2, we find a conflict of principles. The proviso is designed to maintain the principle that the sphere of taxation of the Central Government should not be encroached upon by Local Governments or local authorities—a principle which we support. But its application in the form of the new proviso will involve an infraction of another principle—which we also support—that " double taxation " should be avoided. An illustration will be where a local authority imposes a road cess and bases its assessment on a particular firm on the profits earned by that firm. It is admitted that if another method of assessment were employed, the firm would be entitled to deduct the cess in arriving at its profits. But under the proviso as now proposed the firm will not be allowed to make this deduction, but will have to pay income-tax on the amount it has paid as cess. We consider that in this conflict the revenues of the Central Government must be protected, and that the proper method of avoiding inequitable treatment is to prevent both Local Governments and local authorities from imposing taxation either directly upon or assessed on the basis of profits. We have, therefore, retained this provision, but we make a recommendation to Government to take all measures within its powers to secure that no local tax should be assessed on profits.

Clause 4.—This has been redrafted in order to simplify the procedure, and make it easier for the assesses.

It is not now proposed to require notice to be given to the Income-tax Officer of the partition of a Hindu undivided family. It is left to those concerned to represent to the Income-tax Officer at the time of assessment that such a partition has taken place. The Income-tax Officer is then to hold an enquiry into the fact of partition after serving notices upon all the members of the family. He will embody the result of his enquiry in a formal order before proceeding to make the assessment. Any assessee who is aggrieved by the manner in which the assessment has been made as the result of such an order will, of course, be able to raise the point in an appeal under

section 80 to the Assistant Commissioner in the ordinary way, and if he is dissatisfied with the orders passed on such an appeal on a point of law, he will have the right to claim a reference to the High Court under section 66. It has also been provided that the units into which the original joint family has been resolved shall be jointly and severally liable for that portion of the tax which falls on the income earned by the family while it was still joint.

Clause 5.—We have redrafted the whole of this clause, partly in order to simplify it, and partly in order to bring it into accord with the latest decision of the Privy Council.

As regards the proposed sub-section (1) of section 26, which incorporates and generalises the law contained in the proviso to section 56 of the Act, it was pointed out that for some time in the Bombay Presidency the rule of law contained in the *Mellor* case (I.L.R. 47 Bom. 504) has been applied, which adopted the alternative principle to that embodied in the new sub-section, and that the change of law in the Bombay Presidency might result in some individual being treated according to different principles at different times, and to his detriment. The Government has undertaken to issue executive instructions to prevent any hardship from this cause, and we therefore do not propose to make special statutory provision.

As regards new sub-section (2), the original draft had to make a choice between the principle contained in the case of *Messrs. Begg Sutherland & Co., Ltd.* (I.L.R. 47 All. 715) and that contained in a judgment of the Bombay High Court in the *Western India Turf Club* case (I.L.R. 50 Bom. 648) : and the former principle was chosen. Since then, however, the Bombay decision has been upheld by Their Lordships of the Privy Council in a judgment dated 4th November 1927, and our re-draft of the new sub-section (2) is in accordance with that judgment.

Clause 7.—We have deleted the proposed sub-sections (1), (1-A) and (1-B), which related to exports from India. We recognise the difficulties created by the conflict of judicial rulings on the subject, but until a set of rules or principles can be evolved which would in some way limit the action of the income-tax officer we prefer to leave the law as it is. The principle contained in the proposed sub-section (1-A) is inadequate.

We considered an alternative proposal of dropping these three proposed sub-sections and substituting instead an amendment of the term "business" contained in section 2 (4) of the Act, by making it include specifically the buying of goods in British India for export. Under this proposal the inadequacy of the principle contained in proposed sub-section (1-B) could be remedied in a prompt manner by the framing of rules *ad hoc* under section 59 as the different kinds of cases presented themselves ; but, again, we are of opinion that the existing law should not be altered until some delimiting principles have been evolved.

We have, therefore, cut down the clause so that it now includes only the original proposed sub-section (1-C) relating to imports, and we have amended that slightly and re-numbered it.

Clause 11.—The subject of the registration of firms is being dealt with in a more comprehensive manner in the later Indian Income-tax (Second Amendment) Bill ; and we therefore propose to omit it.

In its place we have substituted a small drafting amendment of section 66, which is consequential upon our use of the correct word "revision" in clause 6 of the Bill.

MINUTE OF DISSENT.

(Signed by seven members). /

We, the undersigned, are not satisfied with the Select Committee's decision merely to drop the proposed clause 7 (1) in the amending Bill leaving the original clause 42 (1).

In the notes on the amendments before the Select Committee under clause 7, Government state that the clause is intended to remove doubts and that they desire to make clear that in respect of export trade or import trade, whether the business be conducted by a resident or a non-resident, all profits *accruing or arising or received in British India* are liable to tax and *no other profits* are so liable. In removing the original proposed clause 7 (1) the Government state that they propose to carry out their intention by rules and the following information as to their intention was obtained :—

In the event of an exporter in India sending cotton regularly to a merchant abroad who in his turn obtains a profit by selling to a consumer, the Government consider that this profit obtained in a foreign country has accrued or arisen through an agent in British India and is liable to tax.

This would mean that the merchant in India might be deemed under section 42 (1) to be his agent, on the ground of having a business connexion with a foreign buyer, and will be required either to obtain from the foreign firm a return of the profit made in the foreign country on the cotton bought from India, or will be assessed on the basis of the difference of value between contract prices and *f.o.b.* or *c.i.f.* quotation at the time of shipment or by some similar method. He will be made to pay the assessed tax to the Government and will have to look for his reimbursement to his foreign client.

We consider that this procedure will entail great hardship on Indian merchants exporting produce and that the clause should be amended as hereafter suggested to prevent such action.

It was further brought to the notice of the Committee that the taxation authorities were, under the present law, endeavouring to assess a foreign operator in stocks and shares working through a broker in India on the London Stock Exchange for tax on profits made on the London Stock Exchange even though never received in India.

In our opinion the existing powers of the Government are too wide owing to the words "from any business connexion". As Government allege that their desire is to tax only profits accruing or arising or received in India, we do not understand why Government desire powers wider than are necessary for the purpose stated.

We suggest substituting for the original section 42 (1) the following section :—

"42. (1) All profits or gains accruing or arising to any person residing out of British India, whether directly or indirectly, from any trade carried on or transacted in British India by any agency or branch in British India on his behalf shall be chargeable to income-tax under the head 'business' and shall be charged in the name of the agent of such person, and such agent shall be deemed to be for all purposes of this Act the assessor in respect of such income-tax :

Provided that any arrears of tax may be recovered also in accordance with the provisions of this Act from any assets of a non-resident person which are or may at any time come within British India."

By this clause taxation would only be leviable where profits actually accrue or arise in British India and any profits obtainable or received in other countries could not be assessable.

We know of no precedent in any other country for the proposed legislation, and are convinced that it will only penalise Indian firms while it can

easily be evaded by foreign firms operating through agencies in British India.

We should be prepared to support legislation requiring all branches and agencies of foreign firms to pay Indian income-tax on profits, such profits to be assessed on the basis of the normal profits which could be expected by an Indian firm selling direct abroad. We are entirely opposed, however, to the proposal that Government should make rules to enforce rights which, in our opinion, it was never the intention of the Legislature to confer on the Central Board of Revenue.

MINUTE OF DISSENT.

(Signed by three members).

I disagree with the principle of clause 7 (1-C) which will become section 42 (8) in the Act, because, if passed, it will give definite approval to the principle of taxing in India the whole profit received in India on the sale of an imported article, and the clause, therefore, rejects the principle approved by the Taxation Enquiry Committee, of taxing only the "merchandising" profit and not the "manufacturing" profit. It is contended by Government that there is no intention of expanding the law, but of clarifying it, and that there has always been the power to tax all profits received in India. This is true, but the power has not regularly been exercised presumably because it was considered unreasonable to do so. A share of the total profit must in equity be regarded as accruing and arising in the country of manufacture. Mr. Darling, an Income-tax Officer of great experience, gives his opinion that it is unjust to tax the whole profit on imports.

I am therefore of opinion that the opportunity should have been taken by the Legislature to redraft the law in accordance with the recommendation of the Indian Taxation Enquiry Committee.

MINUTE OF DISSENT.

(By the Hon. Messrs. Mahammad Yakub, Fazel L. Rahimtoola, Purushothamdas Thakurdas, Victor Sassoon, W. S. Lamb, Harbilas Sarda, and Jannadas,—seven members).

"We, the undersigned, object to clause 2 (b) of the Bill as being admittedly inequitable to the assessee.

It is admitted by Government that local authorities have the right to charge for services rendered and that such charges are a valid deduction from the gross profits in ascertaining the amount assessable for income-tax.

The Government of India wish to discourage local Bodies from basing their assessment for such charges on the profits of an assessee as such action encroaches on the principle that the Central Government alone are entitled to levy taxes on income.

To this end they by this clause lay down that where local Bodies base their admittedly justifiable charges for services rendered, on profits, the amounts concerned will not be a deductible item from the profits, whereas if the charge for the same services were to be made in some other manner the deduction would be permissible.

The assessors would find themselves in the helpless position of not being able to resist what local Bodies seek by law from them nor to choose the basis on which their assessment should be made.

If this clause be passed, it is not unlikely that local Bodies will continue to charge for services rendered as before as their position remains unchanged, so that the Central Government will be receiving an income from the unfortunate assessee to which they are not in equity entitled as the broad principle that payment for services rendered is a deductible item is not disputed.

We are not in disagreement with Government that there should be only one tax based on profits, but we feel very strongly that this clause fails to establish that principle and sets up the new principle that the tax-payer may fairly be penalised for the action of an authority over whom he can have no control.

It is up to the Central Government to introduce specific legislation which will prevent any authority but themselves from levying a tax on profits.

The amount concerned at present was stated in the Select Committee to be about 1½ lakhs.

We take the very gravest view of the precedent which would be set up by passing this clause and deem it our duty to draw the attention of the Assembly to the serious aspect of the issue involved."

[13th March, 1928.]

*An Act further to amend the Indian Income-tax Act, 1922,
for certain purposes.*

WHEREAS it is expedient further to amend the Indian Income-tax Act, 1922, for certain purposes hereinafter appearing; It is hereby enacted as follows :—

Short title
and commen-
cement.

1. (1) This Act may be called THE INDIAN INCOME-TAX (AMENDMENT) ACT, 1928.

(2) It shall come into force on the 1st day of April, 1928.

Amendment
of section 10,
Act XI of
1922.

2. In sub-section (2) of section 10 of the Indian Income-tax Act, 1922 (hereinafter referred to as the said Act),—

(a) after clause (vii) the following clause shall be inserted, namely :—

“(vii-a) in respect of animals which have been used for the purposes of the business otherwise than as stock in trade and have died or become permanently useless for such purposes, the difference between the original cost to the assessee of the animals and the amount, if any, realised in respect of the carcasses or animals”; and

(b) after clause (ix) the following proviso shall be inserted, namely :—

“Provided that nothing in clause (viii) or clause (ix) shall be deemed to authorise the allowance of any sum paid on account of any cess, rate or tax levied on the profits or gains of any business or assessed at a proportion of or otherwise on the basis of any such profits or gains.”

Amendment
of section 14,
Act XI of
1922.

3. In clause (b) of sub-section (2) of section 14 of the said Act, after the words, “his share in the firm” the words “at the time of such assessment” shall be added.

Insertion of
new section
25 A in Act
XI of 1922.

4. After section 25 of the said Act the following section shall be inserted, namely :—

Assessment
after
partition of a
Hindu
undivided
family.

“25-A. (1). Where, at the time of making an assessment under section 23, it is claimed by or on behalf of any member of a Hindu family hitherto undivided that a partition has taken place among the members of such family, the Income-tax Officer shall

make such inquiry thereinto as he may think fit, and, if he is satisfied that a separation of the members of the family has taken place and that the joint family property has been partitioned among the various members or groups of members in definite portions before the end of the previous year, he shall record an order to that effect :

Provided that no such order shall be recorded until notices of the inquiry have been served on all the members of the family.

(2) Where such an order has been passed, the Income-tax Officer shall make an assessment of the total income received by or on behalf of the joint family as such, as if no separation or partition had taken place, and each member or group of members shall in addition to any income-tax for which he or it may be separately liable and notwithstanding anything contained in sub-section (1) of section 14, be liable for a share of the tax on the income so assessed according to the portion of the joint family property allotted to him or it;

and the Income-tax Officer shall make assessments accordingly on the various members and groups of members in accordance with the provisions of section 23 :

Provided that all the separated members and groups of members shall be liable jointly and severally for the tax assessed on the total income received by or on behalf of the joint family as such."

5. For section 26 of the said Act the following section shall be substituted, namely :—

"26. (1) Where, at the time of making an assessment under section 23, it is found that a change has occurred in the constitution of a firm or that a firm has been newly constituted, the assessments on the firm and on the members thereof shall, subject to the provisions of this Act, be made as if the firm had been constituted throughout the previous year as it is constituted at the time of making the assessment, and as if each member had received a share of the profits of that year proportionate to his interest in the firm at the time of making the assessment.

(2) Where, at the time of making an assessment under section 23, it is found that the person carrying on any business, profession or vocation has been succeeded in such capacity by another person, the assessment shall be made on such person succeeding, as if he had been carrying on the business, profession or vocation throughout the previous year, and as if he had received the whole of the profits for that year."

6. In sub-section (1) of section 35 of the said Act,—

(a) before the words "The Income-tax Officer may" the following words shall be inserted, namely :—

"The Commissioner or Assistant Commissioner may, at any time within one year from the date of any order passed by him in appeal or, in the case of the Commissioner, in revision under section 33 and ";

Amendment
of section 26,
Act XI of
1922.
Change in
constitution
of a firm.

Change of
ownership
of business.

Amendment,
of section 35,
Act XI of
1922.

(b) for the words "of the assessment" the words "of the appeal, revision or assessment, as the case may be," shall be substituted;

(c) for the words "such assessee" the words "the assessee" shall be substituted; and

(d) in the proviso, for the words "the Income-tax Officer" the words "the Commissioner, the Assistant Commissioner or the Income-tax Officer, as the case may be," shall be substituted.

Amendment
of section 42,
Act XI of
1922.

7. In section 42 of the said Act, the following sub-section shall be added namely:—

"(3) Where any profits or gains have accrued or arisen to any person directly or indirectly from the sale in British India by him or by any agency or branch on his behalf of any merchandise exported to British India by him or any agency or branch on his behalf from any place outside British India, the profits or gains shall be deemed to have accrued or arisen and to have been received in British India, and no allowance shall be made under sub-section (2) of section 10 in respect of any buying or other commission whatsoever not actually paid, or of any other amounts not actually spent, for the purpose of earning such profits or gains."

Amendment
of section
46, Act XI of
1922.

8. After sub-section (1) of section 46 of the said Act the following sub-section shall be inserted, namely:—

"(1-A) For the purposes of sub-section (1) the Income-tax Officer may direct the recovery of any sum less than the amount of the arrears and may enhance the sum so directed to be recovered from time to time in the case of a continuing default, so however that the total sum so directed to be recovered shall not exceed the amount of the arrears payable."

Amendment
of section
48, Act XI of
1922.

9. In section 48 of the said Act, the following sub-sections shall be added, namely:—

"(4) For the purposes of this section, 'total income' includes, in the case of any person not resident in British India, all income, profits and gains wherever arising, accruing or received, which, if arising, accruing or received in British India, would be included in the computation of total income under section 16.

(5) Nothing in this section shall entitle to any refund any person not resident in British India who is neither a British subject as defined in section 27 of the British Nationality and Status of Aliens Act, 1914, nor a subject of a State in India."

Amendment
of section 56,
Act XI of
1922.

10. The proviso to section 56 of the said Act shall be omitted.

Amendment
of section 66,
Act XI of
1922.

11. In the proviso to sub-section (2) of section 66, for the word "review" the word "revision" shall be substituted.

THE INLAND BONDED WAREHOUSES (AMENDMENT)
ACT, 1928.

ACT No. IV OF 1928.

PRELIMINARY NOTE.—It was the practice to allow goods intended for warehousing at an inland bonded warehouse to be removed there from the wharf or ship's side direct. It had been pointed out that under the law as it previously stood, strictly interpreted, no goods ought to be removed to an inland bonded warehouse unless they had previously been deposited in a warehouse at a customs-port; to enforce this was felt to be a useless and expensive formality. It was, therefore, proposed by this Act that the existing practice should be regularised.

Some inland bonded warehouses were managed by officers of the Local Governments, others by officers directly subordinate to the Central Board of Revenue. With respect to the latter class, this Act proposes, in pursuance of the principle of the Central Board of Revenue Act, 1924, that the Local Governments should be divested of authority, their authority in other cases being maintained by the provision that the Chief Customs-authority (i.e., the Central Board of Revenue) must obtain the assent of the Local Government before appointing or licensing any inland bonded warehouse. (See Statement of Object and Reasons and Report of Select Committee).

[15th March, 1928.]

An Act further to amend the Inland Bonded Warehouses Act, 1896, for certain purposes.

WHEREAS it is expedient further to amend the Inland Bonded Warehouses Act, 1896, for the purposes hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called THE INLAND BONDED WAREHOUSES (AMENDMENT) ACT, 1928.

Short title.

2. (1) In sub-section (1) of section 4 of the Inland Bonded Warehouses Act, 1896 (hereinafter referred to as the said Act),—

Amendment of section 4, Act VIII of 1896.

(a) the words " with the previous sanction of the Local Government " and the words " with the like sanction " shall be omitted; and

(b) the following proviso shall be added, namely :—

" Provided that, where a warehouse is to be wholly or partly in the charge of officers serving under a Local Government, it shall not be appointed or licensed as an inland bonded warehouse until the Local Government has signified its assent to such appointment or license."

(2) In sub-section (2) of the same section, the following words shall be added at the end, namely :—

" and, if the owner so desires, as if goods, in respect of which the procedure laid down in sections 90, 91 and 92 of the said Act has been complied with, were goods already ware-

housed at a warehousing port within the meaning of section 105 of the said Act.”

Amendment
of sections 5
and 7, Act
VIII of 1896.

3. In sections 5 and 7 of the said Act, for the words “Local Government” the words “Chief Customs-authority” shall be substituted.

THE INDIAN FINANCE ACT, 1928

ACT No. V OF 1928.

PRELIMINARY NOTE.—The following is the Statement of Objects and Reasons to the Act:

1. “The object of this Act is to continue certain provisions of the Indian Finance Act, 1927, which would otherwise cease to have effect from the 1st April, 1928.

2. Clauses 2, 3 and 5 provide for the continuance of the rates of salt duty, postage, income-tax prescribed by the Indian Finance Act, 1927, while clause 4 provides for the credit to revenue for a further period of one year, i.e., till the 31st March 1929, of interest on securities forming part of the Paper Currency Reserve.”

[27th March, 1928.]

An Act to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to fix maximum rates of postage under the Indian Post Office Act, 1898, further to amend the Indian Paper Currency Act, 1923, and to fix rates of income-tax.

WHEREAS it is expedient to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to fix maximum rates of postage under the Indian Post Office Act, 1898, further to amend the Indian Paper Currency Act, 1923, and to fix rates of income-tax; It is hereby enacted as follows :—

1. (1) This Act may be called THE INDIAN FINANCE ACT, 1928.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) Sections 2 and 3 shall remain in force only up to the 31st day of March, 1929.

Short title,
extent and
duration.

Fixation of
salt duty.

2. The provisions of section 7 of the Indian Salt Act, 1882, shall, in so far as they enable the Governor-General in Council to impose by rule made under that section a duty on salt manufactured in, or imported into, any part of British India other than Burma and Aden, be construed as if, with effect from the 1st day of April, 1928, they imposed such duty at the rate of one rupee and four annas per maund of eighty-two and two-sevenths pounds avoirdupois of salt manufactured in, or imported by land

into, any such part, and such duty shall, for all the purposes of the said Act, be deemed to have been imposed by rule made under that section.

3. With effect from the 1st day of April, 1928 the schedule contained in the First Schedule to this Act shall be inserted in the Indian Post Office Act, 1898, as the First Schedule to that Act.

Postal rates.

4. In sub-section (7) of section 19 of the Indian Paper Currency Act, 1923, for the figures " 1928 " the figures " 1929 " shall be substituted.

Amendment of Act X of 1923.

5. (1) Income-tax for the year beginning on the 1st day of April, 1928, shall be charged at the rates specified in Part I of the Second Schedule.

Income-tax and super-tax

(2) The rates of super-tax for the year beginning on the 1st day of April, 1928, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be those specified in Part II of the Second Schedule.

(3) For the purposes of the Second Schedule, " total income " means total income as determined, for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922.

SCHEDULE I.

SCHEDULE TO BE INSERTED IN THE INDIAN POST OFFICE ACT, 1898.

[See section 8.]

" 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 fraction thereof, exceeding two and a half tolas One anna.

Postcards.

Single Half an anna.
Reply One anna.

Book, Pattern and Sample Packets.

For every five tolas or fraction thereof Half an anna.

Registered Newspapers.

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.
For 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."

SCHEDULE II.

[See section 5.]

PART I.

Rates of Income-tax.

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	Rate.
(1) When the total income is less than Rs. 2,000	Nil
(2) When the total income is Rs. 2,000 or upwards, but is less than Rs. 5,000 ..	Five pies in the rupee.
(3) When the total income is Rs. 5,000 or upwards, but is less than Rs. 10,000 ..	Six pies in the rupee.
(4) When the total income is Rs. 10,000 or upwards, but is less than Rs. 20,000 ..	Nine pies in the rupee.
(5) When the total income is Rs. 20,000 or upwards, but is less than Rs. 30,000 ..	One anna in the rupee.
(6) When the total income is Rs. 30,000 or upwards, but is less than Rs. 40,000 ..	One anna and three pies in the rupee.
(7) When the total income is Rs. 40,000 or upwards	One anna and six pies in the rupee.
B. In the case of every company and registered firm, whatever its total income	One anna and six pies in the rupee.

PART II.

Rates of Super-tax.

In respect of the excess over fifty thousand rupees of total income :—	Rate.
(1) in the case of every company	One anna in the rupee.
(2) (a) in the case of every Hindu undivided family—	
(i) in respect of the first twenty-five thousand rupees of the excess	Nil
(ii) for every rupee of the next twenty-five thousand rupees of such excess	One anna in the rupee.
(b) in the case of every individual, unregistered firm and other association of individuals not being a registered firm or a company, for every rupee of the first fifty thousand rupees of such excess	One anna in the rupee.
(c) in the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	

(i) for every rupee of the second fifty thousand rupees of such excess	One and a half annas in the rupee.
(ii) for every rupee of the next fifty thousand rupees of such excess	Two annas in the rupee.
(iii) for every rupee of the next fifty thousand rupees of such excess	Two and a half annas in the rupee.
(iv) for every rupee of the next fifty thousand rupees of such excess	Three annas in the rupee.
(v) for every rupee of the next fifty thousand rupees of such excess	Three and a half annas in the rupee.
(vi) for every rupee of the next fifty thousand rupees of such excess	Four annas in the rupee.
(vii) for every rupee of the next fifty thousand rupees of such excess	Four and a half annas in the rupee.
(viii) for every rupee of the next fifty thousand rupees of such excess	Five annas in the rupee.
(ix) for every rupee of the next fifty thousand rupees of such excess	Five and a half annas in the rupee.
(x) for every rupee of the remainder of the excess	Six annas in the rupee.

THE INDIAN MERCHANT SHIPPING (AMENDMENT) ACT,
1928.

ACT No. VI OF 1928.

PREFATORY NOTE.—The following are extracts from the Statement of Objects and Reasons :—

“ The list of central subjects in Schedule I to the Devolution Rules, made under section 45-A of the Government of India Act, includes the following :—

- (1) Shipping and navigation ;
- (2) Lighthouses ;
- (3) Port quarantine ; and
- (4) Major ports.

All these subjects are now administered through the agency of the Local Governments, as provided by section 45-A (1) (c) of the Government of India Act, and statutory powers in respect of them have hitherto to a large extent been vested in the Local Governments. At a Conference held in Delhi in November 1924, which was attended by representatives of the Local Governments, the Chairmen of the Port Trusts of the major ports, Port Officers and Port Health Officers, as well as by representatives of the Departments of the Government of India concerned, it was considered whether these subjects should continue to be administered through the agency of the Local Governments or should be administered direct by the Governor-General in Council. As a result of these discussions, the Government of India decided that (1) shipping and navigation, and (2) Lighthouses should be administered direct, and that legislation should be undertaken so as to vest the necessary statutory powers in the Governor-General in Council. They also decided that the question of the major ports, about which there was some difference of

opinion, should be reconsidered later when experience of the central administration of other subjects had been gained. Port quarantine, which is closely connected with the sanitation of the port generally, will also be dealt with separately.

2. The Indian Lighthouse Act, which was passed in September 1927, provides for the direct administration of lighthouses by the Governor-General in Council. The object of the present Bill is to amend the Indian Merchant Shipping Act, 1923, so as to provide for the administration of shipping and navigation by the Governor-General in Council direct, instead of through the agency of the Local Governments. The amendments which are specified in the Schedule to the Bill are mainly formal, substituting the words "Governor-General in Council" for "Local Government" and making the necessary consequential amendments. Clause 7 of the Bill, however, empowers the Governor-General in Council to delegate to any Local Government all or any of his powers under the Act. This provision has been included in the Bill to give the necessary elasticity in administration during the period of transition, and to permit the delegation of powers in matters which, it may be found, can more conveniently continue to be administered through the agency of the Local Governments."

The following Report of the Select Committee may also be noted :—

We have inserted a new clause between clause 7 and 8 of the Bill as introduced. This clause inserts after section 294 of the Act a section based on section 79 of the Merchant Shipping Act, 1906, giving power to the Governor-General in Council to appoint Advisory Committees. We consider this to be a suitable provision to introduce into a Bill which removes the control of merchant shipping from various Local Governments, and centralises it in the hands of the Governor-General in Council. The maritime Local Governments are in a position to keep in touch with mercantile opinion, and the proposed machinery of Advisory Committees is designed to secure this advantage to the Central Government.

We discussed the question of including provisions governing the composition and powers of these Advisory Committees, but decided to adopt the model of section 79 of the Merchant Shipping Act, 1906, which will enable Government to consult mercantile opinion and to constitute these Committees in a manner conformable thereto. If mercantile opinion should be in favour of defining the composition and powers of these Committees by statute, Government could consider the question of further legislation.

We have made small drafting amendments in the items of the Schedule relating to sections 191 and 254 of the Act.

[27th March, 1928.]

*An Act further to amend the Indian Merchant Shipping Act, 1923, in order to vest in the Governor-General in Council the control of
• matters covered by that Act.*

WHEREAS, by the Devolution Rules, made under section 45-A of the Government of India Act, subjects, in relation to the functions of government, have been classified as central and provincial subjects, for the purpose of distinguishing the functions of Local Governments and the functions of the Governor-General in Council;

AND WHEREAS the Indian Merchant Shipping Act, 1923, relates to matters falling within the scope of subjects classified as central, but vests the control of many of the said matters in Local Governments;

AND WHEREAS it is expedient to vest the control of all such matters in the Governor-General in Council

It is hereby enacted as follows :—

1. (1) This Act may be called THE INDIAN MERCHANT SHIP-
PING (AMENDMENT) ACT, 1928. Short title
and com-
mencement.

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

2. In the sections, sub-sections and clauses of the Indian Merchant Shipping Act, 1923 (hereinafter referred to as the said Act), which are shown in the first three columns of the Schedule as being amended in accordance with this section, for the words "the Local Government", or "a Local Government", or "any Local Government", as the case may be, wherever they occur, the words "the Governor-General in Council" shall be substituted. Substitution
of the Gover-
nor-General
in Council
for the Local
Governments.

3. In the sections, sub-sections and clauses of the said Act, which are shown in the first three columns of the Schedule as being amended in accordance with this section, for the word "it" wherever it occurs signifying a Local Government, the word "he" shall be substituted. Substitution
of "he"
signifying the
Governor-
General in
Council for
"it" sig-
nifying a
Local
Government.

4. In the sections, sub-sections and clauses of the said Act, which are shown in the first three columns of the Schedule as being amended in accordance with this section, the words "with the previous sanction of the Governor-General in Council," or "and the sanction of the Governor-General in Council", or "subject to the control of the Governor-General in Council", or "with the previous approval of the Governor-General in Council", or "with the approval of the Governor-General in Council", as the case may be, shall be omitted. Omission of
phrases
relating to
the sanction,
approval or
control of the
Governor-
General in
Council.

5. In the sections, sub-sections and clauses of the said Act, which are shown in the first three columns of the Schedule as being amended in accordance with this section, for the words "local official Gazette" wherever they occur, the words "Gazette of India" shall be substituted. Substitution
of "Gazette
of India" for
"local official
Gazette".

6. In addition to the amendments to be made under sections 2, 3, 4 and 5, the amendments shown in the fourth column of the Schedule shall be made in the sections, sub-sections or clauses of the said Act shown against them in the first two columns of the Schedule. Further
amendments
to be made.

7. After section 4 of the said Act the following section shall be inserted, namely :— Insertion of
new section
4-A in Act
XXI of 1923.

Power of the Governor General in Council to delegate his powers to Local Governments.

Insertion of new section 294-A in Act XXI of 1923.

Power to appoint committees to advise on rules and scales

Saving of things done under Act XXI of 1923.

"4-A. The Governor-General in Council may, by notification in the Gazette of India, delegate to any Local Government any or all of his powers under this Act, either absolutely or subject to such conditions or restrictions as he may think fit."

8. After section 294 of the said Act, the following section shall be inserted, namely :—

"294-A. (1) The Governor-General in Council may, if he thinks fit, appoint Committees for the purpose of advising him when considering the making or alteration of any rules or scales under this Act, consisting of such persons as he may appoint representing the interests principally affected, or having special knowledge of the subject-matter.

(2) There shall be paid to the members of any such Committee such travelling and other allowances as the Governor-General in Council may fix.

(3) Committees may be appointed under this section to advise the Governor-General in Council especially as regards any special rules or scales, or, generally, as regards any class or classes of rules or scales which the Governor-General in Council may assign to them."

9. Where anything done under the said Act is in force immediately prior to the commencement of this Act, it shall be deemed, as from the commencement of this Act, to have been done under the said Act as hereby amended.

THE SCHEDULE.

(See sections 2, 3, 4, 5 and 6.)

Sections of the said Act to be amended.	Sub-sections or clauses in these sections where the amendments are to be made.	Sections of this Act in accordance with which amendments are to be made.	Further amendments directed to be made by section 6 of this Act.
6	(2) (3)	2 1, 3	(i) The word "respectively" shall be omitted. (ii) For the words "the control of that Government or" the words "his control or to the control" shall be substituted.
7	(1)	2	
9	(1)	2	
15	..	2	
16	..	1, 3	
17	(3)	2	
18	..	2	
19	..	2	

Sections of the said Act to be amended.	Sub-sections or clauses in these sections where the amendments are to be made.	Sections of this Act in accordance with which amendments are to be made.	Further amendments directed to be made by section 6 of this Act.
20	..	2	(j) The words "by or under the authority of which his certificate was granted" shall be omitted. (ii) After the word "him", where it first occurs, the words "under this Act" shall be inserted.
21	..	1, 4	
24	(1) & (2)	2	
28	(2), cl. (f)	2, 4, 5	
40	(1)	2, 3	For the words "the territories subject to the said Government" and for the words "such territories", the words "British India" shall be substituted.
43	(1)	2	
44	(1)	2	
48	(1)	2	
53	(1)	2	
70	(2)	2	
71	(1)	2	
74	(2)	1, 4	
78	(1)	2	
81	(1)	2, 3, 5	
85	(1)	2	
87	(1)	2, 4, 5	
106	(1)	2	
116	(1), cl. (e)	1, 3	
	(1), " (d)	2, 3	
119	(1)	2	
120	(1)	2	
126	..	2, 4, 5	
129	..	2, 3	For the words "within the territories under its administration" the words "in British India" shall be substituted.
131	..	2, 5	
132	..	2	
135	(1)	2	
136	(1), (3) & (4)	2	
137	(1)	2	
138	Clause (c)	2	
139	..	2, 3	
140	(1)	2, 3	
141	..	..	This section shall be omitted.
143	..	2	
144	(1)	2, 3	
	(2)	2, 3, 5	
	(3)	2	
	(1)	2, 4	
145	(2) cl. (d)	2, 4	The words "within the territories under its administration" shall be omitted.

Sections of the said Act to be amended.	Sub-sections or clauses in these sections where the amendments are to be made.	Sections of this Act in accordance with which amendments are to be made.	Further amendments directed to be made by section 6 of this Act.
147	(3)	2, 4	
148	(1)	2, 3, 4	
	(2)	2	
150	(1)	2	
151	(1)	2	
156	..	2	
159	(2)	..	The words "the Local" shall be omitted
160	(3)	2	For the words "that Government appoints" the words "he may appoint" shall be substituted.
167	(2)	2	
170	(1) & (2)	2	
173	..	2, 3	
178	..	2	
188	(1)	2	For the words "that Government" the word "him" shall be substituted.
191	(1)	..	(s) In clause (s) the word "and" shall be omitted (ss) After clause (s) the following two clauses shall be inserted, namely:— “(f) the local limits within which, and the time and mode at and in which, passengers are to be embarked or discharged at any port or place appointed under this Part in that behalf; (h) the time within which the ship or any ship of the class is to depart or proceed on her voyage after commencing to take passengers on board; and”. (iii) clause (r) shall be relettered as clause (l). This sub-section shall be omitted. This sub-section shall be renumbered as sub-section (2); and for the words "authority making it" the words "Governor-General in Council" shall be substituted. This sub-section shall be renumbered as sub-section (3).
	(2)	..	
	(3)	..	
	(4)	..	
203	(1)	2	
206	(1) & (3)	2	
207	(1)	2	
208A	..	2	
209A	(1)	2	
209C	(3)	2	
213	(1)	..	(i) The clauses from (a) to (r) shall be re-lettered serially from (a) to (s); and in clause (s) as so re-lettered [being the present clause (r)] the word "and" shall be omitted.

Sections of the said Act to be amended.	Sub-sections or clauses in these sections where the amendments are to be made.	Sections of this Act in accordance with which amendments are to be made.	Further amendments directed to be made by section 6 of this Act.
213	(1)		(ii) After clause (w) as so re-lettered, the following two clauses shall be inserted, namely:— “(w) the local limits within which, and the time and mode at and in which, pilgrims shall be embarked or discharged at any port or place appointed under this Part in that behalf; (x) the time within which a pilgrim ship shall depart or proceed on her voyage after commencing to take pilgrims on board; and” (iii) clause (s) shall be re-lettered as clause (x).
”	(2)	..	This sub-section shall be omitted.
”	(3)	..	This sub-section shall be re-numbered as sub-section (2); and for the words “authority making it” the words “Governor-General in Council” shall be substituted.
”	(4)	..	This sub-section shall be re-numbered as sub-section (3).
214	(1)	2	
216	..	2	
218	(2)	2	
”	(3)	2, 4	
221	(2)	2	
223	..	2, 4	
224	(1)	2, 4	For the word “its” the word “his” shall be substituted.
228	(1)	2, 4, 5	
229	(4)	2	
232	(1)	2	
”	(1), cl. (e)	2, 3	
”	(1), cl. (c)	2, 3	(s) For the word “his” the word “the” shall be substituted. (t) For the word “its” the word “his” shall be substituted.
”	(r), cl. (c)	2	
”	(r), cl. (s)	2, 3	
”	(1), cl. (s)	2	
”	(2) & (3)	2	
235	..	2	
236	..	2	For the words “such Government or officer” where they occur four times, the words “Governor-General in Council or the detaining officer” shall be substituted.
238	Cls. (II) & (III).	2	
239	(1)	2, 3, 5	

Sections of the said Act to be amended.	Sub-sections or clauses in these sections where the amendments are to be made.	Sections of this Act in accordance with which amendments are to be made.	Further amendments directed to be made by section 6 of this Act.
246	(3)	..	For the words "or, when he arrives at a port in British India, to any officer appointed by the Local Government in this behalf at that port", the words "and also to the officer appointed in this behalf by the Governor-General in Council" shall be substituted.
247	(1)	..	(i) For the words "Magistrate or any officer appointed by the Local Government in this behalf", the words "such officer" shall be substituted. (ii) For the words "Local Government" where they occur for the second time, the following words shall be substituted, namely:— "Governor-General in Council, and also to the Local Government on or near whose coasts the casualty occurred, or within whose territories any witness resides, or evidence can be obtained, as the case may be; and may proceed to make a preliminary inquiry into the casualty."
247	(2)	..	The words "Magistrate or" shall be omitted. After sub-section (2) the following sub-section shall be added, namely:— "(3) An officer making a preliminary inquiry under this section shall send a report thereof to the Governor-General in Council and shall send a copy thereof to the Local Government."
248	..	..	For this section the following section shall be substituted, namely:— "248. The officer appointed under sub-section (3) of section 246, when he has made a formal preliminary inquiry investigation, or not, may, and where the Governor-General in Council so directs, shall, make an application to a Court empowered under section 249, requesting it to make a formal investigation into any shipping casualty; and the Court shall thereupon make such investigation."
249	..	..	For this section the following section shall be substituted, namely:—

Sections of the said Act to be amended.	Sub-sections or clauses in these sections where the amendments are to be made.	Sections of this Act in accordance with which amendments are to be made.	Further amendments directed to be made by section 6 of this Act.
251 253	(1) & (2) ..	2 ..	<p>"249. Magistrates of the first class specially empowered to half by the Local make formal Government, and investigation. Presidency Magistrates shall have jurisdiction to make formal investigations into shipping casualties under this Part."</p> <p>For the words "shall have—" and clauses (a) and (b), the words "shall have the same powers as are exercisable by that Court in the exercise of its criminal jurisdiction" shall be substituted.</p> <p>For this sub-section, the following sub-section shall be substituted, namely:—</p> <p>"(1) A Court making a formal investigation shall constitute as its assessors not less than two and not more than four persons, of whom one shall be a person conversant with maritime affairs and the other or others shall be conversant with either maritime or mercantile affairs:</p> <p>Provided that where the investigation involves, or appears likely to involve, any question as to the cancellation or suspension of the certificate of a master, mate or engineer, two of the assessors shall be persons having also experience in the merchant service."</p> <p>After sub-section (2) the following sub-section shall be added, namely:—</p> <p>"(3) The assessors shall be chosen from a list to be prepared from time to time by the Governor-General in Council."</p>
254	(1)	..	<p>For the words "the powers of a Magistrate of the first class or of a Presidency Magistrate" the words "its powers as a Criminal Court" shall be substituted.</p> <p>At the end of this sub-section the words "and shall also send a copy thereof to the Local Government", shall be added.</p> <p>For the word "section" the word "sub-section" shall be substituted.</p>
255 256	(1) ..	2 ..	<p>For the words "the powers of a Magistrate of the first class or of a Presidency Magistrate" the words "its powers as a Criminal Court" shall be substituted.</p> <p>At the end of this sub-section the words "and shall also send a copy thereof to the Local Government", shall be added.</p> <p>For the word "section" the word "sub-section" shall be substituted.</p>
257	(1) (2)	2 2	<p>For the word "section" the word "sub-section" shall be substituted.</p>

Sections of the said Act to be amended.	Sub-sections or clauses in these sections where the amendments are to be made.	Sections of this Act in accordance with which amendments are to be made.	Further amendments directed to be made by section 6 of this Act.
259	(1)	2, 3 (where the word 'it' first occurs.)	For the words "and if it is so empowered by any enactment of a British Indian Legislature for the time being in force, grant under that enactment, but" the word "grant" shall be substituted.
260	(3)	2	For the words "that or any other Local Government" the words "the Governor General in Council" shall be substituted.
	(1)	2	For the word "it" the word "him" and for the word "its" the word "his" shall be substituted.
	(2)	2	This section shall be omitted.
261	..	..	(i) For the words "Every Local Government cancelling or suspending" the words "When the Governor General in Council cancels or suspends" shall be substituted.
262	..	..	(ii) After the word "engineer" the word "he" shall be inserted.
263	(1)	2, 3	For the words "that Government" the word "him" shall be substituted.
264	(1)	2	(i) The figures "261" shall be omitted.
"	(3)	2	(ii) The words "which cancels or suspends a certificate" shall be omitted.
"	(5)	2	(iii) For the words "Local Government to which the Court has forwarded the certificate under subsection (3), as if such Local Government had himself" the words "Governor-General in Council as if he had himself" shall be substituted.
266	(1)	2	In clause (4) for the words "that Local Government" where they occur twice, the word "him" shall be substituted.
267	(1)	3	For the words "Local Government" the words "Governor-General in Council or a person duly appointed by him in this behalf" shall be substituted.
"	(2)	..	For the words "Local Government" the words "Governor-General in Council or such authorised person" shall be substituted.
268	(2)	2	
"	(4)	2, 5	
269	(1), (5),	2	
	(6), (7).	2	
270	..	2	

Sections of the said Act to be amended.	Sub-sections or clauses in these sections where the amendments are to be made.	Sections of this Act in accordance with which amendments are to be made.	Further amendments directed to be made by section 6 of this Act.
271	(1)	2, 3	For the words "the Post-Office" the words "a person duly appointed by the Governor-General in Council in this behalf" shall be substituted.
"	(2)	2	For the word 'its' the word 'his' shall be substituted.
273	(1)	2, 3, 5	
276	..	2	
290	..	2	For the words "the territories administered by such Government, and, subject to the control of the Governor General in Council," the words "British India, and may" shall be substituted.
291	..	2	
294	..	..	The words "or the local official Gazette, as the case may be," shall be omitted.

THE INDIAN TARIFF (AMENDMENT) ACT, 1928.

ACT No. VII OF 1928.

PREFATORY NOTE.—The following are extracts from the Statements of Objects and Reasons.

"The object of this Bill is to give effect to certain minor amendments which it is proposed to make in Schedule II to the Indian Tariff Act, 1894 (VIII of 1894). The more important proposals in the Bill are dealt with *seriatim* below. They are included in a separate Tariff Bill instead of in the Finance Bill, because they have not been made primarily with reference to the revenues of 1928-29.

2. *Cinchona bark and alkaloids extracted therefrom including quinine.*—It is proposed to amend item 14 so as to cover alkaloids derived from other sources than cinchona bark, which are chemically identical with alkaloids extracted from cinchona bark. It may be mentioned, for example, that the chemical constitution of quinoline whether prepared from a cinchona bark alkaloid or aniline and nitrobenzene is the same.

8. *Gold and silver sheets and plates.*—It is proposed to remove the import duty of 80 per cent. on gold and silver sheets and plates which have undergone no process of manufacture subsequent to rolling and to include them under item 20 of the Import Tariff. These articles are raw materials of an industry, and it is considered desirable that they should, in accordance with the recommendation of the Fiscal Commission, be admitted free of duty. Gold bullion and silver bullion are already free, and the process of rolling

adds but slightly to the value of the bullion. It is also proposed to amend items 182 and 188, so as to make it clear that the amended item 20 does not cover gold and silver leaf.

4. *Paper money.*—It is proposed to place currency notes and the like on the free list. They are at present assessable to duty at 15 per cent. on their intrinsic value fixed at Rs. 1 per hundred notes. But imports on Government account are already exempt from duty under a notification issued under section 28 of the Sea Customs Act. Imports by post have also hitherto been exempted by executive practice, which ought to be regularised, and import as cargo on private account is rare.

5. *Illustrations specially made for binding in books.*—Illustrations for books are imported free under item 24 of the Import Tariff when they are bound in a book. But they are assessable to duty at 80 per cent. under item 188 if they are imported separately. A certain class of illustrations cannot be produced in India, but has to be imported and bound up in the book or journal after arrival. The inevitable effect of a high duty on such illustrations when imported separately is to drive publishers to have the whole book printed or produced abroad when the illustrations will be allowed to enter free as part of the book. In order to remove this anomaly, a notification under section 28 of the Sea Customs Act was issued in September 1927 exempting such illustrations from the duty leviable on them under item 188. It is now proposed to place this exemption on a statutory basis.

6. *Stone prepared as for road metalling.*—The importations of road metal have in the past been very rare, so that from the revenue point of view the duty of 15 per cent. to which it is subject under item 118 is negligible. The Government of Madras having represented that certain local bodies in the Madras Presidency experience great difficulty in obtaining locally good metal for their roads and that the present duty acted more or less as a prohibitive duty on the import of good metal from Ceylon, a notification was issued in December last exempting from import duty stone prepared for road metalling. It is now proposed to place this concession on a statutory basis.

7. *Specimens illustrative of natural science.*—Only specimens illustrative of natural science are at present admitted free of duty under item 26 of the Tariff. It is considered that the item is unduly restrictive and that it should be extended so as to include models and wall diagrams for illustration of natural science.

8. *Currants.*—By a notification under section 28 of the Sea Customs Act, the import duty leviable on currants under item 67 of the Import Tariff was reduced to Rs. 1-4-0 per cwt. This reduction was made to carry out a *modus vivendi* with Greece, by which complete and unconditional most-favoured-nation treatment was secured for all Indian goods on importation into that country. It is now proposed to incorporate this rate in the law.

9. *White Portland cement.*—The specific duty of Rs. 9 per ton on Portland cement was fixed in 1926 with reference to the then existing duty of 15 per cent. and tariff valuation of Rs. 60 per ton. It has been brought to notice that the incidence of the specific duty on White Portland cement, a recognised commodity used for special purposes such as repairing and joining marble, making tiles and imitation marble and plaster and stucco work, is much below 15 per cent. *ad valorem*, the landed cost of the article being Rs. 180 per ton. It is accordingly proposed to amend item 46-C of the Tariff so as to make it possible to levy a duty of 15 per cent. on such cement.

10. *Silver plated surgical instruments.*—Under the Import Tariff nickel plated surgical instruments are assessable to duty at 15 per cent. (item 91) and silver plated surgical instruments at 80 per cent. (item 129). But before it can be determined whether a surgical instrument is silver plated or nickel

plated, it is necessary to test such an instrument. By far the greater proportion of imported surgical instruments and appliances are, however, nickel plated. In order, therefore, to avoid inconvenience to the customs administration, not justified by revenue considerations, and the testing of these delicate instruments, a notification under section 28 of the Sea Customs Act was issued in August 1926, exempting silver plated surgical instruments from so much of the import duty as was in excess of 15 per cent. It is now proposed to place this concession on a statutory basis.

11. *Cotton, hair and canvas ply belting for machinery.*—In its report on the question of tariff equality in respect of the manufacture of camel hair, cotton and canvas ply belting in India the Tariff Board has recommended that a duty of 5 per cent. *ad valorem* should be imposed on imported cotton, camel hair and canvas ply belting. The Government of India have accepted this recommendation. They have, however, found it impossible to accept the Board's proposal that the duty on black proofing should be removed, but they have decided that the duty on camel hair yarn should be reduced from 15 per cent. to 5 per cent. instead of 6 per cent. as recommended by the Board. It is proposed to give effect to these changes in the present Bill.

12. The amendments are intended to come into effect from the seventh day after this Bill becomes law.

[27th March, 1928]

*An Act further to amend the Indian Tariff Act, 1894,
for certain purposes.*

WHEREAS it is expedient further to amend the Indian Tariff Act, 1894, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. (1) This Act may be called THE INDIAN TARIFF (AMENDMENT) ACT, 1928.

Short title
and com-
mencement.

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

2. In the Second Schedule to the Indian Tariff Act, 1894, there shall be made the amendments specified in the Schedule to this Act.

Amendment
of the Second
Schedule to
Act VIII of
1894.

THE SCHEDULE.

(See section 2.)

AMENDMENTS TO THE SECOND SCHEDULE TO THE INDIAN TARIFF ACT, 1894.

1. In sub-head (c) of Item No. 12, for the words "which may be maintained and organised for Imperial Service" the words "being a unit notified in pursuance of the First Schedule to the Indian Extradition Act, 1908," shall be substituted.

2. In Item No. 14, after the word "QUININE" the following words shall be added, namely:—

"and alkaloids derived from other sources which are chemically identical with alkaloids extracted from cinchona bark."

3. In Item No. 15, after the words "spraying machines" the following words shall be inserted, namely:—

"beet pullers, broadcast seeders, corn pickers, corn shellers, culti-packers, drag scrapers, stalk cutters, huckers and shredders, potato planters, lime sowers, manure spreaders, listers, soil graders."

4. In Item No. 16, after the words "cream separators" the words "milking machines" shall be inserted.

5. In sub-head (4) of Item No. 18-A, after the word "materials" the brackets and words "(other than cotton, hair and canvas ply)" shall be inserted.

6. In Item No. 18-C, the word "aluminium" shall be omitted; and for the words "lead and rule cutters" the words "lead cutters, rule cutters, slug cutters" shall be substituted.

7. In Item No. 20, after the word "coin" the following words shall be added, namely :—

"and gold and silver sheets and plates which have undergone no process of manufacture subsequent to rolling."

8. After Item No. 21-A, the following Item shall be inserted, namely :—

21B	PAPER MONEY."
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9. In Item No. 24, for the words "and manuscripts" the words "manuscripts, and illustrations specially made for binding in books" shall be substituted.

10. After Item No. 24, the following Item shall be inserted, namely :—

24A	LIGHT SHIPS."
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and Items Nos. 24-A and 24-B shall be re-numbered as 24-B and 24-C, respectively.

11. After Item No. 24-C, as so re-numbered, the following Item shall be inserted, namely :—

24D	STONE prepared as for road metalling"
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12. After Item No. 25, the following Item shall be inserted, namely :—

25A	INSIGNIA AND BADGES of official British and Foreign Orders."
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13. In Item No. 26, after the word "SPECIMENS" the words "MODELS AND WALL DIAGRAMS" shall be inserted.

14. After Item No. 27, the following heading and Item shall be inserted, namely :—

FRUITS AND VEGETABLES.

		Rs.	a.
27A	CURRANTS.	Cwt.	1 4."

15. After Item No. 48, the following heading and Item shall be inserted, namely :—

"MACHINERY.

43A	COTTON, HAIR AND CANVAS PLY BELTING for machinery.	<i>Ad valorem</i>	5 per cent."
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16. After Item No. 45-A, the following Item shall be inserted, namely :—

" 45B	YARN (excluding cotton yarn) such as is ordinarily used for the manufacture of belting for machinery.	<i>Ad valorem</i>	5 per cent."
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17. In Item No. 46-C, the words "excluding White Portland cement" shall be added.

18. In Item No. 59, for the word "Company" the word "Administration" shall be substituted.

19. In Item No. 63, for the word "water-tank" the words "water-tanks", and for the word "company" the word "administration" shall be substituted.

20. In Item No. 67, after the word "preserved" the words "not otherwise specified" shall be added.

21. In Item No. 85, the brackets, words and figures, "(see Nos. 132 and 133)" and "(see Nos. 100-A and 134)" shall be omitted.

22. In Item No. 91, after the word "APPLIANCES" the words and brackets "(including plated surgical instruments)" shall be inserted.

23. In Item No. 99, the brackets, words and figures "(see No. 21)", "(see No. 21-A)" and "(see Nos. 155 and 156)" shall be omitted, and after the word "unused" the words "and paper money" shall be inserted.

24. In Item No. 100, after the word "silk", where it occurs for the first time, the words "and silk mixtures" shall be inserted, and the brackets, words and figures "(see No. 134)", where they occur in two places, and the brackets, words and figures "(see No. 22)" shall be omitted.

25. In Item No. 103, for the words "other than Portland cement" the words "excluding Portland cement other than White Portland cement" shall be substituted.

26. In Item No. 118, the words "but excluding stone prepared as for road metalling" shall be added.

27. In Item No. 129, the words "excluding surgical instruments" shall be added.

28. In Item No. 132, after the word "wire" the words "gold leaf" shall be inserted, and after the word "sorts" the words "not otherwise specified" shall be added.

29. In Item No. 133, after the word "wire" the words "silver leaf" shall be inserted, and after the word "sorts" the words "not otherwise specified" shall be added.

30. In Item No. 138, for the words "including photographs and picture postcards" the brackets and words "(including photographs and picture postcards), not otherwise specified" shall be substituted.

THE STEEL INDUSTRY (PROTECTION) ACT, 1928.

ACT No. VIII OF 1928.

PRELIMINARY NOTE.—Regarding the necessity for the passing of this Act the following extracts from the Statement of Objects and Reasons may be noted :—

“ Section 6 of the Steel Industry (Protection) Act, 1924 (XIV of 1924), provides that, before the 31st day of March 1927, the Governor-General in Council shall cause an inquiry to be made as to the extent, if any, to which it is necessary to continue the protection of the Steel Industry, and as to the duties and bounties which are necessary for the purpose of conferring such protection. By a Resolution, dated 3rd April 1926, the Tariff Board was directed to make the inquiry contemplated by the Act, and its recommendations are contained in the Report which has been published. This bill is designed to give effect to the main recommendations of the Board.

2. In accordance with the Tariff Board's proposals, the bill provides for the continuance of protection to the Steel Industry by means of increased duties on imports and, not by the grant of bounties on production. The increased duties will have effect for a period of seven years from the 1st of April 1927 to the 31st of March 1934. It is made clear, however, in the preamble and in clause 2 (3) of the bill the limitation to seven years is applicable only to the rates of duty proposed to be fixed and not to the policy of discriminating protection itself. Clause 3 of the Bill also provides for a Statutory inquiry in the year 1933-34 in order to ascertain what amount of protection may still be necessary, and the manner in which it should be conferred.

3. Following the Tariff Board's recommendations, the bill provides for the imposition of differential rates of duty on certain Iron and Steel articles. Such articles, if of British manufacture, will be subject to a lower rate of duty which the Board call the basic duty, and if not of British manufacture, to a higher rate of duty. It is the difference between these two rates which constitutes what the Board call the additional duty. Power is taken in clause 2 (4) of the bill to increase or reduce the duties on articles not of British manufacture, subject to the proviso that the duties on such articles shall not be less than the duties on similar articles of British manufacture. The duties to be imposed on unfabricated Iron and Steel by the Schedule to the Bill are the specific duties recommended by the Tariff Board. The Schedule also imposes on the various classes of fabricated Steel an *ad valorem* duty of 17 per cent., and also if the articles are not of British manufacture, an additional specific duty. The Board have proposed that the *ad valorem* duty on each class of fabricated steel should be subject to a specific minimum rate, in order, to avoid the anomalies which have been found to arise when as sometimes happens, the *ad valorem* duty on fabricated iron or steel is lower than the specific duty on unfabricated iron or steel of the same kind. Effect has been given to this proposal in the Schedule to the Bill, but in order to facilitate customs administration and to prevent disputes as to the correct classification of particular consignments, the minimum and additional duties on all classes of fabricated iron or steel (other than iron or steel sheets) have been fixed at the same amounts.

4. Apart from the proposals made by the Tariff Board in the report submitted on the completion of the Statutory inquiry, the bill gives effect also to two recommendations made by the Board in earlier reports. Both are closely connected with the continuance of protection to the steel industry.

It is proposed to remove the duty on unwrought zinc and the main object of this change is to reduce the cost of manufacturing galvanized sheet and consequently to give the amount of protection it requires. The second proposal is the reduction of the duty on block tin from 15 per cent. *ad valorem* to Rs. 250 a ton, which has already been approved by Resolutions of the Assembly, passed on the 17th February 1928, with the object of giving supplementary assistance to the tin plate industry. Effect was given to the change by means of a notification under section 23 of the Sea Customs Act, and it is now proposed to provide for the reduction of duty, by an amendment to the Schedule of the Tariff Act, 1894. It is not intended that the removal of the duty on unwrought zinc and the reduction of the duty on block tin should remain in force only for a period of seven years, and by clause 2 (8) of the Bill these amendments of the Tariff Schedule are excluded from the operation of the seven years limit.

5. Protective duties were imposed by the Steel industry (Protection) Act, 1924, on certain kinds of iron or steel wire and on wire nails. The Tariff Board found it impossible to include in their report proposals regarding these articles, and it is not certain that the Board will be able to submit their recommendations in time to allow of their consideration while the bill is before the Legislature. In the Schedule to the bill therefore, the existing protective duties on wire and wire nails are continued, but it is the intention of the Government of India to bring the question of the continuance or modification of these duties before the Legislature in next Session. (See *Statement of Objects and Reasons*).

The following is the Report of the Select Committee on the Bill :—

The main object of the Bill is to protect the Indian wagon industry by raising the present revenue duty of 10 per cent. *ad valorem* on wagons and carriage under-frames to a protective duty of 17 per cent. *ad valorem*, with a further duty of Rs. 15 per ton where these articles are not of British manufacture. While we are keenly alive to the need for protecting the Indian wagon industry, we regret we cannot accept the proposal put forward by the Government to achieve this object. Our reason for rejecting the proposal is that the measure of protection proposed in the Bill is in excess of the recommendation of the Tariff Board. In our opinion any proposal to increase a measure of protection recommended by the Board must be supported by strong reasons; and, after carefully considering the reasons given by Government in this instance, we have come to the conclusion that they are not strong enough.

On the evidence before them the Tariff Board found that under the stimulus of the bounty scheme, the wagon industry has made great progress and is now able to meet a large proportion of the normal demand for wagons and under-frames in India, and that the wagon manufacturers have reached a stage when they can ordinarily withstand foreign competition without any assistance other than the existing revenue duty. Whenever, therefore, the demand for wagons and under-frames is normal, there is no need for protection. The need for some form of assistance has arisen just now from the fact that the requirements of the Indian Railways for wagons and under-frames for some time will be below the normal requirements. To meet this situation the Tariff Board have recommended that until the demand for wagons and under-frames reaches a total of 5,000 annually (in terms of C-2 wagons), all orders should be placed in India by competitive tenders from Indian manufacturers. The Board further found that it is desirable to fix maximum prices within which tenders will be accepted, and recommend that, subject to minor adjustments, such maximum prices should be fixed at the level of the lowest approved c.i.f. prices, as shown in the tenders for wagons in November 1925, and for under-frames in April 1926, with an addition of 12½ per cent.

The main reason advanced for deviating from the recommendation of the Board is that the protection recommended by the Board will prove inadequate if the number of wagons ordered is less than 3,000, or if small orders for the various types are given. It is to meet these contingencies that the Government propose a 17 per cent. import duty.

We think that the Tariff Board has given due consideration to the factor of the variations in types. In paragraph 68 the Board observes that "some allowance must be made on account of the fact that orders placed will represent a greater variety in the types of wagons manufactured". Later on in paragraph 68 they observe, "we believe that in our estimate we have provided a sufficient margin to meet probable variations in the number and types of wagons ordered". It seems clear that the Board has taken into consideration this factor in arriving at what they consider to be a reasonable price, and we do not consider that the presence of this factor is a sufficient reason for raising the duty. We agree, however, that where the number of wagons ordered is less than 3,000; or where the number of wagons ordered of a particular type is small, it should be open to the Government of India to increase the maximum price within which tenders will be accepted.

Our objection to the Government proposal is reinforced by the fact that this proposal was actually considered by the Board and deliberately rejected. In paragraph 68 the Board observes "we therefore cannot agree to the proposal of Messrs. Burn and Company and the Indian Standard Wagon Company that a duty of 17 per cent. should be imposed so long as the demand for rolling stock remains abnormal". In the face of this considered opinion of the Tariff Board, we do not feel justified in agreeing to the proposal of the Government, which not merely increases the measure of protection recommended by the Board, but adopts a course considered and rejected by the Board. Such a course of action may prove to be an undesirable precedent.

Apart from the above considerations, we must draw attention to one other aspect of the question. The Tariff Board lays emphasis not so much on the price to be given, as on the necessity of placing all orders in India. In paragraph 68, the Board observes "At the same time, it must be recognized that if orders are placed by competitive tender received both from India and abroad, exceptional circumstances may occur which would result in orders being lost to Indian firms in spite of a higher duty. Even if the orders so lost were few, the effect on the Indian industry might be exceedingly unfortunate, and in the case of the Indian Standard Wagon Company, which manufactures wagons only, might result in the closing of the works and all the hardship which unemployment entails for the Indian staff. On the whole, therefore, we think it advisable to maintain the existing revenue duty of 10 per cent. and to arrange that all the orders are placed in India." Provided this aspect of the question is kept fully in view by the Government of India, there will be no need, we think, for a higher duty.

No case has been made out for the extra duty of Rs. 15 per ton on wagons and under-frames of Non-British manufacture. The difference in quality between British and Non-British steel was advanced in support of the preferential treatment provided for in the last Steel Protection Bill passed by the Legislature. In the case of manufactured articles like wagons and under-frames, we believe, the articles will have to pass the test of the Railway Board which is based on British standard specification, and the question of difference in quality will not arise. If the extra duty were to operate it would give to Indian manufacturers more protection than they are entitled to receive. If the additional duty is meant to be inoperative, there is no purpose in providing for it in the Act. In our opinion, therefore, no case has been made out for the differential duty proposed in the Bill.

For all these reasons we have not been able to accept the proposal contained in the Bill. We have been advised that from the drafting point of view it is not possible to incorporate the recommendation of the Tariff Board in the present Bill. We, therefore, recommend that the proposals of the Tariff Board for the protection of the wagon industry may be given effect to either by Resolution in the Assembly or by some other suitable means.

This decision involves the deletion of Items Nos. 2, 3 and 6 from the Schedule to the Bill, the deletion of sub-clause (2) of clause 2, and the amendment of the Preamble. We have carried out these amendments, and have re-numbered the Items in the Schedule.

Items Nos. 4 and 5 of the Schedule to the Bill as introduced in the Assembly, now Items 2 and 3 of the Bill as amended by us, have the effect of abolishing the protective duty of Rs. 3 per cwt. on certain kinds of wire and nails. Among the reasons given by the Tariff Board for the abolition of this duty was the fact that the Indian Steel Wire Products, Limited, the only Company which then manufactured steel wire and nails in India, had gone into liquidation. We now learn that the effects of this Company have been acquired by a private individual; but he must have known, when making his purchase, that the continuance of the protective duty on steel wire and wire nails was under examination, as this was made clear in Government of India (Department of Commerce—Tariff) Resolution No. 362-T. (3), dated the 17th July 1926. We, therefore, see no reason to depart from the recommendations of the Tariff Board that the protective duty on wire and wire nails should be discontinued, and that the question may be re-considered when the manufacture of wire rod on a commercial scale is established in India.

We concur in the proposal contained in Item 2 of the Bill as amended by us, that the duty on iron or steel bolts and nuts should be raised to Rs. 2 per cwt. as recommended by the Tariff Board.

MINUTE OF DISSENT.

(By the Hon. Mr. G. Rainy).

I am unable to agree to the excision of the clauses in the Bill which provide for an increase in the duty on wagons, carriage under frames and their component parts. I fully accept the view of the Tariff Board that, until orders for wagons can again be placed on a normal scale, all orders should be placed in India subject to a maximum price, and that in fixing the maximum price an addition of 12½ per cent. to the prices paid in 1925-26 will serve as a general guide. But if the Indian wagon building firms refuse to take the orders at the maximum prices which Government consider reasonable, there will be no alternative but to call for simultaneous tenders, and if the duty remains at 10 per cent., there is a danger that some of them may be lost to the Indian firms. For this reason the increase of the duty appears to me to be necessary.

NOTE.

(By seven Members).

The Government of India have rejected the Tariff Board's recommendations for protection of steel castings by bounty. We recognise that the question of bounty is not technically within the scope of this Bill, and are therefore prevented from making any provision in this Bill for the protection of this industry by bounty even if some of us were so disposed. We wish to remind Government of the conditions on which payment of bounties was made dependent in the Steel Industry (Protection) Act of 1924, the principle of these conditions being that a substantial portion of the materials used in the manufacture of wagons shall be of Indian origin. In so far as steel castings

form a component part of wagons, a strict enforcement of this condition is likely to afford this industry some measure of indirect protection. And it is in the confidence that these conditions will strictly govern the placing of orders for wagons hereafter, that we do not consider it necessary to press for any legislative provision in this behalf.

[27th March, 1928].

*An Act to provide for the modification of certain
import duties relating to the protection
of the steel industry in
British India.*

WHEREAS it is expedient, in pursuance of the policy of discriminating protection of industries in British India with due regard to the well-being of the community, to remove the protective duty now leviable on certain kinds of iron or steel nails and wire, the said protective duty being no longer required;

AND WHEREAS it is also expedient to remove the existing inequality of tariff treatment as between manufacturers in British India and manufacturers abroad of iron and steel bolts and nuts;

It is hereby enacted as follows :—

Short title
and commen-
cement.

Amendment
of the Second
Schedule to
Act VIII of
1894.

1. (1) This Act may be called THE STEEL INDUSTRY (PROTECTION) ACT, 1928.

(2) It shall come into force on the 1st day of April, 1928.

2. In the Second Schedule to the Indian Tariff Act, 1894, there shall be made the amendments specified in the Schedule to this Act.

THE SCHEDULE.

(See section 2.)

AMENDMENTS TO THE SECOND SCHEDULE TO THE INDIAN TARIFF ACT, 1894.

1. In item No. 61—

(a) the second sub-item, namely,

“ „ „ bolts and nuts, including hookbolts and nuts for roofing.” shall be omitted;

(b) in the fourth sub-item, the words, brackets and figures “ not otherwise specified (see No. 145) ” shall be omitted, and

(c) in the tenth sub-item, for the words, “ barbed or stranded fencing-wire and wire-rope ” the words “ wire including fencing-wire and wire-rope, but excluding wire-netting ” shall be substituted.

2. For item No. 145, the following shall be substituted, namely :—

145	IRON OR STEEL BOLTS AND NUTS, including hookbolts and nuts for roofing	Rs. 2 per cwt.”
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3. Item 149 shall be omitted.

THE INDIAN TERRITORIAL FORCE (AMENDMENT) ACT,
1928.

ACT NO. IX OF 1928.

PRELIMINARY NOTE.—The following are extracts from the Statement of Objects and Reasons :—

This Bill is intended to give effect to the recommendations of the Auxiliary and Territorial Force Committee in so far as they involve amendments of the existing Indian Territorial Force Act, 1920. The report of that Committee recommends the formation of two different kinds of units in the Indian Territorial Force (apart from University Training Corps), namely :—

(a) the provincial unit, which will be recruited from all classes of men in a province, will have a comparatively extended annual period of training, will be recognised as the main part of a second line of the regular Indian Army, and will be liable for military service both within and without the borders of India ; and

(b) the urban unit, which will be recruited from the educated classes of the large towns, will have conditions of training similar to those of the Auxiliary Force, will also be regarded as part of the second line to the regular Indian Army, and will have the same liability for military service as the provincial units.

The Bill embodies and carries out these recommendations, with one exception, namely, that it is proposed that the liability for military service of the urban units should be confined to the province for which they are constituted. It also embodies the recommendation that officers in the Indian Territorial Force should be classified into those of " British rank " and those of " Indian rank ", as in the Indian Army.

As suggested by the Committee, the provisions of the Auxiliary Force Act, and those of the Indian Territorial Force Act relating to urban units, are being assimilated, as far as is practicable and without unnecessary changes of mere drafting.

NOTES ON CLAUSES.

Clause 2.—The definition of ' University Corps ' has been transferred in substance from section 2 to section 4. (*See clause 3.*)

Clause 3.—This clause provides separately for the constitution of each of the three proposed branches of the Indian Territorial Force, namely, provincial units, urban units, and University Training Corps.

Clause 4.—The junior officers mentioned in this clause will correspond to the present ranks of Indian Officers in the regular Indian Army, namely, Subadars, Jemadars, etc. The senior officers will correspond to the British Officers of the Indian Army, namely, Lieutenants, Captains, etc.

Clause 5.—The amendment which permits any member of a University or College, who is a British subject, to be enrolled in the University Training Corps follows the specific recommendation of the Committee to that effect.

Clause 7.—This is adapted from section 16 of the Auxiliary Force Act, and is intended not merely to assimilate the two Acts, but also to secure that the units of the Indian Territorial Force shall be up to their recorded strength in time of disturbance.

Clause 9.—The object of this addition to section 10 is to secure that a military movement actually in progress shall not be interfered with by reason of a cessation of the liability of the men occurring at the border of a province.

Clause 10.—This important clause provides for the discipline to which the officers and men of the Indian Territorial Force shall be subject in the performance of their duties at various times. The general scheme is that senior officers shall at all times be subject to the Army Act (44 & 45 Vict., c. 58) while performing their duties as officers, that the junior officers shall similarly be subject to the Indian Army Act, 1911 (VIII of 1911), and that non-commissioned officers and men shall be subject to the Indian Army Act, 1911, when mobilized or attached to regular troops, but shall be subject to less stringent discipline while undergoing training only. The discipline of the Indian Territorial Force, when mobilized, will in all respects be the same as that of the Indian Army.

In sub-sections (1) and (2) of the proposed section 11, the phrase "subject to the terms of his commission and the orders of His Majesty", and in sub-section (3) the phrase "subject to the orders of the Governor-General" allow provision to be made for the numerous points of detail which may arise in the relations between officers and non-commissioned officers of the Indian Territorial Force and officers and non-commissioned officers of the regular Army when acting together.

Clause 11.—This clause is intended to avoid the necessity for a court-martial for the trial of a petty transgression, and it gives the accused an option of being tried by the prescribed authority (usually his own Commanding Officer) or a Criminal Court not below the rank of a first class Magistrate.

Clause 12.—This important clause outlines a scheme of Advisory Committees whereunder there will be Provincial Advisory Committee for all the units in each province, and an Unit Advisory Committee for each unit of the Territorial Force within that province. The policy underlying the section is that the powers and duties of Advisory Committees should be expanded as these Committees gain experience and confidence, and as the ways in which they can be usefully employed become known.

The following is the Report of the Select Committee on the Bill:—

2. In sub-clause (2) of clause 1 we have inserted a limiting date for the Act being brought into force.

3. Under the new proviso to section 5, introduced by clause 6 of the Bill, some European British subjects shall become eligible for enrolment in the University Corps; and we have, therefore, inserted a new clause 2 in the Bill amending the long title and preamble to the Act so as to bring them into accord with this change. We have renumbered the remaining clauses of the Bill.

4. In connection with clause 10, we discussed in great detail the assimilation of the constitution and conditions of service of the Territorial Force and the Auxiliary Force. We considered carefully the proposal that the Auxiliary Force and urban units of the Territorial Force should be given a general liability the same as that imposed on the provincial units of the Indian Territorial Force; but we rejected the proposal for the following two main reasons: (i) we fear that the proposal would seriously diminish the numbers and efficiency of the Auxiliary Force, as many of the members themselves might not be in a position to accept this extended liability and many others might be prevented by their employers, including Government, from accepting it; (ii) it might seriously hamper recruiting for the new urban units of the Territorial Force, as many intending members—lawyers, teachers and other professional men—could not take the risk of being sent to remote parts of India, or out of India, to the prejudice of their professional careers. To these reasons we would add that, if any recruit desires to undertake the extended liability, there is nothing to prevent him from joining a provincial unit.

5. After much discussion we concluded that on the whole the Bill itself affords the most practical method of making such assimilation between the Territorial Force and the Auxiliary Force as is possible. It regards the provincial unit as essentially a second line to the Indian Army which will have extensive periods of training and an unrestricted liability. In contrast to these, it regards the University Corps essentially as affording educative activities to University students and imposes upon them no liability for military service. The Auxiliary Force is not analogous to either of these two classes of units in the Indian Territorial Force. The correct analogy is that recommended by the Indian Territorial and Auxiliary Force Committee, namely, between the Auxiliary Force and the urban units of the Territorial Force, which will both have short periods of training and a restricted liability. We accept this scheme, but subject to two recommendations designed to assimilate still further the Auxiliary Force and the urban units of the Indian Territorial Force.

6. Firstly, under present conditions, any person eligible for enrolment under the Auxiliary Force has a reasonable opportunity of being enrolled; whereas we understand that Government propose at the outset to constitute only three urban units for the whole of India. We strongly urge that the Governor-General in Council should take as possible steps to establish at once at least one urban unit in every Governor's province, in order to provide reasonable facilities for enrolment to all persons wishing to join these units.

7. Secondly, we desire that the older Indian boys should have the same facilities for military training as the older Anglo-Indian boys now enjoy under the Auxiliary Force Act, 1920. For this purpose we recommend that the rules under the Indian Territorial Force Act should be framed so as to permit the enrolment in urban units of boys from sixteen to eighteen years of age, who should be trained on the same lines as those on which cadets in the Auxiliary Force are being trained, in separate platoons or companies of cadets attached to urban units.

8. In connection with clause 13 of the Bill, we recommend that the Governor-General in Council should consider the advisability of establishing, by executive order, a Central Advisory Committee to advise him on matters connected with the administration of the Territorial Force generally.

MINUTE OF DISSENT.

(Signed by three members).

We regret that racial distinctions are still maintained in respect of the Auxiliary and the Territorial Forces, in the following respects:—

- (1) Difference in the extent of liability for service, and
- (2) Difference in the extent of training.

Regarding liability for service, the Shea Committee recommend uniform liability for general military service, within and without the borders of India, for both the Indian Territorial Force and the Auxiliary Force under identical conditions. But Government are not prepared to accept the recommendation for reasons which were set out in detail by the speakers on behalf of the Government in the debate which led up to the formation of the Shea Committee. No fresh reasons are forthcoming. The Shea Committee have very ably disposed of these reasons in paragraph 14, page 13 of their Report, Volume 1.

We hold with the Shea Committee that the liability for service should be absolutely identical for the Territorial and the Auxiliary Forces; for otherwise the object with which the Shea Committee was appointed would be defeated in an important respect.

As regards the second point, i.e., difference in the extent of training, the existing difference should be as early as possible removed, and Indians

should be afforded opportunities of receiving training in all the arms, as in the case of the Auxiliary Force. There is no other way of utilising the unlimited man power of India to the best advantage in an emergency for the defence of the country.

[27th March, 1928].

An Act further to amend the Indian Territorial Force Act, 1920, for certain purposes.

WHEREAS it is expedient further to amend the Indian Territorial Force Act, 1920, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called THE INDIAN TERRITORIAL FORCE (AMENDMENT) ACT, 1928.

(2) It shall come into force on such date, not later than the 1st day of January, 1929, as the Governor-General in Council may, by notification in the Gazette of India, appoint.

Amendment of long title and preamble to Act XLVIII of 1920.

2. (1) In the long title of the Indian Territorial Force Act, 1920 (hereinafter referred to as the said Act), the words " and to provide for the enrolment therein of persons other than European British subjects " shall be omitted.

(2) In the preamble to the said Act, the words " and for the enrolment therein of persons other than European British subjects who may offer themselves therefor " shall be omitted.

Amendment of section 2, Act XLVIII of 1920.

3. In section 2 of the said Act,—

(a) the definition of " Advisory Committee " shall be omitted;

(b) between the definitions of " European British subject " and " prescribed " the following definitions shall be inserted, namely :—

" non-commissioned officer " means a person holding non-commissioned rank in the Indian Territorial Force, and includes an acting non-commissioned officer ;

" officer " means a senior officer or a junior officer ; " and

(c) the definition of " University Corps " shall be omitted.

Amendment of section 4, Act XLVIII of 1920.

4. In section 4 of the said Act,—

(a) after the word " more," the word " provincial " shall be inserted;

(b) after the word " disband " the words " or re-constitute " shall be inserted; and

(c) section 4, as so amended, shall be renumbered as sub-section (1), and the following sub-sections shall be added, namely :—

“(2) The Governor-General in Council may constitute for any town or group of towns in a Province one or more urban corps or units of the Indian Territorial Force, to be recruited from persons residing in or near such town or towns, and may disband or re-constitute any corps or units so constituted.

(3) The Governor-General in Council may constitute for any Province a University Corps consisting of one or more units of the Territorial Force, for the appointment thereto of students of, and other persons connected with, a University established by law in British India, or colleges affiliated to such a University, and may disband or reconstitute any unit so constituted.”

5. After section 4 of the said Act, the following section shall be inserted, namely :—

Insertion of new section 4A in Act XLVIII of 1920.

“4-A. (1) There shall be the following classes of officers in the Indian Territorial Force, namely :—

Classes of officers.

(a) senior officers, holding commissions granted by the Governor-General in the name of His Majesty, with British designation of rank, and

(b) junior officers, holding commissions granted by the Governor-General, with Indian designation of rank.

(2) An officer shall be deemed to be enrolled in the Indian Territorial Force for so long as he holds a commission in that Force.”

6. In sub-section (1) of section 5 of the said Act,—

(a) the words and brackets “(not being a European British subject)” shall be omitted; and

Amendment of section 5, Act XLVIII of 1920.

(b) the following proviso shall be added, namely :—

“Provided that no European British subject shall be enrolled in any corps or unit of the Indian Territorial Force other than a University Corps.”

7. (1) In sub-section (2) of section 5, in sub-section (1) of section 6, and in sub-section (2) of section 7 of the said Act, after the word “Province”, the words “or town or group of towns” shall be inserted.

Amendment of sections 5, 6 and 7, Act XLVIII of 1920.

(2) In sub-section (2) of section 7 of the said Act, the words “or of a person enrolled in an urban corps or unit to a provincial corps or unit” shall be added at the end.

8. After section 7 of the said Act, the following section shall be inserted, namely :—

Insertion of new section 7-A in Act XLVIII of 1920.

“7-A. (1) Any enrolled person who leaves his place of residence for the time being and thereby leaves the Province in which the corps or unit in which he is serving is constituted shall,

Change of residence.

if he does not intend to return to that Province, notify the prescribed authority in that Province of his change of residence.

(2) If such person having intended to return does not return within three months, he shall notify the prescribed authority as aforesaid immediately on the expiry of that period.

(3) The prescribed authority on being notified of a change of residence under sub-section (1) or sub-section (2) may, subject to the provisions of section 7, transfer such person from the corps or unit in which he is serving to another corps or unit."

Amendment
of section 9,
Act XLVIII
of 1920.

9. In sub-section (2) of section 9 of the said Act,—

(a) after the word "enrolled" the words "who has attained the age of eighteen years" shall be inserted; and

(b) the following proviso shall be added, namely:—

"Provided that nothing in this sub-section shall apply to persons enrolled in a University Corps."

Amendment
of section 10,
Act XLVIII,
of 1920.

10. In sub-section (1) of section 10 of the said Act, the following words shall be added at the end, namely:—

"and no person for the time being serving in an urban corps or unit shall at any time be required to perform military service beyond the limits of the Province in which the corps or unit in which he is serving is located, save when it is, in the opinion of the senior military officer present, necessary to proceed beyond those limits in the course of the military operations upon which the corps or unit or any portion thereof is for the time being engaged."

Substitution
of new
section for
section 11,
Act XLVIII
of 1920.

11. For section 11 of the said Act, the following section shall be substituted, namely:—

Application
of the Army
Act and of
the Indian
Army Act,
1911.

"11. (1) Every senior officer of the Indian Territorial Force, when doing duty as such officer, shall be subject to the Army Act, and any orders or regulations made thereunder, whereupon the said Act, orders and regulations shall apply to him as if he held the same rank in His Majesty's Army as he holds for the time being in the said Force, subject to the terms of his commission and the orders of His Majesty.

(2) Every junior officer of the Indian Territorial Force, when doing duty as such officer, shall be subject to the Indian Army Act, 1911, and the rules and regulations made thereunder, whereupon the said Act, rules and regulations shall apply to him as if he held the same rank in His Majesty's Indian Forces as he holds for the time being in the said Force, subject to the terms of his commission and the orders of the Governor-General.

(3) Every non-commissioned officer and man of the Indian Territorial Force,—

(a) when called out or embodied for military service under section 9,

(b) when attached to, or otherwise acting as part of, or with, any regular force, or

(c) when embodied for, or otherwise undergoing, military training in the prescribed manner, shall be subject to the Indian Army Act, 1911, and the rules and regulations made thereunder, whereupon the said Act, rules and regulations shall apply to him as if he held the same rank in His Majesty's Indian Forces as he holds for the time being in the said Force, subject to the orders of the Governor-General :

Provided that the said Act, rules and regulations shall, in their application to such non-commissioned officers and men when embodied for or otherwise undergoing military training, be modified to such extent and in such manner as may be prescribed :

Provided further that non-commissioned officers and men of an urban corps or unit, when undergoing military training without having been embodied for that purpose, and non-commissioned officers and men of a University Corps when undergoing training, shall, in respect of such training, be subject only to such disciplinary and other rules as may be prescribed.

(4) Where an offence punishable under the Indian Army Act, 1911, or, as the case may be, under that Act as modified under sub-section(3), has been committed by any person whilst subject to that Act under the provisions of this section, such person may be taken into and kept in military custody and tried and punished for such offence, although he has ceased to be so subject as aforesaid, in like manner as he might have been taken into and kept in military custody, tried or punished, if he had continued to be so subject :

Provided that no such person shall be kept in military custody after he has ceased to belong to the Indian Territorial Force, unless he has been taken into or kept in military custody on account of the offence before the date on which he ceased so to belong ; nor shall he be kept in military custody or be tried or punished for the offence after the expiry of two months from that date, unless his trial has already commenced before such expiry."

12. After section 11 of the said Act, the following sections shall be inserted, namely :—

Insertion of
new sections
11-A and
11-B in Act
XLVIII of
1920

" 11-A. In addition to, or in substitution for, any punishment or punishments to which he may be liable under the Indian Army Act, 1911, a junior officer, non-commissioned officer or man of the Indian Territorial Force not being a member of a University Corps, may be punished, either by a Criminal Court or summarily by order of the prescribed authority, for any offence under that Act, or for the contravention of any rule or regulation under this Act, with fine which may extend to fifty rupees, to be recovered in such manner and by such authority as may be prescribed :

Summary
trial and
punishments.

Provided that no fine shall be summarily inflicted by order of the prescribed authority in any case in which the accused claims to be tried by a Criminal Court :

Provided further that no Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence made punishable by or under this Act.

Presumption as to certain documents.

11-B. Where a junior officer, non-commissioned officer or man of the Indian Territorial Force is required, by or in pursuance of any rule, regulation or order made under this Act, to attend at any place, a certificate purporting to be signed by the prescribed officer, 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."

Substitution of new section for section 12, Act XLVIII of 1920.

13. For section 12 of the said Act, the following section shall be substituted, namely :—

Advisory Committees.

"12 (1) The Local Government of each Province in which any unit or units of the Indian Territorial Force has or have been constituted shall constitute a Provincial Advisory Committee for all such units, and a Unit Advisory Committee for each of such units.

(2) The Governor-General in Council shall constitute a Central Advisory Committee to advise him on matters connected with the Indian Territorial Force generally.

(3) The constitution, powers and procedure of the Advisory Committees shall be such as may be prescribed."

Amendment of section 13, Act XLVIII of 1920.

14. In clause (b) of sub-section (2) of section 13 of the said Act, after the word and figure "section 7" the words, figure and letter " or section 7-A " shall be added.

THE AUXILIARY FORCE (AMENDMENT) ACT, 1928.

• ACT No. X OF 1928. •

PRELIMINARY NOTE.—This Act is intended to give effect to the recommendations of the Auxiliary and Territorial Forces Committee, 1925, in so far as the same required legislation and affected the Auxiliary Force, with the exception of the recommendation that the Auxiliary Force should be liable for general military service within and without the borders of India. The amendments for the most part are designed to assimilate, as far as practicable, the substance of the Auxiliary Force Act to the provisions of the Indian Territorial Force Act as proposed to be amended in so far as the latter relates to urban units of the Indian Territorial Force.

NOTES ON CLAUSES.

Clause 2.—The omission of clause (b) of section 4 is designed to secure that in future persons eligible for enrolment under the Indian Territorial

Force Act shall enrol under that Act, and not under the Auxiliary Force Act. The operation of section 6, clause (c), of the General Clauses Act, 1897, will preserve the rights and liabilities of existing members of the Auxiliary Force.

Clause 3.—These provisions are reproduced from corresponding provisions in the Indian Territorial Force Act and fill in a blank in the existing Act.

Clause 4.—This amendment allows for provision to be made regulating the relations between officers and non-commissioned officers of the Auxiliary Force and officers and non-commissioned officers of the Regular Army when they are acting together.

Clause 5.—This is reproduced from the Indian Territorial Force (Amendment) Bill and is intended to avoid unnecessary delays in trials and to save waste of time and money.

The following is the Report of the Select Committee on the Bill:—

As in the Indian Territorial Force (Amendment) Bill, 1928, we have amended sub-clause (2) of clause 1 in order to introduce a limiting date for the Act being brought into force.

We have amended clause 2 of the Bill in order to delete clause (d) of section 4 of the Act, which permits the enrolment of persons who are not British subjects. We consider it undesirable, as a matter of principle, that foreigners should be eligible for enrolment as members of a volunteer force.

N. B.—A Minute of Dissent was added by the Hon. Messrs. Moonji, Neogy and Sarvothama Rao in the same terms as the one made by them in respect of Act IX of 1928—The Indian Territorial Forces (Amendment) Act

[27th March, 1928].

*An Act further to amend the Auxiliary Force Act, 1920,
for certain purposes.*

WHEREAS it is expedient further to amend the Auxiliary Force Act, 1920, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. (1) This Act may be called THE AUXILIARY FORCE (AMENDMENT) ACT, 1928.

Short title
and commen-
cement.

(2) It shall come into force on such date, not later than the 1st day of January, 1929, as the Governor-General in Council may, by notification in the Gazette of India, appoint.

2. In section 4 of the Auxiliary Force Act, 1920 (hereinafter referred to as the said Act),—

Amendment
of section 4,
Act XLIX of
1920.

(a) clause (b) shall be omitted;

(b) in clause (c) the word "or" shall be omitted, and the clause shall be re-lettered as clause (b); and

(c) clause (d) shall be omitted.

3. In section 17 of the said Act,—

Amendment
of section 17,
Act XLIX of
1920.

(a) in sub-section (2), for the word "may" the word "shall" shall be substituted; and

(b) the following sub-sections shall be added, namely:—

"(3) Any enrolled person may be discharged by such authority, and subject to such conditions, as may be prescribed.

(4) Notwithstanding anything contained in sub-section (2) or sub-section (3), no enrolled person, who is for the time being engaged in military service under the provisions of this Act, shall be entitled to receive his discharge before the termination of such service."

Amendment of section 21, Act XLIX of 1920.

4. In sub-section (1) of section 21 of the said Act, the words "subject, in the case of an officer, to the terms of his commission and the orders of His Majesty, and, in the case of a non-commissioned officer or man, to the orders of the Governor-General" shall be added at the end.

Insertion of new section 27-A in Act XLIX of 1920.

5. After section 27 of the said Act, the following section shall be inserted, namely:—

Presumption as to certain documents.

"27-A. Where any non-commissioned officer or man of the Auxiliary Force is required, by or in pursuance of any rule, regulation or order made under this Act, to attend at any place, a certificate purporting to be signed by the prescribed officer 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."

THE CHITTAGONG PORT (AMENDMENT) ACT, 1928.

ACT No. XI OF 1928.

[28th March, 1928].

An Act further to amend the Chittagong Port Act, 1914, for certain purposes.

WHEREAS it is expedient further to amend the Chittagong Port Act, 1914, in order to transfer to the Governor-General in Council certain powers conferred therein on the Local Government, and in order to reconstitute the body of Commissioners incorporated to administer the port; It is hereby enacted as follows:—

Short title and comment.

1. (1) This Act may be called THE CHITTAGONG PORT (AMENDMENT) ACT, 1928.

(2) It shall come into force on the 1st day of April, 1928.

Substitution of "Governor-General in Council" for "Local Government" in certain sections of Ben Act V of 1914.

2. In sub-section (1) of section 5, section 9, clause (c) of section 12, section 14, sub-section (1) of section 15, section 17, clause (f) of section 25, sub-section (3) of section 28, clause (ii) of section 30, sub-section (3) of section 33, sub-section (2) of section 35, sub-section (3) of section 37, sub-section (2) of section 39, the proviso to section 41, sub-section (1) of section 43, section 44, sub-section (1) of section 45, section 49, the second paragraph of section 51, sub-section (2) of section 57, sub-sections (1) and

(3) of section 58, section 59, the proviso to section 69, sub-section (3) of section 78, sub-section (1) of section 82 and the proviso thereto, section 83 and the proviso thereto, clause (8) of section 84, sub-section (1) of section 86, sub-sections (1), (2), (3) and (4) of section 87, sub-section (2) of section 88, section 89 and the proviso thereto, sections 91, 92 and 93, sub-section (1) of section 94, sections 95 and 96, sub-sections (1), (2) and (3) of section 97, sub-sections (1) and (2) of section 98 and the proviso to the latter sub-section, sections 99 and 100, and sub-sections (1) and (2) of section 101 of the Chittagong Port Act, 1914 (hereinafter referred to as the said Act), for the words "Local Government", wherever they occur, the words "Governor-General in Council" shall be substituted.

3. In section 19, sub-section (1) of section 43, section 44, sub-section (1) of section 45, section 46, sub-section (2) of section 57, sub-section (5) of section 58; and sub-section (4) of section 87 of the said Act, for the words "*Calcutta Gazette*" the words "Gazette of India" shall be substituted.

Substitution of "Gazette of India" for "Calcutta Gazette" in certain sections of Ben. Act V of 1914.

4. For section 7 of the said Act, the following section shall be substituted, namely :—

Substitution of new section for section 7, Ben. Act V of 1914

"7. There shall be twelve Commissioners, as follows :—
 (a) the Chairman,
 (b) the Collector of Chittagong District, *ex officio*,
 (c) the Customs-collector of the port, *ex officio*,
 (d) one Commissioner appointed by the Governor-General in Council,
 (e) one Commissioner appointed by the administration of the Assam-Bengal Railway,
 (f) three Commissioners elected by the Chamber of Commerce at Chittagong,
 (g) three Commissioners elected by the Chittagong Indian Merchants' Association, or by such body or bodies or firms as the Governor-General in Council may, from time to time, select as best representing the interests of the Indian mercantile community at Chittagong, and
 (h) one Commissioner elected by the municipal commissioners of Chittagong."

Composition of the body corporate.

5. For section 8 of the said Act, the following section shall be substituted, namely :—

Substitution of new section for section 8, Ben. Act V of 1914.

"8. The election of Commissioners shall be made in such manner as may be determined by the electing bodies in each case, subject to the approval of the Governor-General in Council."

Mode of election.

Amendment
of section 9,
Ben. Act V of
1914.

6. In section 9 of the said Act, for the figure "8" the figure "7" shall be substituted.

Substitution
of new sec-
tion for sec-
tion 10. Ben.
Act V of
1914.

7. For section 10 of the said Act, the following section shall be substituted, namely :—

Appointment
of Chairman
and Vice-
Chairman.

"10. (1) The Chairman shall be appointed by the Governor-General in Council.

(2) A Vice-Chairman shall be elected by the Commissioners from amongst themselves, at a special meeting called for the purpose, and his appointment shall be subject to the approval of the Governor-General in Council."

Substitution
of new sec-
tion for sec-
tion 11. Ben.
Act V of
1914.

8. For section 11 of the said Act, the following section shall be substituted, namely :—

Tenure of
office.

"11. (1) The Chairman shall hold office until the Governor-General in Council accepts his resignation or cancels his appointment.

(2) The Vice-Chairman shall hold office until a new body of elected Commissioners shall have been duly elected, or until the Governor-General in Council accepts his resignation, or until the Commissioners, at a special meeting called for the purpose and with the approval of the Governor-General in Council, remove him from office.

Explanation.—A new body of elected Commissioners shall be deemed to have been duly elected when, at a general election of such Commissioners, four or more elections have been notified under section 19.

(3) A Commissioner appointed under clause (d) or clause (e) of section 7 shall hold office until he resigns, or until the authority appointing him cancels his appointment.

(4) An elected Commissioner shall, subject to the provisions of this Act, hold office for a term of two years or thereafter until his successor shall have been duly elected, and shall be eligible for re-election ; but the Governor-General in Council may, at any time, accept the resignation of any such Commissioner."

Substitution
of new sec-
tion for sec-
tion 14, Ben.
Act V of
1914.

9. For section 14 of the said Act, the following section shall be substituted, namely :—

“14 The elections of Commissioners shall be held before the expiry of the term of two years specified in sub-section (4) of section 11, or within one month thereafter, and all vacancies shall be filled within one month from their occurrence.”

Time for holding elections and filling vacancies.

10. In sub-section (1) of section 15 of the said Act, for the word “think” the word “thinks” shall be substituted.

Amendment of section 15, Ben. Act V of 1914.

11. In section 16 of the said Act,—
(a) for the figure “3”, the figure “4” shall be substituted ;

Amendment of section 16, Ben. Act V of 1914.

(b) after the words “filled up”, the words “by election” shall be inserted ;

(c) the words “ by election or appointment, as the case may be,” shall be omitted ; and

(d) the words “or appointed” shall be omitted.

12. For section 18 of the said Act, the following section shall be substituted, namely :—

Substitution of new section for section 18, Ben. Act V of 1914.

“18. The Governor General in Council may grant leave of absence to the Chairman, and may appoint a person to officiate for him during his absence on leave. Any person so appointed shall be deemed to be the Chairman for the purposes of this Act.”

Leave of absence of Chairman.

13. Section 23 of the said Act shall be omitted.

Omission of section 23, Ben. Act V of 1914.

14. In clause (a) of section 25 of the said Act, for the word “four” the word “five” shall be substituted.

Amendment of section 25, Ben. Act V of 1914.

15. In clause (i) of section 38 of the said Act, before the words “by notification”, the words “with the previous sanction of the Governor General in Council and” shall be inserted.

Amendment of section 38, Ben. Act V of 1914.

16. In section 51 of the said Act,—

(a) for the words “ When the Local Government appoint,” the word “ Where,” shall be substituted ; and

Amendment of section 51, Ben. Act V of 1914.

(b) before the words “to be a dock” the words “is appointed” shall be inserted.

17. In sub-section(2) of section 61, sub-section (1) of section 63 and in section 66 of the said Act, for the words “ Collector of Customs ”, wherever they occur, the word “ Customs-collector ” shall be substituted.

Amendment of sections 61, 63 and 66, Ben. Act V of 1914.

Substitution
of new sec-
tion for sec-
tion 71, Ben.
Act V of
1914.

18. For section 71 of the said Act, the following section shall be substituted, namely :—

Resumption
of property
by Govern-
ment.

“71. (1) If any portion of the property specified in Part I of the Third Schedule, or which may have been transferred by the Local Government to the Commissioners after the 1st day of July, 1914, or which may hereafter be so transferred, otherwise than in exchange for its market value, is required by the Local Government for a public purpose, it may be resumed by that Government, with the previous sanction of the Governor-General in Council, without claim to compensation on the part of the Commissioners, except—

(a) for the amount of any consideration or other payment made in respect of the transfer to the Commissioners of the property to be resumed,

(b) for the cost of revetment and other works for the protection of the property to be resumed, effected by the Port Commissioners or their lessees subsequent to the transfer, and

(c) for the cost of buildings and other permanent structures on the property to be resumed, erected by the Commissioners or their lessees, subsequent to the transfer :

Provided that—

(i) the compensation to be awarded under clause (b) shall not in any case exceed the market value of the land to be resumed at the time of the resumption ; and

(ii) the compensation to be awarded under clause (c) shall be either the original cost of the building or structure or the market value thereof at the time of the resumption, whichever is less.

(2) If any question arises between the Commissioners and the Local Government as to the boundaries of any portion of the land specified in Part I of the Third Schedule, or which may have been transferred by the Local Government to the Commissioners after the 1st day of July, 1914, or which may hereafter be so transferred, otherwise than in exchange for its market value, the Local Government may define and demarcate such boundaries, and submit the case for the orders of the Governor-General in Council, whose decision shall be final.

(3) If any question arises as to the adequacy of the compensation proposed to be paid under clause (a), clause (b) or clause (c) of sub-section (1), the Local Government shall submit a report to the Governor General in Council, whose decision shall be final.

(4) If any question arises as to the necessity of the resumption of any land under this section, or as to the relative importance of such land to the Local Government and to the Commissioners,

the Local Government shall submit a statement of the case to the Governor General in Council, whose decision shall be final."

19. In section 74 of the said Act,—

(a) for the words "after notification in the *Calcutta Gazette*" the words "with the previous sanction of the Governor General in Council and after notification in the *Gazette of India*" shall be substituted; and

(b) the provisos shall be omitted.

20. In section 84 of the said Act,—

(a) in sub-section (2), for the words "the Local Government", where they occur in two places, the word "Government" shall be substituted;

(b) in sub-section (4), for the words "the Local Government may, from time to time, require" the words "may be required" shall be substituted; and

(c) in sub-section (5), for the words "Local Government", where they occur for the second time, the words "Governor General in Council" shall be substituted.

21. In section 85 of the said Act, for the words "Local Government may from time to time require as their" the words "Governor General in Council and the Local Government may, from time to time, agree upon as a reasonable" shall be substituted.

22. In sub-section (1) of section 87 of the said Act, for the words "they think" the words "he thinks" shall be substituted.

23. In section 101 of the said Act,—

(a) in sub-section (1), for the word "are", where it first occurs, the word "is" shall be substituted; and

(b) in sub-section (2), for the word "their" the word "his" shall be substituted.

24. When anything done under the said Act is in force immediately prior to the commencement of this Act, it shall be deemed, as from the commencement of this Act, to have been done under the said Act as hereby amended.

Amendment
of section 74,
Ben. Act V
of 1914.

Amendment
of section 84,
Ben. Act V
of 1914.

Amendment
of section 85,
Ben. Act V
of 1914.

Amendment
of section
87, Ben. Act
V of 1914.

Amendment
of section
101, Ben. Act
V of 1914.

Saving of
acts done
under Ben.
Act V of
1914.

THE HINDU INHERITANCE [REMOVAL OF DIS- ABILITIES] ACT, 1928.

Act No. XII OF 1928.

[20th September, 1928].

*An Act to amend the Hindu Law relating to exclusion
from inheritance of certain classes of heirs,
and to remove certain doubts.*

WHEREAS it is expedient to amend the Hindu Law relating to exclusion from inheritance of certain classes of heirs, and to remove certain doubts; It is hereby enacted as follows:—

Short title,
extent and
application.

1. (1) This Act may be called the HINDU INHERITANCE (REMOVAL OF DISABILITIES) ACT, 1928.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall not apply to any person governed by the Dayabhaga School of Hindu Law.

Persons not
to be ex-
cluded from
inheritance
of rights in
joint family
property.

2. Notwithstanding any rule of Hindu Law or custom to the contrary, no person governed by the Hindu Law, other than a person who is and has been from birth a lunatic or idiot, shall be excluded from inheritance or from any right or share in joint-family property by reason only of any disease, deformity, or physical or mental defect.

Saving and
exception.

3. Nothing contained in this Act shall affect any right which has accrued or any liability which has been incurred before the commencement thereof, or shall be deemed to confer upon any person any right in respect of any religious office or service or of the management of any religious or charitable trust which he would not have had if this Act had not been passed.

THE INDIAN MINES (AMENDMENT) ACT, 1928.

ACT No. XIII OF 1928.

[20th September, 1928].

An Act further to amend the Indian Mines Act, 1923, for certain purposes.

WHEREAS it is expedient further to amend the Indian Mines Act, 1923, for certain purposes; It is hereby enacted as follows:—

Short title
and com-
mencement.

1. (1) This Act may be called the INDIAN MINES (AMENDMENT) ACT, 1928.

(2) This section and section 7 shall come into force at once, and the remaining provisions of this Act shall come into force on the 7th day of April, 1930.

Amendment
of section 23,
Act IV of
1923.

2. In section 23 of the Indian Mines Act, 1923 (hereinafter referred to as the said Act),—

(a) after clause (c) the following clause shall be inserted, namely:—

“(d) for more than twelve hours in any consecutive period of twenty-four hours”; and

(b) the section as so amended shall be numbered as sub-section (1), and the following sub-section shall be added, namely:—

“(2) No person shall employ or permit to be employed in a mine any person whom he knows or has reason to believe to have already been employed in any other mine during the preceding twelve hours.”

3. After section 23 of the said Act the following sections shall be inserted, namely :—

Insertion
of new
sections 23-A
and 23-B in
Act IV of
1923.

“ 23-A. Work shall not be carried on in any mine for a period exceeding twelve hours in any consecutive period of twenty-four hours except by a system of shifts so arranged that not more than one shift of persons employed in work of the same kind shall be at work in the mine at the same time.

Limitation
of working
hours.

23-B. (1) The manager of every mine shall cause to be posted outside the office of the mine a notice in the prescribed form stating the time of the commencement and of the end of work at the mine and, if it is proposed to work by a system of shifts, the time of the commencement and of the end of work for each shift. A copy of each such notice shall be sent to the Chief Inspector, if he so requires.

Notices
regarding
hours of
work.

(2) In the case of a mine at which mining operations commence after the 14th day of April, 1930, the notice referred to in sub-section (1) shall be posted not less than seven days before the commencement of work.

(3) Where it is proposed to make any alteration in the time fixed for the commencement or for the end of work in the mine generally or for any shift, an amended notice in the prescribed form shall be posted outside the office of the mine not less than seven days before the change is made and a copy of such notice shall be sent to the Chief Inspector not less than seven days before such change, if he so requires or if the original notice was sent to him ”

4. In sections 24 and 25 of the said Act, after the word and figures “section 23” the words, figures and letter “or section 23-A” shall be inserted.

Amendment
of sections 24
and 25, Act
IV of 1923.

5. (1) Section 28 of the said Act shall be renumbered as sub-section (1) of section 28, and to that sub-section after the word “employments” the following shall be added, namely :—

Amendment
of section 28,
Act IV of
1923.

“ and, where work is carried on by a system of shifts, of the shift in which each such person works.”

(2) To the same section the following sub-section shall be added, namely :—

“ (2) No person shall be employed in a mine until the particulars required by sub-section (1) have been recorded in the register in respect of such person, and no person shall be employed except during the hours of work specified for him in the register.”

6. In section 30 of the said Act, after clause (c), the following clause shall be inserted, namely :—

Amendment
of section 30,
Act IV of
1923.

“ (cc) for prescribing the forms of notices required under section 23-B, and for requiring such notices to be posted also in specified vernaculars.”

Amendment
of section 31,
Act IV of
1923.

7. In section 31 of the said Act,—

(a) in sub-section (3), the words “ or rule ”, in both places where they occur, the words “ in the case of a regulation ”, and the words “ and in the case of a rule to every Mining Board constituted in the province ” shall be omitted ; and

(b) after sub-section (3) the following sub-section shall be inserted, namely :—

“(3-A) No rule shall be made unless the draft thereof has been referred to every Mining Board constituted in the province for which it is proposed to make the rule, and unless each such Board has had a reasonable opportunity of reporting as to the expediency of making the same and as to the suitability of its provisions.”

THE INDIAN SUCCESSION (AMENDMENT) ACT, 1928.

ACT No. XIV OF 1928.

[22nd September, 1928].

An Act further to amend the Indian Succession Act, 1925.

WHEREAS it is expedient further to amend the Indian Succession Act, 1925 ; It is hereby enacted as follows :—

1. This Act may be called the INDIAN SUCCESSION (AMENDMENT) ACT, 1928.

2. After sub-section (2) of section 372 of the Indian Succession Act, 1925, the following sub-section shall be added, namely :—

“(3) Application for such a certificate may be made in respect of any debt or debts due to the deceased creditor or in respect of portions thereof.”

THE INDIAN TRADE UNIONS (AMENDMENT) ACT, 1928.

ACT No. XV OF 1928.

PRELIMINARY NOTE.—The following extracts from the Statement of Objects and Reasons indicate the necessity for the passing of the Act :—

“ The existing section 11 of the Indian Trade Unions Act, 1926, which provides for appeals against the decision of the Registrar appointed under section 8 admits of some doubt in two respects, namely :—

(i) It does not indicate clearly whether the first appeal lies to the Judge appointed for the area within which the Registrar's office is situated or to the Judge appointed for the area within which the head office of the trade union is situated. The amendment is intended to make it clear that the latter is the competent court.

(ii) It does not indicate clearly what Judge may be appointed to hear appeals in the Presidency-towns and in Bangalore. The amendment is

Amendment
of section
372. Act
XXXIX of
1925.

designed to make it clear that in such areas the appeal lies to the High Court and that there is no second appeal.

The opportunity has also been taken to define clearly the powers of the High Court in second appeals."

[25th September, 1928].

*An Act to amend the Indian Trade Unions Act, 1926,
for a certain purpose.*

WHEREAS it is expedient to amend the Indian Trade Unions Act, 1926, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

1. This Act may be called the INDIAN TRADE UNIONS (AMENDMENT) ACT, 1928.

Short title

2. For section 11 of the Indian Trade Unions Act, 1926, the following section shall be substituted, namely :—

Substitution
of new sec-
tion for
section 11,
Act XVI of
1926.

"11. (1) Any person aggrieved by any refusal of the Registrar to register a Trade Union or by the withdrawal or cancellation of a certificate of registration may, within such period as may be prescribed, appeal—

Appeal

(a) where the head office of the Trade Union is situated within the limits of a Presidency-town or of Rangoon, to the High Court, or

(b) where the head office is situated in any other area, to such Court, not inferior to the Court of an additional or assistant Judge of a principal Civil Court of original jurisdiction, as the Local Government may appoint in this behalf for that area.

(2) The appellate Court may dismiss the appeal, or pass an order directing the Registrar to register the Union and to issue a certificate of registration under the provisions of section 9 or setting aside the order for withdrawal or cancellation of the certificate, as the case may be, and the Registrar shall comply with such order.

(3) For the purpose of an appeal under sub-section (1) an appellate Court shall, so far as may be, follow the same procedure and have the same powers as it follows and has when trying a suit under the Code of Civil Procedure, 1908, and may direct by whom the whole or any part of the costs of the appeal shall be paid, and such costs shall be recovered as if they had been awarded in a suit under the said Code.

(4) In the event of the dismissal of an appeal by any Court appointed under clause (b) of sub-section (1), the person aggrieved shall have a right of appeal to the High Court, and the High Court shall, for the purpose of such appeal, have all the powers of an appellate Court under sub-sections (2) and (3), and the provisions of those sub-sections shall apply accordingly."

THE INDIAN INCOME-TAX (AMENDMENT) ACT, 1928.

ACT No. XVI OF 1928.

PRELIMINARY NOTE.—The following extracts from the Statement of Objects and Reasons indicate the reasons for the passing of the Act :—

“ Section 5 (8) of the Indian Income-tax Act, 1922 (XI of 1922), requires the Government of India to consult the Local Government concerned before it makes an appointment to a particular Commissionership of Income-tax. The taking over by the Government of India of the administration of the Act is far advanced, and they now desire to create an all-India cadre of Commissioners of Income-tax. They consequently propose that the above mentioned provision should be abolished. This proposal had received the assent of all the Local Governments except one.”

[25th September, 1928].

An Act further to amend the Indian Income-tax Act, 1922, for a certain purpose.

WHEREAS it is expedient further to amend the Indian Income-tax Act, 1922, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the INDIAN INCOME-TAX (AMENDMENT) ACT, 1928.

Amendment of section 5, Act XI of 1922.

2. In sub-section (3) of section 5 of the Indian Income-tax Act, 1922, the words “ after consideration of any recommendation made by the Local Government in this behalf ” shall be omitted.

THE MATCH INDUSTRY PROTECTION ACT, 1928.

ACT No. XVII OF 1928.

PRELIMINARY NOTE.—The following extracts from the Statement of Objects and Reasons indicate the necessity for the passing of the Act :—

“ In their Report regarding the grant of protection to the match industry, the Tariff Board has recommended that the existing rate of import duty on matches should be maintained and converted into a protective duty. The Government of India have accepted this recommendation, and the object of this Bill is to give effect to it.

It is also proposed to convert the existing import duties on undipped splints and veneers into protective duties. Unless this be done the protective duty on matches will not be effective.”

[25th September, 1928].

An Act to provide for the protection of the match industry.

WHEREAS it is expedient, in pursuance of the policy of discriminating protection of industries in British India with due regard to the well-being of the community, to provide for the protection of the match industry ; It is hereby enacted as follows :—

1. This Act may be called the MATCH INDUSTRY (PROTECTION) ACT, 1928.

Short title.

2. In the Second Schedule to the Indian Tariff Act, 1894,—

(1) Items Nos. 46, 46-A and 46-B shall be omitted ; and

(2) In Part VII, after Item No. 156, the following headings and Items shall be inserted, namely :—

Amendment of Schedule II, Act VIII of 1894.

“ MISCELLANEOUS ”

MATCHES, UNDIPPED SPLINTS AND VENEERS.

157	MATCHES— (1) In boxes containing on the average not more than 100 matches. (2) In boxes containing on the average more than 100 matches.	Per gross of boxes..	One rupee and eight
		For every 25 matches or fraction thereof in each box, per gross of boxes	Six annas.
158	UNDIPPED SPLINTS such as are ordinarily used for match making.	Pound ..	Four annas and six pies.
159	VENEERS such as are ordinarily used for making boxes, including boxes and parts of boxes made of such veneers.	Pound ..	Six annas.”

THE REPEALING AND AMENDING ACT, 1928.

ACT No. XVIII OF 1928.

PREFATORY NOTE.—The following extracts from the Statement of Objects and Reasons indicate the necessity for the passing of the Act :—

“ The object of the Bill is to make a few necessary amendments of a formal nature in certain enactments and to repeal certain spent or useless matter in the Statute-book.

Reasons for the proposed amendments and repeals are explained as follows :—

(1) *The Indian Christian Marriage Act, 1872 (XV of 1872).*—The amendment is made with a view to remove doubts as to the interpretation of section 37. Marriages are not solemnised under Part I of the Act. Section 5 specifies the categories of persons who are competent to solemnise marriages. The reference to marriages solemnised under Part I in Section 37 indicates marriages solemnised by persons specified in clauses (1) and (2) of section 5. This is made clear by the proposed amendment. The reference to clause (3) of section 5 will include marriages solemnised under Part III of the Act.

(2) *The General Clauses Act, 1897 (X of 1897).*—Section 16 has been amended to make it clear that the authority for the time being empowered

to make an appointment has the power of suspending or dismissing a person appointed, in the exercise of the same power, by another authority. The other amendments are necessitated by the passing of the Government of India Act of 1919.

(3) *The Indian Stamp Act, 1899 (II of 1899).*—The proposed clause 25 of section 2 gives statutory effect to the existing practice of granting by notifications to non-combatants enrolled under the Indian Army Act, 1911 (VIII of 1911), the same exemptions from stamp duty as are enjoyed by combatants similarly enrolled. The amendments to articles 47 and 58 of Schedule I give statutory effect to exemptions which have been regularly granted by notifications. The other amendments are purely formal.

(4) *The Code of Civil Procedure, 1908 (V of 1908).*—The amendment states in precise terms the fact, implicit in section 4 of the Code, that the Letters Patents of the High Courts override the provisions of section 98 of the Code.

(5) *The Indian Merchant Shipping Act, 1928 (XXI of 1928).*—The first amendment merely corrects an error in a heading. The second amendment clarifies the drafting of clause (v) of section 227.

(6) The repeals are formal. The First Act repealed is spent: and the Second, a Repealing Act, is itself repealed according to current practice in order to abbreviate the Statute-book.

[25th September, 1928].

An Act to amend certain enactments and to repeal certain other enactments.

WHEREAS it is expedient that certain amendments should be made in the enactments specified in the First Schedule ;

AND WHEREAS it is also expedient that the enactments specified in the Second Schedule, which are spent or have otherwise become unnecessary, or have ceased to be in force otherwise than by expressed specific repeal should be expressly and specifically repealed ;

It is hereby enacted as follows :—

Short title.

1. This Act may be called the REPEALING AND AMENDING ACT, 1928.

Amendment of certain enactments.

2. The enactments specified in the First Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof:

Repeal of certain enactments.

3. The enactments specified in the Second Schedule are hereby repealed.

Savings.

4. The repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to ;

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim

or demand or any indemnity already granted, or the proof of any past act or thing ;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognised or derived by, in or from any enactment hereby repealed ;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE FIRST SCHEDULE.

AMENDMENTS.

(See Section 2.)

1	2	3	4
Year.	No	Short title.	Amendments.
1872	XV	The Indian Christian Marriage Act, 1872.	In section 37, for the words and figures "under Part I or Part III of this Act," the words, figures and brackets "by any such person, Clergyman or Minister of Religion as is referred to in clause (1), clause (2), or clause (3) of section 5" shall be substituted
1897	X	The General Clauses Act, 1897	<p>(1) In section 3—</p> <p>(a) to clause (3a) the following shall be added, namely:—</p> <p>"or by the local legislature or the Governor of Assam under the Government of India Act";</p> <p>(b) to clause (5) the following shall be added, namely:—</p> <p>"or by the local Legislature or the Governor of the presidency of Bengal under the Government of India Act";</p> <p>(c) to clause (5a) the following shall be added, namely:—</p> <p>"or by the local Legislature or the Governor of Bihar and Orissa under the Government of India Act";</p> <p>(d) to clause (6) the following shall be added, namely:—</p> <p>"or by the local Legislature or the Governor of the presidency of Bombay under the Government of India Act";</p> <p>(e) to clause (8a) the following shall be added, namely:—</p> <p>"or by the local Legislature or the Governor of Burma under the Government of India Act";</p>

1	2	3	4
Year.	No.	Short title.	Amendments.
1897	X	The General Clauses Act, 1897 <i>—consid.</i>	<p>(f) to clause (8d) the following shall be added, namely:— "or by the Local legislature or the Governor of the Central Provinces under the Government of India Act";</p> <p>(g) to clause (30) the following shall be added, namely:— "or by the local Legislature or the Governor of the presidency of Madras under the Government of India Act";</p> <p>(h) to clause (44a) the following shall be added, namely:— "or by the local Legislature or the Governor of the Punjab under the Government of India Act";</p> <p>(i) to clause (46) the following shall be added, namely:— "or the Government of India Act";</p> <p>and</p> <p>(j) to clause (55a) the following shall be added, namely:— "or by the local Legislature or the Governor of the United Provinces under the Government of India Act."</p> <p>(2) In section 16, after the word "having" the words "for the time being" shall be inserted, and for the words "by it" the words "whether by itself or any other authority" shall be substituted,</p> <p>(3) In section 30A, for the words and figure "except in section 5, shall be deemed to include" the following shall be substituted, namely:— "includes an Act of the Indian Legislature and, except in section 5."</p>
1899	II	The Indian Stamp Act, 1899	<p>(1) In section 2— (a) in clause (23), the word "and" at the end shall be omitted; and (b) after clause (24) the following shall be added, namely:— "and (25) 'soldier' includes any person below the rank of non-commissioned officer who is enrolled under the Indian Army Act, 1911".</p> <p>(2) In Schedule I— (a) for clause (a) of Article No. 4, the following clause shall be substituted, namely:— "(a) as a condition of enrolment under the Indian Army Act, 1911"; (b) In Article No. 47— (i) in sub-clause (ii) of clause (1) of Division A, in the first column, for the words "one thousand rupees", in both places where they occur, the words "one thousand five hundred rupees", and, in the second column,</p>

1	2	3	4												
Year.	No	Short title.	Amendment.												
1899	II	The Indian Stamp Act, 1899— <i>contd.</i>	<p>for the words "Two annas" the words "One anna", and, in the third column, for the words "One anna" the words "Half an anna" shall be inserted;</p> <p>(ii) to clause (b) of Division C, below the entry in the second column, the following proviso shall be added, namely— "Provided that, in case of a policy of insurance against death by accident when the annual premium payable does not exceed Rs. 2-8-0 per Rs. 1,000, the duty on such instrument shall be one anna for every Rs. 1,000 or part thereof of the maximum amount which may become payable under it," and (iii) for Division D, the following shall be substituted :—</p> <table style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td style="text-align: center;">If drawn singly.</td> <td style="text-align: center;">If drawn in duplicate for each part.</td> </tr> <tr> <td style="padding-left: 2em;">(i) for every sum insured not exceeding Rs. 250 ..</td> <td style="text-align: center;">Two annas.</td> <td style="text-align: center;">One anna.</td> </tr> <tr> <td style="padding-left: 2em;">(ii) for every sum insured exceeding Rs. 250 but not exceeding Rs 500.</td> <td style="text-align: center;">Four annas.</td> <td style="text-align: center;">Two annas.</td> </tr> <tr> <td style="padding-left: 2em;">(iii) for every sum insured exceeding Rs. 500 but not exceeding Rs. 1,000 and also for every Rs. 1,000 or part thereof in excess of Rs. 1,000 ..</td> <td style="text-align: center;">Six annas.</td> <td style="text-align: center;">Three annas.</td> </tr> </table> <p style="text-align: center;"><i>Exemptions.</i></p> <p>Policies of life insurance granted by the Director-General of Post Offices in accordance with rules for Postal Life Insurance issued under the authority of the Governor General in Council"; and (c) in clause (a) of the <i>Exemptions</i> from Article No. 53, for the words "or exempted" the words "or any instrument exempted" shall be substituted, and after the words and brackets ("instruments executed on behalf of</p>		If drawn singly.	If drawn in duplicate for each part.	(i) for every sum insured not exceeding Rs. 250 ..	Two annas.	One anna.	(ii) for every sum insured exceeding Rs. 250 but not exceeding Rs 500.	Four annas.	Two annas.	(iii) for every sum insured exceeding Rs. 500 but not exceeding Rs. 1,000 and also for every Rs. 1,000 or part thereof in excess of Rs. 1,000 ..	Six annas.	Three annas.
	If drawn singly.	If drawn in duplicate for each part.													
(i) for every sum insured not exceeding Rs. 250 ..	Two annas.	One anna.													
(ii) for every sum insured exceeding Rs. 250 but not exceeding Rs 500.	Four annas.	Two annas.													
(iii) for every sum insured exceeding Rs. 500 but not exceeding Rs. 1,000 and also for every Rs. 1,000 or part thereof in excess of Rs. 1,000 ..	Six annas.	Three annas.													

1	2	3	4
Year	No.	Short title.	Amendment.
1899	II	The Indian Stamp Act, 1899— <i>ce. 1st.</i>	the Government)" the words "or any cheque or bill of exchange payable on demand" shall be inserted.
1908	V	The Code of Civil Procedure, 1908.	To section 98 the following sub-section shall be added, namely :— "(3) Nothing in this section shall be deemed to alter or otherwise affect any provision of the letters patent of any High Court"
1923	XXI	The Indian Merchant Shipping Act, 1923.	(1) In the heading above section 217, for the words " <i>Draught of Water</i> " the words " <i>Dach-lime</i> " shall be substituted. (2) In clause (iv) of section 227, after the words "British India" the words "which comes into any port in British India" shall be inserted.

THE SECOND SCHEDULE.

REPEALS.

(See Section 3.)

Year	No.	Title or short title.
1900	IX	An Act to provide for the Court fee payable on certain Applications to the Court of the Financial Commissioner of the Punjab.
1927	XII	The Repealing Act, 1927.

THE MADRAS SALT (AMENDMENT) ACT, 1928.

ACT No. XIX OF 1928.

PRELIMINARY NOTE.—The following extracts from the Statement of Objects and Reasons indicate the necessity for the passing of the Act :—

"Section 49 of the Madras Salt Act, 1889, empowers certain officers to arrest in any public thoroughfare or open place, other than a dwelling place, any person found committing offence under that Act. But the provisions of the Act are such that if the officer making the arrest be not an inspector, he has not the power to admit to bail the person arrested, but must forward the person arrested to the Inspector of the circle in which the arrest is made, or, if that officer is more than ten miles from the place of arrest, to the nearest police station. It is proposed to incorporate in the Act provisions

enabling any officer making an arrest under section 49, to grant bail, provided he has been empowered in that behalf by the Central Board of Revenue."

[25th September, 1928].

*An Act further to amend the Madras Salt Act, 1889,
for a certain purpose.*

WHEREAS it is expedient further to amend the Madras Salt Act, 1889, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

1. This Act may be called the MADRAS SALT (AMENDMENT) ACT, 1928.

Short title.

2. To section 49 of the Madras Salt Act, 1889 (hereinafter referred to as the said Act), the following paragraph shall be added, namely :—

Amendment
of section 49,
Mad. Act IV
of 1889.

"If the officer making the arrest has been empowered in this behalf by general or special order of the Central Board of Revenue, and sufficient bail be tendered for the appearance of the person arrested before the Inspector, the officer shall admit such person to bail."

3. In section 53 of the said Act, after the word and figures "section 47" the words and figures "or section 49" shall be inserted.

Amendment
of section 53,
Mad Act IV
of 1889.

THE INDIAN INSURANCE COMPANIES ACT, 1928.

ACT No. XX OF 1928.

PRELIMINARY NOTE.—The following extract from the Report of the Select Committee may also be noted :—

"We accept the Bill practically in its entirety as a useful measure. The only suggestion which we have to make and to which we have given effect is in regard to certain clauses, namely, sub-clause (c) of the proposed new clause (c) to be inserted in section 7 of the Indian Life Assurance Companies Act, 1912 (clause 2 of the Bill) and clause 8 of the Bill which provide for the furnishing of separate statistical information in respect of the Indian business of insurance companies. We consider it would be at the same time more useful and more convenient that the whole of the Indian business of a company, i.e., business effected both in British India and in Indian States, should be shown together. The statements furnished will then present a complete view of the Indian business of the company on the one hand and of its foreign business on the other."

*An Act further to amend the Indian Life Assurance Companies
Act, 1912, for certain purposes, and to provide for
the collection of statistical information in
respect of insurance business other
than life assurance business.*

WHEREAS it is expedient further to amend the Indian Life Assurance Companies Act, 1912, for certain purposes hereinafter

appearing, and to provide for the collection of statistical information in respect of insurance business other than life assurance business ; It is hereby enacted as follows :—

PART I.

Preliminary.

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the INDIAN INSURANCE COMPANIES ACT, 1928.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force on such date as the Governor-General in Council may, by notification in the *Gazette of India*, appoint.

PART II.

Amendments to the Indian Life Assurance Companies Act, 1912.

[Sections 2 to 5 inserted in their proper places].

PART III.

Provisions as to Life Insurance other than Life Assurance business.

6. In this part, unless there is anything repugnant in the subject or context,—

Definitions.

(a) "certified" in relation to any copy or translation of a document required to be furnished by or on behalf of an insurance company, means certified by a responsible officer of the company to be a true copy or a correct translation, as the case may be ;

(b) "insurance company" means any person who transacts in British India the business of effecting contracts of insurance against any risk ;

(c) expressions used in this Act and defined in the Indian Life Assurance Companies Act, 1912, shall have the meanings assigned to them respectively in that Act.

Deposit of
accounts,
etc., with
Governor
General in
Council.

7. Every insurance company which does not transact life assurance business in British India shall, within six months after the close of each financial year or within such further period as the Governor-General in Council may in any case for special reasons allow, deposit with the Governor-General in Council four copies of every report on the affairs of the company, and of every balance-sheet, revenue account and profit and loss account, in respect of that year, which has been submitted to its shareholders or policyholders, and also, in the case of a company whose head office is situated outside British India, four copies of such of the aforementioned documents as are required by law to be submitted to the Government of the country in which the head office is situated.

8. The following statements shall be appended to every revenue account (other than a life assurance revenue account) deposited by an insurance company with the Governor-General in Council in compliance with section 7 or with the provisions of the Indian Life Assurance Companies Act, 1912, as respects the year and the class of insurance business to which the revenue account relates, namely, statements showing—

Statements to be appended to revenue account.

(1) in respect of premium income for which credit is taken in the revenue account, the amount of premiums derived from business effected in India,

(2) in respect of claims, the amount of the claims paid in the year of account under policies effected in India—

(a) to claimants in India, and

(b) to claimants outside India.

9. There shall be appended to every balance sheet deposited by an insurance company with the Governor-General in Council in compliance with section 7 a statement showing, in such form as the Governor-General in Council may prescribe, a classified summary of the investments of the company in India in Government securities and in Indian concerns and the other Indian assets held by the company.

Statement of Indian assets.

10. At least one copy of every document deposited by an insurance company with the Governor-General in Council in accordance with the requirements of section 7, section 8 or section 9 shall be signed in the manner provided in section 11 of the Indian Life Assurance Companies Act, 1912.

Signing of documents.

11. If any portion of any document required to be deposited under section 7, section 8 or section 9 by an insurance company with the Governor-General in Council is not written in the English language, a certified translation thereof shall be furnished along with each copy of the document.

Certified copies of vernacular documents.

12. Every insurance company which does not transact life assurance business in British India shall, within one month from the commencement of this Act or before it begins to carry on business, whichever is later, furnish to the Governor-General in Council—

Particulars to be filed.

(a) the full address of the principal office of the company in British India ;

(b) the names of the directors, the principal officer and the auditor of the company in British India ;

(c) a statement of the classes of insurance business carried on or intended to be carried on by the company in British India ;

(d) a certified copy of the charter, statutes, deed of settlement or memorandum and articles of the company, or other instrument constituting or defining the constitution of the company, and,

if the instrument is not written in the English language, a certified translation thereof ;

(e) in the case of any such company established outside British India, the names and addresses of some one or more persons resident in British India, authorised to accept on behalf of the company service of process and any notice required to be served on the company ; and, in the event of any alteration being made in the address of the principal office or in such classes of business or in any such instrument as aforesaid or in the name of any such person, the company shall forthwith furnish to the Governor-General in Council particulars of the alteration.

Custody and inspection of documents.

13. Every document deposited with the Governor-General in Council, in compliance with section 7, section 8 or section 9, or a certified copy of such document, shall be kept by the Registrar, and any such documents or copies shall be open to inspection, and any person may procure a copy of any such document or of any part thereof on payment of a fee of six annas for every hundred words or fractional part thereof required to be copied.

Evidence of documents.

14. (1) Every document deposited with the Governor-General in Council in compliance with section 7, section 8 or section 9 which has been certified by the Registrar to be a document so deposited shall be deemed to be a document so deposited.

(2) Every such document purporting to be certified by the Registrar to be a copy of a document so deposited shall be deemed to be a copy of that document, and shall be received in evidence as if it were the original document, unless some variation between it and the original document be proved.

Summary of accounts, etc. to be published.

15. The Governor-General in Council shall, from time to time, cause to be published, in such manner as he may direct, a summary of the accounts, balance sheets and statements deposited with him in compliance with section 7, section 8 or section 9, and may append to such summary any note of the Governor-General in Council thereon and any correspondence in relation thereto.

Penalty for non-compliance with Act.

16. Any insurance company which makes default in complying with any of the requirements of this Part, and every director, manager or secretary, or other officer or agent of, or partner in, the company who is knowingly a party to the default, shall be punishable in the manner provided in section 34 of the Indian Life Assurance Companies Act, 1912.

Penalty for falsifying documents.

17. If any account, balance sheet, statement or other document required by the provisions of section 7, section 8 or section 9 is false in any particular to the knowledge of any person who signs it, such person shall be punishable in the manner provided in section 35 of the Indian Life Assurance Companies Act, 1912.

Cognizance of offences.

18. No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act,

19. A person transacting the business of reinsuring contracts of insurance effected by any other person in the course of any class of business other than life assurance business shall not, by reason only of that fact, be deemed to be transacting insurance business of that class.

Application
of Part III, to
re-insurance
business.

20. The Governor-General in Council may, by notification in the *Gazette of India* and subject to such restrictions and conditions as he thinks fit, exempt from all or any of the provisions of this Act any provident insurance society registered under the Provident Insurance Societies Act, 1912.

Exemption.

THE INDIAN SUCCESSION (SECOND AMENDMENT) ACT,
1928.

Act No. XXI OF 1928.

[29th September, 1928].

*An Act further to amend the Indian Succession Act, 1925,
for a certain purpose.*

WHEREAS it is expedient further to amend the Indian Succession Act, 1925, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

1. This Act may be called the INDIAN SUCCESSION (SECOND AMENDMENT) ACT, 1928.

Short title.

2. In sub-section (2) of section 213 of the Indian Succession Act, 1925, for the word and figures " section 57 " the words, figures and brackets, " sub-section (1) of section 57 " shall be substituted .

Amendment
of section
213, Act
XXXIX of
1925.