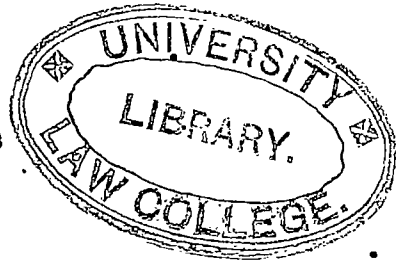


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The Acts
of the



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For the Year 1911.

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RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL
ON THE 5TH JANUARY, 1911.

ACT NO. I OF 1911.

An Act further to amend the Opium Act, 1857.

WHEREAS it is expedient further to amend the Opium Act, 1857; It is hereby enacted as follows:—

Short title. 1. This Act may be called the Opium (Amendment) Act, 1911.

2. In section 3 of the Opium Act, 1857, for the words “in Calcutta” the words “of the United Provinces of Agra and Oudh” shall be substituted.

Amendment of Act XIII of 1857, section 3.

3. Every order or direction issued, regulation made, sanction given or other thing lawfully done under the said Act by the Board of Revenue in Calcutta shall, after the commencement of this Act, be deemed to have been issued, made, given or done by the Board of Revenue of the United Provinces of Agra and Oudh.

Continuance of orders issued by Board of Revenue, Calcutta.

4. Any order or direction, regulation, sanction or other thing purporting to have been issued, made, given or done under the said Act by the Board of Revenue of the United Provinces of Agra and Oudh prior to the commencement of this Act is hereby ratified and confirmed.

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THE SCHEDULE.—FEES.

*An Act to amend the law relating to the
protection of Inventions and Designs.*

WHEREAS it is expedient to amend the law relating to the protection of inventions and designs; It is hereby enacted as follows:—

PRELIMINARY.

Short title, extent and commencement.

1. (1) This Act may be called the Indian Patents and Designs Act, 1911.

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

(3) It shall come into force on the first day of January 1912.

Definitions.

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

(1) "Advocate-General" includes a Government Advocate :

(2) "article" means (as respects designs) any article of manufacture and any substance, artificial or natural, or partly natural :

(3) "Controller" means the Controller of Patents and Designs appointed under this Act :

(4) "copyright" means the exclusive right to apply a design to any article in any class in which the design is registered ;

(5) "design" means any design applicable to any article, whether the design is applicable for the pattern, or for the shape or configuration, or for the ornament thereof, or for any two or more of such purposes, and by whatever means it is applicable, whether by printing, painting, embroidering, weaving, sewing,

modelling, casting, embossing, engraving, staining, or any other means whatever, manual, mechanical or chemical, separate or combined, but does not include any trade or property mark as defined in sections 478 and 479 of the Indian Patent Code :

(6) "District Court" has the meaning assigned to that expression by the Code of Civil Procedure, 1908 :

(7) "High Court" has the meaning assigned to that expression by the Code of Criminal Procedure, 1898, in reference to proceedings against European British subjects :

(8) "invention" means any manner of new manufacture and includes an improvement and an alleged invention :

(9) "legal representative" means a person who in law represents the estate of a deceased person :

(10) "manufacture" includes any art, process or manner of proceeding, preparing or making an article, and also any article prepared or produced by manufacture :

(11) "patent" means a patent granted under the provisions of this Act :

(12) "patentee" means the person for the time being entitled to the benefit of a patent :

(13) "prescribed" includes prescribed by rules under this Act: and

(14) "proprietor of a new and original design,"—

(a) where the author of the design, for good consideration, executes the work for some other person, means the person for whom the design is so executed ; and

(b) where any person acquires the design or the right to apply the design to any article, either exclusively of any other person or otherwise, means, in respect and to the extent in and to which the design or right has been so acquired, the person by whom the design or right is so acquired ; and

(c) in any other case, means the author of the design ; and where the property in, or the right to apply, the design has devolved from the original proprietor upon any other person, includes that other person.

PART I.

PATENTS.

Application for and Grant of Patent.

3. (1) An application for a patent may be made by any person whether he is a British subject or not, and whether alone or jointly with any other person.

(2) The application must be made in the prescribed form, and must be left at the Patent Office in the prescribed manner.

(3) The application must contain a declaration to the effect that the applicant is in possession of an invention, whereof he, or in the case of a joint application one at least of the applicants, claims to be the true and first inventor or the legal representative or assign of such inventor and for which he desires to obtain a patent, and must be accompanied by a specification and by the prescribed fee.

(4) Where the true and first inventor is not a party to the application, the application must contain a statement of his name, and such particulars for his identification as may be prescribed, and the applicant must show that he is the legal representative or assign of such inventor.

4. (1) The specification must particularly describe and ascertain the nature of the invention and the manner in which the same is to be performed.

(2) Where the Controller deems it desirable, he may require that suitable drawings shall be supplied with the specification, or at any time before the acceptance of the application and such drawings shall be deemed to form part of the specification.

(3) The specification must commence with the title, and must end with a distinct statement of the invention claimed.

(4) If in any particular case the Controller considers that an application should be further supplemented by a model or sample of anything illustrating the invention or alleged to constitute an invention, such model or sample as he may require shall be furnished before the acceptance of the application, but such model or sample shall not be deemed to form part of the specification.

5. (1) The Controller shall examine every application, and if he considers that—

Proceedings
upon application.

(a) the nature of the invention is not fairly described, or

(b) the application, specification and drawings have not been prepared in the prescribed manner or relate to more than one invention, or

(c) the title does not sufficiently indicate the subject-matter of the invention, or

(d) the statement of claim does not sufficiently define the invention, or

(e) the invention as described and claimed is *prima facie* not a new manufacture or improvement,

he may refuse to accept the application or require that the application, specification or drawings be amended before he proceeds with the application; and in the latter case the application shall, if the Controller so directs, bear date as from the time when the requirement is complied with.

(2) Where the Controller refuses to accept an application or requires an amendment, the applicant may appeal from his decision to the Governor-General in Council.

(3) The investigations required by this section shall not be held in any way to guarantee the validity of any patent, and no liability shall be incurred by the Governor-General in Council or any officer by reason of, or in connection with, any such investigation, or any proceeding consequent thereon.

(4) Unless an application, is accepted within twelve months from the date of the application the application shall (except where an appeal has been lodged) become void:

Provided that where an application is made for an extension of time for the acceptance of an application, the Controller shall, on payment of the prescribed fee, grant an extension of time to the extent applied for but not exceeding three months.

6. On the acceptance of an application the Controller shall give notice thereof to the applicant and shall
 on acceptance of advertisement
 application. advertise the acceptance, and the application and specification with the drawings (if any) shall be open to public inspection.

7. Where an application for a patent in respect of an invention has been accepted, any use or publication of the invention during the period between the date of application and the date of sealing such patent, shall not prejudice the patent to be granted for the invention :

Provided that an applicant shall not be entitled to institute any proceedings for infringement unless and until a patent for the invention has been granted to him.

8 After acceptance of an application and before sealing a patent the Controller shall, if he thinks it advisable or is directed by the Governor-General in Council so to do, refer the specification for inquiry and report to any person whom he thinks fit.

9. (1) Any person may, on payment of the prescribed fee, at any time within three months from the date of grant of patent. the advertisement of the acceptance of an application, give notice at the Patent Office of opposition to the grant of the patent on any of the following grounds, namely :—

(a) that the applicant obtained the invention from him, or from a person of whom he is the legal representative or assign ; or

(b) that the invention has been claimed in any specification filed in British India which is or will be of prior date to the patent, the grant of which is opposed ; or

(c) that the nature of the invention or the manner in which it is to be performed is not sufficiently or fairly described and ascertained in the specification ; or

(d) that the invention has been publicly used in any part of British India or has been made publicly known in any part of British India ;
but on no other ground.

(2) Where such notice is given, the Controller shall give a notice of the opposition to the applicant, and shall, on the expiration of those three months, after hearing the applicant and the opponent, if desirous of being heard, decide on the case.

(3) The decision of the Controller shall be subject to appeal to the Governor-General in Council.

10. (1) If there is no opposition, or, in case of opposition, if the determination is in favour of the grant of a patent, a patent shall, on payment of the prescribed fee, be granted, subject to such conditions (if any) as the Governor-General in Council thinks expedient, to the applicant, or in the case of a joint application to the applicants jointly, and the Controller shall cause the patent to be sealed with the seal of the Patent Office.

(2) A patent shall be sealed as soon as may be, and not after the expiration of eighteen months from the date of application :

Provided that,—

- (a) where the Controller has allowed an extension of the time within which an application may be accepted, a further extension of four months after the said eighteen months shall be allowed for the sealing of the patent ;
- (b) where the sealing is delayed by an appeal to the Governor-General in Council, or by a reference under section 8, or by opposition to the grant of the patent, the patent may be sealed at such time as the Controller may direct ;
- (c) where the patent is granted to the legal representative of an applicant who has died before the expiration of the time which would otherwise be allowed for sealing the patent, the patent may be sealed at any time within twelve months after the date of his death ;
- (d) where in consequence of the neglect or failure of the applicant to pay any fee a patent cannot be sealed within the period allowed by this section, that period may, on payment of the prescribed fee and on compliance with the prescribed conditions, be extended to such an extent as may be prescribed.

11. Except as otherwise expressly provided by this Act, a patent shall be dated and sealed as of the date of the application :

Provided that no proceedings shall be taken in respect of an infringement committed before the publication of the specification,

12. (1) A patent sealed with the seal of the Patent Office shall, subject to the other provisions of this Act, confer on the patentee the exclusive privilege of making, selling and using the invention throughout British India and of authorizing others so to do.

(2) Every patent may be in the prescribed form and shall be granted for one invention only, but the specification may contain more than one claim; and it shall not be competent for any person in a suit or other proceeding to take any objection to a patent on the ground that it has been granted for more than one invention.

13. (1) A patent granted to the true and first inventor or his legal representative or assign shall not be invalidated by an application in fraud of him, or by protection obtained thereon or by any use or publication of the invention subsequent to that fraudulent application during the period of protection.

(2) Where a patent has been revoked on the ground of fraud or on any other ground, the Controller may, on the application of the true inventor or his legal representative or assign made in accordance with the provisions of this Act, grant to him a patent in lieu of and bearing the same date as the patent so revoked for any invention comprised in the revoked patent to which he was entitled:

Provided that no suit shall be brought for any infringement of the patent so granted committed before the actual date when such patent was granted.

Term of Patent.

14. (1) The term limited in every patent for the duration thereof shall, save as otherwise expressly provided by this Act, be fourteen years from its date.

(2) A patent shall, notwithstanding anything therein or in this Act, cease if the patentee fails to pay the prescribed fees within the prescribed time:

Provided that the Controller, upon the application of the patentee, shall, on receipt of such additional fee as may be prescribed, enlarge the time to such an extent as may be applied for, but not exceeding three months.

(3) If any proceeding is taken in respect of an infringement of the patent committed after a failure to pay any fee within the

prescribed time, and before any enlargement thereof, the Court before which the proceeding is taken may, if it thinks fit, refuse to award any damages in respect of such infringement.

15. A patentee may, after advertising in the prescribed manner his intention to do so, present a petition to the Governor-General in Council praying that his patent may be extended for a further term; but such petition must be left at the Patent Office at least six months before the time limited for the expiration of the patent and must be accompanied by the prescribed fee.

(2) Any person may give notice to the Controller of objection to the extension.

(3) Where a petition is presented under sub-section (1), the Governor-General in Council may, as he thinks fit, dispose of the petition himself or refer it to a High Court for decision.

(4) If the petition be referred to a High Court, then, on the hearing of such petition under this section, the patentee, and any person who has given notice under sub-section (2) of objection, shall be made parties to the proceeding, and the Controller shall be entitled to appear and be heard.

(5) The Court to which the petition is referred shall, in considering its decision, have regard to the nature and merits of the invention in relation to the public, to the profits made by the patentee as such, and to all the circumstances of the case.

(6) If it appears to the Governor-General in Council, or to the High Court when the petition has been referred to it, that the patentee has been inadequately remunerated by his patent, the Governor-General in Council or the High Court, as the case may be, may by order extend the term of the patent for a further term not exceeding seven, or, in exceptional cases, fourteen years, or may order the grant of a new patent for such terms as may be specified in the order and subject to the payment of such fees as may be prescribed and containing any restriction, conditions and provisions which the Governor-General in Council or the High Court, as the case may be, may think fit:

Provided that any patent so extended or granted shall, notwithstanding anything therein, or in this Act, cease if the inventor fails to pay before the expiration of each year the prescribed fee.

16. (1) Where any patent has ceased owing to the failure of the patentee to pay any prescribed fee within the prescribed time, the patentee may apply to the Controller in the prescribed manner for an order for the restoration of the patent.

(2) Every such application shall contain a statement of the circumstances which have led to the omission of the payment of the prescribed fee.

(3) If it appears from such statement that the omission was unintentional or unavoidable and that no undue delay has occurred in the making of the application, the Controller shall advertise the application in the prescribed manner, and within such time as may be prescribed any person may give notice of opposition at the Patent Office.

(4) Where such notice is given the Controller shall notify the applicant thereof.

(5) After the expiration of the prescribed period the Controller shall hear the case and, subject to an appeal to the Governor-General in Council, issue an order either restoring the patent, subject to any conditions deemed to be advisable or dismissing the application:

Provided that in every order under this section restoring a patent such provisions as may be prescribed shall be inserted for the protection of persons who may have availed themselves of the subject-matter of the patent after the patent had ceased.

Amendment of application or specification.

17. (1) An applicant or a patentee may at any time, by request in writing left at the Patent Office and accompanied by the prescribed fee, seek leave to amend his application or specification, including drawings forming part thereof, by way of disclaimer, correction or explanation, stating the nature of, and the reasons for, the proposed amendment.

(2) If the application for a patent has not been accepted, the Controller shall determine whether and subject to what conditions (if any) the amendment shall be allowed.

(3) In any other case the request and the nature of the proposed amendment shall be advertised in the prescribed manner,

and at any time within three months from its first advertisement any person may give notice at the Patent Office of opposition to the amendment.

(4) Where such a notice is given the Controller shall give notice of the opposition to the person making the request, and shall hear and decide the case.

(5) Where no notice of opposition is given, or the person so giving notice of opposition does not appear, the Controller shall determine whether and subject to what conditions; if any, the amendment ought to be allowed.

(6) The decision of the Controller in either case shall be subject to an appeal to the Governor-General in Council.

(7) No amendment shall be allowed that would make the application or specification, as amended, claim an invention substantially larger than, or substantially different from, the invention claimed by the application or specification as it stood before amendment.

(8) Leave to amend shall be conclusive as to the right of the party to make the amendment allowed, except in case of fraud; and the amendment shall be advertised in the prescribed manner and shall in all Courts and for all purposes be deemed to form part of the application or specification.

(9) This section shall not apply when and so long as any suit for infringement or proceeding before a Court for the revocation of the patent is pending.

18. In any suit for infringement of a patent or proceeding Amendment of before a Court for the revocation of a patent specification by the Court. the Court may by order allow the patentee to amend his specification by way of disclaimer in such manner, and subject to such terms as to costs, advertisement or otherwise, as the Court may think fit :

Provided that no amendment shall be so allowed that would make the specification as amended, claim an invention substantially larger than, or substantially different from, the invention claimed by the specification as it stood before the amendment, and where an application for such an order is made to the Court notice of the application shall be given to the Controller, and the Controller shall have the right to appear and be heard.

19. Where an amendment of a specification by way of disclaimer, correction or explanation has been allowed under this Act, no damages shall be given in any suit in respect of the use of the invention before the disclaimer, correction, or explanation, unless the patentee establishes to the satisfaction of the Court that his original claim was framed in good faith and with reasonable skill and knowledge.

Register of Patents.

20. (1) There shall be kept at the Patent Office a book called the Register of Patents, wherein shall be entered the names and addresses of grantees of patents; notifications of assignments and of transmissions of patents, of licenses under patents, and of amendments, extensions, and revocations of patents, and such other matter affecting the validity or proprietorship of patents as may be prescribed.

(2) The register of inventions and address book existing at the commencement of this Act shall be incorporated with, and form part of, the register of patents under this Act.

(3) The register of patents shall be *prima facie* evidence of any matters by this Act directed or authorised to be inserted therein.

(4) Copies of deeds, licenses and any other documents affecting the proprietorship in any patent or in any license thereunder, must be supplied to the Controller in the prescribed manner for filing in the Patent Office, and, unless such copies have been so received as supplied, such deeds, licenses or other documents shall not be evidence of any transaction affecting a patent.

Crown.

21. Subject to any conditions which the Governor-General in Council may have imposed, a patent shall have to all intents the like effect as against His Majesty as it has against a subject:

Provided that the officers or authorities administering any department of the service of His Majesty may, by themselves, their agents, contractors or others, at any time after the application, use the invention for the services of the Crown on such terms as may, either before or after the use thereof, be agreed on, with the approval of the Governor-General in Council, between those officers

or authorities and the patentee, or, in default of agreement, as may be settled by the Governor-General in Council after hearing all parties interested.

Compulsory Licences and Revocation.

22. (1) Any person interested may present a petition to the Governor-General in Council, which shall be left at the Patent Office, together with the prescribed fee, alleging that the reasonable requirements of the public with respect to a patented invention have not been satisfied, and praying for the grant of a compulsory license, or, in the alternative, for the revocation of the patent

The Governor-General in Council shall consider the petition, and if the parties do not come to an arrangement between themselves the Governor-General in Council may, as he thinks fit, either dispose of the petition himself or refer it to a High Court for decision.

(3) The provisions of sub-section (4) of section 15, prescribing the procedure to be followed in the case of references to the Court under that section, shall apply in the case of references made to the Court under this section.

(4) If the Governor-General in Council is of opinion, or where a reference has been made under sub-section (2) to a High Court, that Court finds that the reasonable requirements of the public with reference to the patented invention have not been satisfied, the patentee may be ordered to grant licenses on such terms as the Governor-General in Council or the High Court, as the case may be, may think just, or if the Governor-General in Council or the High Court is of opinion that the reasonable requirements of the public will not be satisfied by the grant of licenses, the patent may be revoked by order of the Governor-General in Council or the High Court.

Provided that an order of revocation shall not be made before the expiration of four years from the date of the patent or if the patentee gives satisfactory reasons for his default.

(5) For the purposes of this section the reasonable requirements of the public shall not be deemed to have been satisfied—

(a) if by reason of the default of the patentee to manufacture to an adequate extent and supply on reasonable

terms the patented article, or any parts thereof which are necessary for its efficient working, or to carry on the patented process to an adequate extent or to grant licenses on reasonable terms, any existing trade or industry, or the establishment of any new trade or industry in British India is unfairly prejudiced, or the demand for the patented article or the article produced by the patented process is not reasonably met; or

(b) if any trade or industry in British India is unfairly prejudiced by the conditions attached by the patentee before or after the commencement of this Act to the purchase, hire, or use of the patented article or to the using or working of the patented process.

(6) An order of the Governor-General in Council or of the High Court directing the grant of any license under this section shall, without prejudice to any other method of enforcement, operate as if it were embodied in a deed granting a license and made between the parties to the proceeding.

23. (1) At any time not less than four years after the date of Revocation of patents worked outside British India. a patent granted under this Act, any person may apply to the Governor-General in Council for the revocation of the patent on the ground that the patented article or process is manufactured or carried on exclusively or mainly outside British India.

(2) The Governor-General in Council shall consider the application, and, if after inquiry he is satisfied—

(a) that the allegations contained therein are correct; and

(b) that the applicant is prepared, and is in a position, to manufacture or carry on the patented article or process in British India: and

(c) that the patentee refuses to grant a license on reasonable terms,

then, subject to the provisions of this section, and unless the patentee proves that the patented article or process is manufactured or carried on to an adequate extent in British India, or gives satisfactory reasons why the article or process is not so manufactu-

red or carried on, the Governor-General in Council may make an order revoking the patent either—

- (i) forthwith ; or
- (ii) after such reasonable interval as may be specified in the order, unless in the meantime it is shown to his satisfaction that the patented article or process is manufactured or carried on within British India to an adequate extent.

(3) No order revoking a patent shall be made under the last sub-section which is at variance with any foreign country or British possession.

(4) The Governor-General in Council may, on the application of the patentee, extend the time limited in any order made under sub-section (2), clause (ii), for such period not exceeding two years as he may specify in a subsequent order, or revoke any order made under sub-section (2), clause (ii), or any subsequent order if sufficient cause is in his opinion shown by the patentee.

24. A patentee may at any time, by giving notice in the prescribed manner to the Controller, offer to surrender his patent, and the Controller may, if after giving notice of the offer and hearing all parties who desire to be heard he thinks fit, accept the offer, and thereupon make an order for the revocation of the patent.

25. A patent shall be deemed to be revoked if the Governor-General in Council declares, by notification in the *Gazette of India*, the patent or the mode in which it is exercised to be mischievous to the State or generally prejudicial to the public.

Legal Proceedings.

26. (1) Revocation of a patent in whole or in part may be obtained on petition to a High Court on all or any of the following grounds, namely :—

- (a) that any invention included in the statement of claim is of no utility ;
- (b) that any invention included in the statement of claim was not, at the date of the application for a patent, a new invention within the meaning of this Act ;

- (c) that the applicant was not the true and first inventor thereof or the assign or legal representative of such inventor thereof ;
 - (d) that the original or any amended application or specification does not fulfil the requirements of this Act ;
 - (e) that the applicant has knowingly or fraudulently included in the application for a patent or in the original or any amended specification as his invention, something which was not new or whereof he was neither the inventor nor the assign nor the legal representative of such inventor ;
 - (f) that the original or any subsequent application relating to the invention or the original or any amended specification, contains a wilful or fraudulent misstatement ;
 - (g) that a part of the invention or the manner in which a part is to be made and used as described in the original or any amended specification, is not thereby sufficiently described, and that this insufficiency was fraudulent or is injurious to the public.
- (2) A petition for revocation of a patent may be presented—
- (a) by the Advocate General or any person authorized by him ; or
 - (b) by any person alleging—
 - (i) that the patent was obtained in fraud of his rights, or of the rights of any person under or through whom he claims ; or
 - (ii) that he, or any person under or through whom he claims, was the true and first inventor of any invention included in the claim of the patentee ; or
 - (iii) that he, or any person under or through whom he claims an interest in any trade, business or manufacture, had publicly manufactured, used or sold, within British India, before the date of the patent, anything claimed by the patentee as his invention.
- (3) The High Court may, irrespective of any provisions of the Code of Civil Procedure, 1908, in this behalf, require any per-

son, other than the Advocate General or any person authorized by him, applying for the revocation of a patent to give security for the payment of all costs incurred or likely to be incurred by any person appearing to oppose the petition.

27. (1) Notice of any petition for revocation of a patent under section 26 shall be served on all persons appearing from the register to be proprietors of that patent or to have shares or interests therein, and it shall not be necessary to serve the notice on any other person.

(2) The notice shall be deemed to be sufficiently served if a copy thereof is sent by post in a registered letter directed to the person and place for the time being stated in the register.

28. (1) A High Court may, if it thinks fit, direct an issue for Framing issue the trial, before itself or any other High Court, for trial before other Courts. or any District Court, of any question arising upon a petition to itself under section 26, and the issue shall be tried accordingly.

(2) If the issue is directed to another High Court, the finding shall be certified by that Court to the High Court directing the issue.

(3) If the issue is directed to a District Court, the finding to that Court shall not be subject to appeal, but the evidence taken upon the trial shall be recorded and a copy thereof, certified by the Judge of the Court, shall be transmitted, together with any remarks which he may think fit to make thereon, to the High Court directing the issue, and the High Court may thereupon act upon the finding of the District Court, or dispose of the petition upon the evidence recorded, or direct a new trial, as the justice of the case may require.

29. (1) A patentee may institute a suit in a District Court having jurisdiction to try the suit against any Suits for infringement of patents. person who, during the continuance of a patent acquired by him under this Act in respect of an invention, makes, sells or uses the invention without his license, or counterfeits it, or imitates it.

(2) Every ground on which a patent may be revoked under this Act shall be available by way of defence to a suit for infringement.

30. A patentee shall not be entitled to recover any damages in

Exemption of innocent infringer from liability for damages. respect of any infringement of a patent granted after the commencement of this Act from any defendant who proves that at the date of the infringement he was not aware, nor had reasonable means of making himself aware, of the existence of the patent, and the marking of an article with the word "patent," "patented," or any word or words expressing or implying that a patent has been obtained for the article, stamped, engraved, impressed on, or otherwise applied to the article, shall not be deemed to constitute notice of the existence of the patent unless the word or words are accompanied by the year and number of the patent:

Provided that nothing in this section shall affect any proceedings for an injunction.

31. In a suit for infringement of a patent, the Court may, on the application of either party, make such order **Order for inspection, etc., in suit.** for an injunction, inspection or account, and impose such terms and give such directions respecting the same and the proceedings thereon, as the Court may see fit.

32. In a suit for infringement of a patent the Court may certify that the validity of the patent came in question, and if the Court so certifies, then in any subsequent suit in that Court for infringement of the same patent the plaintiff, on obtaining a final order or judgment in his favour, shall, unless the Court trying the suit otherwise directs, have his full costs, charges and expenses of and incidental to the said suit properly incurred. **Certificate of validity questioned and costs thereon.**

33. A court making a decree in a suit under section 29 or an order on a petition under section 26 shall send a copy of the decree or order, as the case may be, to the Controller, who shall cause an entry thereof and reference thereto to be made in the register of patents. **Transmission of decrees and orders to the Controller.**

34. A High Court to which a petition has been presented under section 26 may stay proceedings on, or dismiss, the petition if in its opinion the petition would be disposed of more justly or conveniently by another High Court. **Power of High Court to stay proceedings, etc.**

35 (1) In a suit or proceeding for infringement or revocation of a patent, the Court may, if it thinks fit, and ^{Hearing with} ^{assessor.} shall on the request of either of the parties to the proceedings, call in the aid of an assessor specially qualified, and try the case wholly or partially with his assistance.

(2) A Court exercising appellate jurisdiction in respect of such suit or proceeding may, if it thinks fit, call in the aid of an assessor as aforesaid.

(3) The remuneration, if any, to be paid to an assessor under this section shall in every case be determined by the Court and be paid by it as part of the expenses of the execution of this Act.

36. Where any person claiming to be the patentee of an invention, by circulars, advertisements or otherwise, threatens any other person with any legal proceedings or liability in respect of any alleged infringement of the patent, any person aggrieved thereby may bring a suit against him in a District Court having jurisdiction to try the suit, and may obtain an injunction against the continuance of such threats, and may recover such damage (if any) as he has sustained thereby, if the alleged infringement to which the threats related was not in fact an infringement of any legal rights of the person making such threats:

Provided that this section shall not apply if the person making such threats with due diligence commences, and prosecutes a suit for infringement of his patent.

Miscellaneous.

37. Where, after the commencement of this Act, a patent is ^{Grant of patents to two or more persons.} granted to two or more persons jointly, they shall, unless otherwise specified in the patent, be treated for the purpose of the devolution of the legal interest therein as joint tenants, but, subject to any contract to the contrary, each of such persons shall be entitled to use the invention for his own profit without accounting to the others, but shall not be entitled to grant a license without their consent, and, if any such person dies, his beneficial interest in the patent shall devolve on his legal representatives.

Novelty of invention.

38. (1) An invention shall be deemed a new invention within the meaning of this Act—

- (a) if it has not, before the date of the application for a patent thereon, been publicly used in any part of British India, or been made publicly known in any part of British India, and
- (b) if the inventor has not by secret or experimental user made direct or indirect profits from his invention in excess of such an amount as the Court or the Governor-General in Council, as the case may be, may, in consideration of all the circumstances of the case, deem reasonable.

(2) The public use or knowledge of an invention before the date of the application for a patent thereon shall not be deemed a public use or knowledge within the meaning of this Act if the knowledge has been obtained surreptitiously or in fraud of the true and first inventor or has been communicated to the public in fraud of such inventor or in breach of confidence :

Provided that such inventor has not acquiesced in the public use of his invention, and that, within six months after the commencement of that use, he applies for a patent.

39. If a patent is lost or destroyed, or its non-production is accounted for to the satisfaction of the Controller, the Controller may at any time, on payment of the prescribed fee, seal a duplicate thereof.

40. (1) The exhibition of an invention at an industrial or international exhibition, certified as such by the Governor-General in Council, or the publication of any description of the invention during the period of the holding of the exhibition, or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention during the period of the holding of the exhibition by any person elsewhere, without the privity or consent of the inventor, shall not prejudice the right of the inventor to apply for and obtain a patent in respect of the invention or the validity of any patent granted on the application :

Provided that—

(a) the exhibitor, before exhibiting the invention, gives the Controller the prescribed notice of his intention to do so; and

(b) the application for a patent is made before or within six months from the date of the opening of the exhibition.

(2) The Governor-General in Council may, by notification in the *Gazette of India*, apply this section to any exhibition mentioned in the notification in like manner as if it were an industrial or international exhibition certified as such by the Governor-General in Council, and any such notification may provide that the exhibitor shall be relieved from the condition of giving notice to the Controller of his intention to exhibit, and shall be so relieved either absolutely or upon such terms and conditions as may be stated in the notification.

41. The trustees of the Indian Museum may at any time require a patentee to furnish them with a model or sample of his invention on payment to the patentee of the cost of the manufacture of the model or sample, the amount to be settled, in case of dispute, by the Governor-General in Council.

42. (1) A patent shall not prevent the use of an invention for the purposes of the navigation of a foreign vessel within the jurisdiction of any Court in British India, or the use of an invention in a foreign vessel within that jurisdiction, provided it is not used therein for or in connection with the manufacture or preparation of anything intended to be sold in or exported from British India.

(2) This section shall not extend to vessels of any foreign State of which the laws do not confer corresponding rights with respect to the use of inventions in British vessels while in the Court of that State, or in the waters within the jurisdiction of its Courts.

PART II.

DESIGNS.

Registration of Designs.

43. (1) The Controller may, on the application of any person claiming to be the proprietor of any new or original design not previously published in British India, register the design under this Part.

(2) The application must be made in the prescribed form and must be left at the Patent Office in the prescribed manner and must be accompanied by the prescribed fee.

(3) The same design may be registered in more than one class, and, in case of doubt as to the class in which a design ought to be registered, the Controller may decide the question.

(4) The Controller may, if he thinks fit, refuse to register any design presented to him for registration; but any person aggrieved by any such refusal may appeal to the Governor-General in Council.

(5) An application which, owing to any default or neglect on the part of the applicant, has not been completed so as to enable registration to be effected within the prescribed time shall be deemed to be abandoned.

(6) A design when registered shall be registered as of the date of the application for registration.

44. Where a design has been registered in one or more classes of goods, the application of the proprietor of the design to register it in some one or more other classes shall not be refused, nor shall the registration thereof be invalidated—

(a) on the ground of the design not being a new and original design, by reason only that it was so previously registered; or

(b) on the ground of the design having been previously published in British India, by reason only that it has been applied to goods of any class in which it was so previously registered.

45. (1) The Controller shall grant a certificate of registration to the proprietor of the design when registered.

(2) The Controller may, in case of loss of the original certificate, or in any other case in which he deems it expedient, furnish one or more copies of the certificate.

46. (1) There shall be kept at the Patent Office a book called the Register of Designs, wherein shall be entered the names and addresses of proprietors of registered designs, notifications of assignments and of transmissions of registered designs, and such other matters as may be prescribed.

(2) The register of designs existing at the commencement of this Act shall be incorporated with and form part of the register of designs under this Act.

(3) The register of designs shall be *prima facie* evidence of any matters by this Act directed or authorized to be entered therein.

Copyright in Registration Designs.

47. (1) When a design is registered, the registered proprietor of the design shall, subject to the provisions of Copyright on registration, this Act, have copyright in the design during five years from the date of registration.

(2) If within the prescribed time before the expiration of the said five years application for the extension of the period of copyright is made to the Controller in the prescribed manner, the Controller shall, on payment of the prescribed fee, extend the period of copyright for a second period of five years from the expiration of the original period of five years.

(3) If within the prescribed time before the expiration of such second period of five years application for the extension of the period of copyright is made to the Controller in the prescribed manner, the Controller may, subject to any rules under this Act, on payment of the prescribed fee, extend the period of copyright for a third period of five years from the expiration of the second period of five years.

Requirements before delivery on sale. 48. (1) Before delivery on sale of any articles to which a registered design has been applied, the proprietor shall—

(a) (if exact representation or specimens were not furnished on the application for registration), furnish to the Controller the prescribed number of exact representations or specimens of the design; and, if he fails to do so, the Controller may erase his name from the register, and thereupon the copyright in the design shall cease; and

(b) cause each such article to be marked with the prescribed mark, or with the prescribed words or figures, denoting that the design is registered; and, if he fails to do so, the proprietor shall not be entitled to recover any penalty or damages in respect of any infringe-

ment of his copyright in the design unless he shows that he took all proper steps to ensure the marking of the article, or unless he shows that the infringement took place after the person guilty thereof knew or had received notice of the existence of the copyright in the design.

(2) Where a representation is made to the Governor-General in Council by or on behalf of any trade or industry that in the interests of the trade or industry it is expedient to dispense with or modify as regards any class or description of articles any of the requirements of this section as to marking, the Governor-General in Council may, if he thinks fit, by rule under this Act, dispense with or modify such requirements as regards any such class or description of articles to such extent and subject to such conditions as he thinks fit.

49. The disclosure of a design by the proprietor to any other person, in such circumstances as would make it contrary to good faith for that other person to use or publish the design, and the disclosure of a design in breach of good faith by any person other than the proprietor of the design, and the acceptance of a first and confidential order for goods bearing a new or original textile design intended for registration, shall not be deemed to be a publication of the design sufficient to invalidate the copyright thereof if registration thereof is obtained subsequently to the disclosure or acceptance.

50. (1) During the existence of copyright in a design, or such shorter period not being less than two years from the registration of the design as may be prescribed, the design shall not be open to inspection except by the proprietor or a person authorized in writing by him, or a person authorized by the Controller or by the Court, and furnishing such information as may enable the Controller to identify the design, and shall not be open to the inspection of any person except in the presence of the Controller, or of an officer acting under him, and on payment of the prescribed fee; and the person making the inspection shall not be entitled to take any copy of the design, or of any part thereof:

Provided that, where registration of a design is refused on the ground of identity with a design already registered, the applicant for registration shall be entitled to inspect the design so registered.

(2) After the expiration of the copyright in a design, or such shorter period as aforesaid, the design shall be open to inspection, and copies thereof may be taken by any person on payment of the prescribed fee.

(3) Different periods may be prescribed under this section for different classes of goods.

51. On the request of any person furnishing such information as may enable the Controller to identify the design, and on payment of the prescribed fee, the Controller shall inform such person whether the registration still exists in respect of the design, and, if so, in respect of what classes of goods, and shall state the date of registration, and the name and address of the registered proprietor.

Industrial and International Exhibitions.

52. (1) The exhibition at an industrial or international exhibition certified as such by the Governor-General in Council, or the exhibition elsewhere during the period of the holding of the exhibition, without the privity or consent of the proprietor, of a design, or of any article to which a design is applied, or the publication, during the holding of any such exhibition, of a description of a design, shall not prevent the design from being registered, or invalidate the registration thereof :

Provided that—

- (a) the exhibitor, before exhibiting the design or article, or publishing a description of the design, gives the Controller the prescribed notice of his intention to do so; and
- (b) the application for registration is made before or within six months from the date of the opening of the exhibition.

(2) The Governor-General in Council may, by notification in the *Gazette of India*, apply this section to any exhibition mentioned in the notification in like manner as if it were an industrial or

international exhibition certified as such by the Governor-General in Council, and any such notification may provide that the exhibitor shall be relieved from the condition of giving notice to the Controller of his intention to exhibit, and shall be so relieved either absolutely or upon such terms and conditions as may be stated in the notification.

Legal Proceedings.

53. (1) During the existence of copyright in any design it shall not be lawful for any person—

Piracy of registered design.

(a) for the purpose of sale to apply or cause to be applied to any article in any class of goods in which the design is registered the design or any fraudulent or obvious imitation thereof, except with the license or written consent of the registered proprietor, or to do anything with a view to enable the design to be so applied; or,

(b) knowing that the design or any fraudulent or obvious imitation thereof has been applied to any article without the consent of the registered proprietor, to publish or expose or cause to be published or exposed for sale that article.

(2) If any person acts in contravention of this section, he shall be liable for every contravention—

(a) to pay to the registered proprietor of the design a sum not exceeding five hundred rupees recoverable as a contract debt, or

(b) if the proprietor elects to bring a suit for the recovery of damages for any such contravention, and for an injunction against the repetition thereof, to pay such damages as may be awarded and to be restrained by injunction accordingly :

Provided that the total sum recoverable in respect of any one design under clause (a) shall not exceed one thousand rupees.

(3) When the Court makes a decree in a suit under sub-section (2), it shall send a copy of the decree to the Controller, who shall cause an entry thereof to be made in the register of designs.

54. The provisions of this Act with regard to certificates of the validity of a patent, and to the remedy in case of groundless threats of legal proceedings by a patentee shall apply in the case of registered designs in like manner as they apply in the case of patents, with the substitution of references to the copyright in a design for references to a patent, and of references to the proprietor of a design for references to the patentee, and of references to the design for references to the invention.

PART III.

GENERAL.

Patent Office and Proceedings thereat.

55. (1) The Governor-General in Council may provide, for the purposes of this Act, an office which shall be called, and is in this Act referred to as, the Patent Office.

(2) The Patent Office shall be under the immediate control of the Controller of Patents and Designs, who shall act under the superintendence and direction of the Governor-General in Council.

(3) There shall be a seal for the Patent Office.

(4) Any act or thing directed to be done by or to the Controller may be done by or to any officer authorized by the Governor-General in Council.

56. The Governor-General in Council may appoint the Controller, and so many officers and clerks, with such designations and duties as he thinks fit.

Fees.

57. (1) There shall be paid in respect of the grant of patents and the registration of designs, and applications therefor, and in respect of other matters with relation to patents and designs under this Act, such fees as may be prescribed by the Governor-General in Council, so however that the fees prescribed in respect of the instruments and matters mentioned in the schedule shall not exceed those there specified.

(2) A proceeding in respect of which a fee is payable under this Act or the rules made thereunder shall be of no effect unless the fee has been paid.

*Provisions as to Registers and other Documents
in the Patent Office.*

58. There shall not be entered in any register kept under this Act, or be receivable by the Controller, any notice of any trust, expressed, implied or constructive.

Notice of trust not to be entered in registers.

59. Every register kept under this Act shall at all convenient times be open to the inspection of the public, subject to the provisions of this Act; and certified copies, sealed with the seal of the Patent Office, of any entry in any such register shall be given to any person requiring the same on payment of the prescribed fee.

Inspection of, and extracts from, registers.

60. Reports of or to the Controller made under this Act shall not in any case be published or be open to public inspection.

Privilege of reports of Controller.

61. (1) Where an application for a patent has been abandoned or become void, the specifications and drawings (if any), accompanying or left in connection with such application, shall not, save as otherwise expressly provided by this Act, at any time be open to public inspection or be published by the Controller.

Prohibition of publication of specification, drawings, etc., where application abandoned, etc.

(2) Where an application for a design has been abandoned or refused, the application and any drawings, photographs, tracings, representations or specimens left in connection with the application shall not at any time be open to public inspection or be published by the Controller.

62. The Controller may, on request in writing accompanied by the prescribed fee,—

Power for Controller to correct clerical errors.

- (a) correct any clerical error in or in connection with an application for a patent or in any patent or any specification;
- (b) cancel the registration of a design either wholly or in respect of any particular goods in connection with which the design is registered;
- (c) correct any clerical error in the representation of a design or in the name or address of the proprietor of any patent or design, or in any other matter which is en-

tered upon the register of patents or the register of designs.

63. (1) Where a person claims to be entitled by assignment, transmission or other operation of law to a patent, or to the copyright in a registered design, the Controller shall, on request and on proof of title to his satisfaction, register his interest in such patent or design.

Entry of assignments and transmissions in registers.

(2) Where any person claims to be entitled as mortgagee, licensee or otherwise to any interest in a patent or registered design, the Controller shall, on request and on proof of title to his satisfaction, cause notice of the interest to be entered in the prescribed manner in the register of patents or designs, as the case may be.

(3) The person registered as the proprietor of a patent or design shall, subject to the provisions of this Act and to any rights appearing from the register to be vested in any other person, have power absolutely to assign, grant licenses as to, or otherwise deal with, the patent or design and to give effectual receipts for any consideration for any such assignment, license or dealing :

Provided that any equities in respect of the patent or design may be enforced in like manner as in respect of any other moveable property.

64. (1) A High Court may, on the application in the prescribed manner of any person aggrieved by the non-insertion in or omission from the register of patents or designs of any entry, or by any entry made in either such register without sufficient cause, or by any entry wrongly remaining on either such register, or by an error or defect in any entry in either such register, make such order for making, expunging or varying such entry as it may think fit.

(2) The Court may in any proceeding under this section decide any question that it may be necessary or expedient to decide in connection with the rectification of a register.

(3) The prescribed notice of any application under this section shall be given to the Controller, who shall have the right to appear and be heard thereon.

(4) Any order of the Court rectifying a register shall direct that notice of the rectification be served on the Controller in the prescribed manner; who shall upon the receipt of such notice rectify the register accordingly.

(5) A High Court to which an application has been made under this section may stay proceedings on or dismiss the application if in its opinion the application would be disposed of more justly or conveniently by another High Court.

Powers and Duties of Controller.

65. Subject to any rules in this behalf, the Controller in any proceedings before him under this Act shall have the powers of a Civil Court for the purpose of receiving evidence and administering oaths and enforcing the attendance of witnesses and compelling the production of documents and awarding costs.

66. The Controller shall issue periodically a publication of patented inventions containing such information as the Governor-General in Council may direct.

67. Where any discretionary power is by or under this Act given to the Controller, he shall not exercise that power adversely to the applicant for a patent, or for amendment of an application or of a specification, or for registration of a design, without (if so required within the prescribed time by the applicant) giving the applicant an opportunity of being heard.

68. The Controller may, in any case of doubt or difficulty arising in the administration of any of the provisions of this Act, apply to the Governor-General in Council for directions in the matter.

69. The Controller may refuse to grant a patent for an invention, or to register a design, of which the use would, in his opinion, be contrary to law or morality.

70. (1) Where an appeal is declared by this Act to lie from the Controller to the Governor-General in Council, the appeal shall be made within two months

of the date of the order passed by the Controller, and shall be in writing, and accompanied by the prescribed fee.

(2) In calculating the said period of two months the time (if any) occupied in granting a copy of the order appealed against shall be excluded.

(3) The Governor-General in Council may, if he thinks fit, obtain the assistance of an expert in deciding such appeals, and the decision of the Governor-General in Council shall be final.

Evidence, etc.

71. A certificate purporting to be under the hand of the Controller as to any entry, matter or thing which he is authorized by this Act, or any rules made thereunder, to make or do, shall be *prima facie* evidence of the entry having been made, and of the contents thereof, and of the matter or thing having been done or left undone.

72. Copies of all specifications, drawings and amendments left at the Patent Office after the commencement of this Act, printed for and sealed with the seal of the Patent Office, shall be transmitted as soon as may be, after they have been accepted or allowed at the Patent Office, to the Governor of Fort St. George in Council, the Governor of Bombay in Council, the Lieutenant-Governor of Burma and to such other authorities as the Governor-General in Council may appoint in this behalf, and shall be open to the inspection of any person at all reasonable times at places to be appointed by those authorities.

73. Any application, notice or other document authorised or required to be left, made or given at the Patent Office or to the Controller, or to any other person under this Act, may be sent by post.

74. (1) If any person is, by reason of infancy, lunacy or other disability, incapable of making any statement or doing anything required or permitted by or under this Act the lawful guardian committee or manager (if any) of the person subject to the disability, or, if there be none, any person appointed by any Court, possessing jurisdiction in respect of his property, may make such state

ment or a statement as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of the person subject to the disability.

(2) An appointment may be made by the Court for the purposes of this section upon the petition of any person acting on behalf of the person subject to the disability or of any other person interested in the making of the statement or the doing of the thing.

Agency.

Subscription
and verification
of certain documents.

75. The following documents, namely,—

- (1) applications for a patent,
- (2) notices of opposition,
- (3) applications for extension of term of a patent,
- (4) applications for the restoration of lapsed patents,
- (5) applications for leave to amend,
- (6) applications for compulsory license or revocation, and
- (7) notices of surrenders of patent,

shall be signed and verified, in the manner prescribed, by the person making such applications or giving such notices :

Provided that, if such person is absent from British India, they may be signed and verified on his behalf by an agent resident in British India authorized by him in writing in that behalf.

76. (1) All other applications and communications to the Controller under this Act may be signed by, and all attendances upon the Controller may be made by or through a legal practitioner or by or through an agent authorized to the satisfaction of the Controller.

(2) The Controller may, if he sees fit, require—

- (a) any such agent to be resident in British India ;
- (b) any person not residing in British India to employ an agent residing in British India ;
- (c) the personal signature or presence of any applicant, opponent or other person.

Powers, etc., of Governor-General in Council.

Power for
Governor-General
in Council to
make rules.

77. (1) The Governor-General in Council may make such rules as he thinks expedient, subject to the provisions of this Act—

- (a) for regulating the practice of registration under this Act;
- (b) for classifying goods for the purposes of designs;
- (c) for making or requiring duplicates of specifications, drawings and other documents;
- (d) for securing and regulating the publishing and selling of copies, at such prices and in such manner as the Governor-General in Council thinks fit, of specifications, drawings and other documents;
- (e) for securing and regulating the making, printing, publishing, and selling of indexes to, and abridgments of, specifications and other documents in the Patent Office; and providing for the inspection of indexes and abridgments and other documents;
- (f) generally for regulating the business of the Patent Office, the conduct of proceedings before the Controller, and all things by this Act placed under the direction or control of the Controller or of the Governor-General in Council; and
- (g) generally for the purpose of carrying into effect the provisions of this Act.

(2) The power to make rules under this section shall be subject to the condition of the rules being made after previous publication.

(3) All rules made under this section shall be published in the *Gazette of India*, and on such publication shall have effect as if enacted in this Act.

Offences.

78. If any person uses on his place of business, or on any document issued by him, or otherwise, the words "Patent Office," or any other words suggesting that his place of business is officially

Wrongful use of
words "Patent
Office."

connected with, or is, the Patent Office, he shall be punishable with fine which may extend to two hundred rupees and, in the case of a continuing offence, with further fine of twenty rupees for each day on which the offence is continued after conviction therefor.

Savings and Repeal.

79. Nothing in this Act shall take away, abridge or prejudicially affect the prerogative of the Crown in relation to the granting of any letters patent or to the withholding of a grant thereof.

80. The inventions and Designs Act, 1888, is hereby repealed:

Provided that this repeal shall not affect any application under the said Act pending at the commencement of this Act, and all proceedings on such application shall be continued as if this Act had not been passed.

81. (1) At any time within two years from the commencement of this Act, any person possessing an exclusive privilege under the Inventions and Designs Act, 1888, may, by request in writing left at the Patent Office and on payment of the prescribed fee, seek leave to convert his exclusive privilege under the said Act into a patent under this Act.

(2) Notice of any application under this section shall be sent to all persons appearing from the address book kept under the said Act to have any shares or interests in the exclusive privilege.

(3) Save as aforesaid, the procedure prescribed by section 17 in the case of applications under that section shall, so far as may be, apply to every application under this section.

(4) Every patent granted under this section shall be dated as of the date of the exclusive privilege for which it is substituted.

THE SCHEDULE.

(See section 57.)

FEES.						Rs.
On application for a patent	...	...	..	...	...	10
Before sealing a patent	...	...	..	...	...	30
Before the expiration of the 4th year from the date of the patent	...	...	..	...	...	50
Before the expiration of the 5th year from the date of the patent	...	...	..	...	...	50

	Rs.
Before the expiration of the 6th year from the date of the patent ...	50
Before the expiration of the 7th year from the date of the patent ..	50
Before the expiration of the 8th year from the date of the patent ...	50
Before the expiration of the 9th year from the date of the patent ...	100
Before the expiration of the 10th year from the date of the patent ...	100
Before the expiration of the 11th year from the date of the patent ...	100
Before the expiration of the 12th year from the date of the patent ...	100
Before the expiration of the 13th year from the date of the patent ...	100
Provided that the fees for two or more years may be paid in advance.	
On application to extend term of a patent	50
Before the expiration of each year of the extended term of a patent or of a new patent granted under section 15	100
On application for registration of a design	3

The following Act of the Governor-General of India in Council received the assent of the Governor-General on the 2nd March 1911, and is hereby promulgated for general information.—

ACT No. III OF 1911.

THE CRIMINAL TRIBES ACT, 1911.

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22. Penalties for breach of rules.

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25. Arrest of registered person found beyond prescribed limits.

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THE SCHEDULE.

An Act to amend the law relating to the registration, surveillance and control of Criminal Tribes.

WHEREAS it is expedient to amend the law relating to the registration, surveillance and control of criminal tribes ; It is hereby enacted as follows :

Preliminary.

Short title and extent.

1. (1) This Act may be called the Criminal Tribes Act, 1911; and

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

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

(1) "criminal tribe" means a tribe, gang or class of persons declared to be a criminal tribe by a notification under section 3 ;

(2) "prescribed" means prescribed by rules under this Act ; and

(3) "tribe," "gang" or "class" includes any part or members of a tribe, gang or class.

Notification of Criminal Tribes.

3. If the Local Government has reason to believe that any tribe, gang or class of persons is addicted to the systematic commission of non-bailable offences, it may, by notification in the local official Gazette, declare that such tribe, gang or class is a criminal tribe for the purposes of this Act.

4. The Local Government may direct the District Magistrate to make or to cause to be made a register of the members of any criminal tribe or of any part thereof within his district.

5. Upon receiving such direction, the District Magistrate shall publish a notice in the prescribed manner at the place where the register is to be made and at such other places as he may think fit, calling upon all the members of such criminal tribe, or of such part thereof as is directed to be registered,—

(a) to appear at a time and place therein specified before a person appointed by him in this behalf ;

(b) to give to that person such information as may be necessary to enable him to make the register ; and

(c) to allow their finger-impressions to be recorded :

Provided that the District Magistrate may exempt any individual member of such criminal tribe or part thereof from registration.

6. The register, when made, shall be placed in the keeping of the Superintendent of Police, who shall, from time to time, report to the District Magistrate any alterations which ought in his opinion to be made therein, either by way of addition or erasure.

7. (1) After the register has been placed in the keeping of the Superintendent of Police no person shall be added to the register, and no registration shall be cancelled except by or by the order in writing of the District Magistrate.

(2) Before the name of any person is added to the register under this section, the Magistrate shall give notice in the prescribed manner to the person concerned—

(a) to appear before him or a person appointed by him in this behalf at a time and place therein specified ;

(b) to give him or such person such information as may be necessary to enable him to make the entry ; and

(c) to allow his finger-impressions to be recorded.

8. Any person deeming himself aggrieved by any entry made, or proposed to be made, in such register either Complaints of or proposed to be made, in such register either entries in register. when the register is first made or subsequently, may complain to the District Magistrate against such entry, and the Magistrate shall retain such person's name on the register, or enter it therein, or erase it therefrom, as he may see fit.

9. The District Magistrate or any officer empowered by him in this behalf may at any time order the finger-impressions of a registered member of a criminal tribe to be taken.

10. The Local Government may, by notification in the local official Gazette, direct in respect of any criminal Members of criminal tribes to report themselves or notify residence. tribe that every registered member thereof shall, in the prescribed manner,—

(a) report himself at fixed intervals ; or

(b) notify his place of residence and any change or intended change of residence and any absence or intended absence from his residence.

Restriction of Movements of Criminal Tribes.

11. (1) If the Local Government considers that it is expedient that any criminal tribe should be—

(a) restricted in its movements to any specified area, or

(b) settled in any place of residence, it may report the case for the orders of the Governor-General in Council.

(2) Every such report shall state—

- (i) the nature and the circumstances of the offences in which the members of the criminal tribe are believed to have been concerned, and the reasons for such belief ;
- (ii) whether such criminal tribe follows any lawful occupation, and whether such occupation is in the opinion of the Local Government the real occupation of such criminal tribe, or a pretence for the purpose of facilitating the commission of crimes, and the grounds on which such opinion is based ;
- (iii) the area to which it is proposed to restrict the movements of such criminal tribe, or the place of residence in which it is proposed to settle it ; and
- (iv) the manner in which it is proposed that such criminal tribe shall earn its living within the restricted area or in the settlement, and the arrangements which are proposed to be made therefor.

Notification restricting movements of, or settling, tribe.

12. If on the consideration of any such report the Governor-General in Council is satisfied—

- (a) that it is expedient to restrict the movements of such criminal tribe, or to settle it in a place of residence, and
- (b) that the means by which it is proposed that such criminal tribe shall earn its living are adequate,

he may authorize the Local Government to publish in the local official Gazette a notification declaring that such criminal tribe shall be restricted in its movements to the area specified or shall be settled in the place of residence specified, and the Local Government may publish a notification accordingly.

13. The Local Government may at any time by a like notification vary the terms of any notification published by it under section 12 by specifying another area to which the movements of the criminal tribe shall be restricted, or another place of residence in which it shall be settled.

Power to vary specified area or place of residence.

14. Every registered member of a criminal tribe, whose movement have been restricted or which has been settled in a place of residence, shall attend at such place and at such time and before such person as may be prescribed in this behalf.

15. When the area to which the movements of a criminal tribe or any members thereof are restricted, or the place of residence in which a criminal tribe is settled, is situated in a district other than that in which the register mentioned in section 4 was prepared, the register shall be transferred to the Superintendent of Police of the district in which the said area is situated, and the District Magistrate of the said district shall thereupon be empowered to exercise the powers provided in sections 7, 8 and 9.

Settlements and Schools.

16. The Governor-General in Council or the Local Government may establish industrial, agricultural or reformatory settlements and may place therein any criminal tribe or any part thereof, in respect of which a notification has been published under section 12.

17. (1) The Local Government may establish industrial, agricultural or reformatory schools for children and may separate and remove from their parents or guardians and place in such schools the children of members of any criminal tribe in respect of which a notification has been published under section 12.

(2) For every school established under sub-section (1), a Superintendent shall be appointed by the Local Government.

(3) The provisions of sections 18 to 22 (both inclusive) of the Reformatory Schools Act, 1897, shall, so far as may be, apply in the case of every school for children established under this section as if the Superintendent of such school were a Superintendent and the children placed in such school were youthful offenders within the meaning of that Act.

(4) For the purposes of this section the term "children" includes all persons under the age of eighteen and above the age of six years.

(5) The decision of the District Magistrate as to the age of any person for the purposes of this section shall be final.

Power of Local Government to discharge or remove persons from settlement or school.

18. The Local Government may at any time, by general or special order, direct any person who may be in any industrial agricultural or reformatory settlement or school in the Province,—

(a) to be discharged, or

(b) to be removed to some other like settlement or school in the Province.

Power of Governor-General in Council to direct age of any settlement or school in British India for reception of persons.

19. The Governor-General in Council, may, by like order, direct that any person to whom the provisions of section 16 or section 17 are applicable may be placed in, or transferred to, any industrial, agricultural or reformatory settlement or school in any part of British India.

Rules.

Power to make rules.

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

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for and regulate—

(a) the form and contents of the register prescribed in section 4;

(b) the mode in which the notice prescribed in section 5 shall be published and the means by which the persons whom it concerns, and the village-headmen, village-watchmen and landowners or occupiers of the village in which such persons reside, or the agents of such landowners or occupiers, shall be informed of its publication;

(c) the addition of names to the register and the erasure of names therein, and the mode in which the notice prescribed in section 7 shall be given;

(d) the mode in which persons mentioned in section 10 shall report themselves, or notify their residence or any change or intended change of residence or any absence or intended absence;

(e) the nature of the restrictions to be observed by persons

whose movements have been restricted by notification under section 12 or section 13 ;

- (f) the conditions as to holding passes under which persons may be permitted to leave the place in which they are settled or confined or the area to which their movements are restricted ;
- (g) the conditions to be inserted in any such pass in regard to—
 - (i) the places where the holder of the pass may go or reside ;
 - (ii) the persons before whom, from time to time, he shall be bound to present himself ; and
 - (iii) the time during which he may absent himself ;
- (h) the place and time at which and the persons before whom, members of a criminal tribe shall attend in accordance with the provisions of section 14 ;
- (i) the inspection of the residences and villages of any criminal tribe ;
- (j) the terms upon which registered members of criminal tribes may be discharged from the operation of this Act ;
- (k) the management, control and supervision of industrial, agricultural or reformatory settlements and schools ;
- (l) the works on which, and the hours during which, persons placed in an industrial, agricultural or reformatory settlement shall be employed, the rate at which they shall be paid, and the disposal, for the benefit of such persons, of the surplus proceeds of their labour ; and
- (m) the discipline to which persons endeavouring to escape from any industrial, agricultural or reformatory settlement or school, or otherwise offending against the rules for the time being in force, shall be subject, the periodical visitation of such settlement or school, and the removal from it of such persons as it shall seem expedient to remove.

Penalties and Procedure.

Penalties for failure to comply with terms of notice under section 5 or 7.

21. Whoever, being a member of a criminal tribe, without lawful excuse, the burden of proving which shall lie upon him,—

- (a) fails to appear in compliance with a notice issued under section 5 or section 7, or
 - (b) intentionally omits to furnish any information required under those sections, or,
 - (c) when required to furnish information under either of those sections, furnishes as true any information which he knows or has reason to believe to be false, or
 - (d) refuses to allow his finger-impressions to be taken,
- may be arrested without warrant, and shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

22. (1) Whoever, being a registered member of a criminal tribe, violates a rule made under clause (e), clause (f) or clause (g) of section 20 shall be punishable with imprisonment for a term which may extend,—

Penalties for
breach of rules.

- (a) on a first conviction, to one year,
- (b) on a second conviction, to two years, and
- (c) on any subsequent conviction, to three years.

(2) Whoever, being a registered member of a criminal tribe, violates a rule made under any other clause of section 20 shall be punishable,—

- (a) on a first conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both ; and
- (b) on any subsequent conviction, with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

23. (1) Whoever, being a member of any criminal tribe, and, having been convicted of any of the offences under the Indian Penal Code, specified in the Schedule, is hereafter convicted of the same or any other offence specified in the said schedule shall, in the absence of special reasons to the contrary to be mentioned in the judgment of the Court, be punished,—

Enhanced
punishment for
certain offences
by members of
criminal tribe
after previous con-
viction.

- (a) on a second conviction, with imprisonment for a term

of not less than seven years, and

(b) on a third conviction, with transportation for life.

(2) Nothing in this section shall affect the liability of such person to any further or other punishment to which he may be liable under the Indian Penal Code or any other law.

Punishment for registered members of criminal tribe found under suspicious circumstances.

24. Whoever, being a registered member of any criminal tribe, is found in any place under such circumstances as to satisfy the Court—

(a) that he was about to commit, or aid in the commission of, theft or robbery, or

(b) that he was waiting for an opportunity to commit theft or robbery,

shall be punishable with imprisonment for a term which may extend to three years, and shall also be liable to fine which may extend to one thousand rupees.

Arrest of registered person found beyond prescribed limits.

25. (1) Whoever, being a registered member of a criminal tribe—

(a) is found in any part of British India, beyond the area, if any, prescribed for his residence, without the prescribed pass, or in a place or at a time not permitted by the conditions of his pass; or

(b) escapes from an industrial, agricultural or reformatory settlement or school,

may be arrested without warrant by any police-officer, village headman or village-watchman, and taken before a Magistrate, who, on proof of the facts, shall order him to be removed to the district in which he ought to have resided or to the settlement or school from which he has escaped (as the case may be), there to be dealt with in accordance with this Act or any rules made thereunder.

(2) The rules for the time being in force for the removal of prisoners shall apply to all persons removed under this section or under any other provision of this Act:

Provided that an order from the Local Government or from the Inspector-General of Prisons shall not be necessary for the removal of such persons:

26. (1) Every village-headman and village-watchman in a village in which any persons belonging to a criminal tribe reside, and every owner or occupier of land on which any such persons reside or the agent of any such owner or occupier, shall forthwith communicate to the officer in charge of the nearest police-station any information which he may obtain of—

(a) the failure of any such person to appear and give information as directed in section 5; or

(b) the departure of any registered member of a criminal tribe from such village or from such land (as the case may be).

(2) Every village-headman and village-watchman in a village, and every owner or occupier of land or the agent of such owner or occupier, of land or the agent of such owner or occupier, shall forthwith communicate to the officer in charge of the nearest police-station any information which he may obtain of the arrival at such village or on such land (as the case may be) of any persons who may reasonably be suspected of belonging to any criminal tribes.

27. Any village-headman, village-watchman, owner or occupier of land or the agent of such owner or occupier, who fails to comply with the requirements of section 26, shall be deemed to have committed an offence punishable under the first part of section 176 of the Indian Penal Code.

Penalty for breach of such duties.

Supplemental.

28. No Court of justice shall question the validity of any notification published under the provisions of section 3, section 12 or section 13 on the ground that the provisions hereinbefore contained or any of them have not been complied with, or entertain in any form whatever the question whether they have been complied with; but every such notification shall be conclusive proof that it has been issued in accordance with law.

29. The Criminal Tribes Act, 1871, the Criminal Tribes (Amendment) Act, 1876, and the Criminal Tribes Act, Amendment Act, 1897, are hereby repealed.

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THE SCHEDULE.

(See section 23.)

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INDIAN PORTS (AMENDMENT) ACT.

ACT No. IV OF 1911.

[RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL
ON THE 2ND MARCH 1911.]

An Act to amend the Indian Ports Act, 1908.

WHEREAS it is expedient to amend the Indian Ports Act, 1908 ;
It is hereby enacted as follows :—

Short title. 1. This Act may be called the Indian
Ports (Amendment) Act, 1911.

Amendment of section 6, Act XV, 1908. 2. For clause (p) of section 6, sub-section (1), of the Indian Ports Act, 1908, the following shall be substituted, namely :—

“(p) subject to the control of the Governor-General in Council, for the prevention of danger arising to the public health by the introduction and the spread of any infectious or contagious disease from vessels arriving at, or being in, any such port, and for the prevention of the conveyance of infection or contagion by means of any vessel sailing from any such port, and in particular and without prejudice to the generality of this provision, for—

(i) the signals to be hoisted and the places of anchorage to be taken up by such vessels having any case, or suspected case, of any infectious or contagious disease on board, or arriving at such port from a port in which or in the neighbourhood of which, there is believed to be, or to have been at the time when the vessel left such port, any infectious or contagious disease ;

(ii) the medical inspection of such vessels and of persons on board such vessels ;

(iii) the questions to be answered and the information to be supplied by masters, pilots and other persons on board such vessels ;

(iv) the detention of such vessels and of persons on board such vessels ;

(v) the duties to be performed in cases of any such disease by masters, pilots and other persons on board such vessels ;

- (vi) the removal to hospital or other place approved by the health-officer and the detention therein of any person from any such vessel who is suffering or suspected to be suffering from any such disease ;
- (vii) the cleansing, ventilation and disinfection of such vessels or any part thereof and of any articles therein likely to retain infection or contagion, and the destruction of rats or other vermin in such vessels ; and
- (viii) the disposal of the dead on such vessels ; and."

INDIAN TRAMWAYS (AMENDMENT) ACT.

ACT No. V of 1911.

[RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL
ON THE 2ND MARCH 1911.]

An Act further to amend the Indian Tramways Act, 1886.

WHEREAS it is expedient further to amend the Indian Tramways Act, 1886 : It is hereby enacted as follows :—

1. This Act may be called the Indian Tramways (Amendment) Act, 1911.

2. For section 3, clause (5), of the Indian Tramways Act, 1886, the following shall be substituted, namely :—

"(5) 'tramway' means a tramway having one, two or more rails, and includes—

- (a) any part of a tramway or any siding, turn-out, connection, line or track belonging to a tramway ;
- (b) any electrical equipment of a tramway ; and
- (c) any electric supply-line transmitting power from a generating station or sub-station to a tramway or from a generating station to a sub-station from which power is transmitted to a tramway."

3. In section 3, clause (9), of the said Act, after the words "mechanical power" the word "or electrical power" and after the word "producing" the words "or utilising" shall be inserted.

Substitution of new clause (e) in section 7 (2), Act, XI of 1886. 4. For section 7, sub-section (2), clause (e), of the said Act, the following shall be substituted, namely :—

“(e) the space which shall ordinarily intervene between the outside of the carriage way on either side of a road whereon the tramway is to be constructed, and—

(i) in the case of a tramway having one rail, the rail of the tramway, or

(ii) in the case of a tramway having two or more rails, the nearest rail of the tramway, and the conditions on which a smaller space may be permitted.”

Amendment of clause (m) of section 7 (2), Act XI of 1886. 5. In section 7, sub-section (2), clause (m), of the said Act, after the words “mechanical power” the words “or electrical power” shall be inserted.

Amendment of clause (e) of section 24 (1), Act XI of 1886. 6. In section 24, sub-section (1), clause (e), of the said Act, after the words “mechanical power” the words “or electrical power” shall be inserted.

Amendment of section 44, Act XI of 1886. 7. In section 44 of the said Act, after the word “engine-sheds” the words “electrical generating stations or sub-stations” shall be inserted.

INDIAN TARIFF (AMENDMENT) ACT.

Act No. VI of 1911.

[RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL
ON THE 7TH MARCH 1911.]

An Act further to amend the Indian Tariff Act, 1894.

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

Short title. 1. This Act may be called the Indian Tariff (Amendment) Act, 1911.

2. For item No. 5 of Schedule III to the Indian Tariff Act, 1894, as amended by the Indian Tariff Amendment Act, 1910, the following shall be substituted, namely :—

5"	Tobacco—		Rs. A.
	Unmanufactured	pound	1 0
	Cigars	"	1 10
	Cigarettes weighing less than 3 lbs. per thousand.	thousand	3 2
	Cigarettes weighing 3 lbs. or more per thousand.	pound	1 4
	Manufactured, other sorts	"	1 2

INDIAN PAPER CURRENCY (AMENDMENT) ACT.

ACT NO. VII OF 1911.

[RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL
ON THE 16TH MARCH 1911.]

An Act to amend the Indian Paper Currency Act, 1910.

WHEREAS it is expedient to amend the Indian Paper Currency Act, 1910; It is hereby enacted as follows :—

1. This Act may be called the Indian Paper Currency (Amendment) Act, 1910.

2. In section 22 of the Indian Paper Currency Act, 1910, for the words "twenty millions," each time they occur, the words "forty millions" shall be substituted.

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THE INDIAN ARMY ACT, 1911.

ACT NO. VIII OF 1911.

[RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL
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REPEAL OF ENACTMENTS.

An Act to consolidate and amend the law relating to the government of His Majesty's Native Indian Forces.

WHEREAS it is expedient to consolidate and amend the law relating to the government of the Native officers, soldiers and other persons in His Majesty's Indian Forces; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title and commencement. 1. (1) This Act may be called the Indian Army Act, 1911.

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

Application of Act.

Persons subject to Act.

2. (1) The following persons shall be subject to this Act, namely:—

- (a) Native officers and warrant officers ;
- (b) persons enrolled under this Act ;
- (c) persons not otherwise subject to military law, who, on active service, in camp, on the march, or at any frontier post specified by the Governor General in Council by notification in this behalf, are employed by, or are in the service of, or are followers of, or accompany any portion of His Majesty's Forces :

Provided that if any person claims to belong to a class to which the Army Act is, and this Act is not, applicable, the burden of proving that he belongs to that class shall lie upon him.

(2) Every person subject to this Act under sub-section (1), clause (a) or (b), shall remain so subject until duly discharged or dismissed.

3. (1) The Governor General in Council may, by notification, direct that any persons or class of persons subject to this Act under section 2, sub-section (1), clause (c), shall be so subject as Native officers, warrant officers or non-commissioned officers, and may authorize any officer to give a like direction with respect to any such person and to cancel such direction.

(2) All persons subject to this Act other than officers, warrant officers and non-commissioned officers shall, if they are not persons in respect of whom a notification or direction under sub-section (1) is in force, be deemed to be of a rank inferior to that of a non-commissioned officer.

4. Every person subject to this Act under section 2, sub-section (1), clause (c), shall, for the purposes of this Act, be deemed to be under the commanding officer of the corps, department or detachment (if any) to which he is attached, and if he is not attached to any corps, department or detachment, under the command of any officer who may for the time being be named as his commanding officer by the officer commanding the force with which

Special provision as to rank in certain cases.

Commanding officers of persons subject to military law under section 2, clause (c).

such person may for the time being be serving, or of any other prescribed officer, or, if no such officer is named or prescribed, under the command of the said officer commanding the force :

Provided that an officer commanding a force shall not place a person under the command of an officer of official rank inferior to that of such person if there is present at the place where such person is any officer of higher rank under whose command he can be placed.

5. (1) The Governor General in Council may, by notification, apply all or any of the provisions of this Act to any force raised and maintained in India under the authority of the Governor in Council.

Powers to apply Act to certain forces under the Government of India.

(2) While any of the provisions of this Act apply to any such force, the Governor General in Council may, by notification, direct by what authority any jurisdiction, powers or duties incident to the operation of these provisions shall be exercised or performed in respect of that force.

6. (1) Whenever persons subject to this Act are serving out of India under an officer not subject to the authority of the Governor General in Council, the Governor General in Council may prescribe the officer by whom the powers which, under this Act, may be exercised by officers commanding armies, divisions and brigades, shall, as regards such persons, be exercised.

Officers to exercise powers in case of foreign service.

(2) The Governor General in Council may confer such powers either absolutely, or subject to such restrictions, reservations, exceptions and conditions as he may think fit.

Definitions.

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

Definitions.

(1) "British officer" means a person holding a commission in His Majesty's land forces :

(2) "Native officer" means a person commissioned, gazetted or in pay as an officer holding a Native rank in His Majesty's Indian Forces :

(3) "warrant officer" means a person appointed, gazetted or in pay as a Native warrant officer in His Majesty's Indian Forces :

(4) "non-commissioned officer" means a person attested under this Act holding a Native non-commissioned rank in His Majesty's Indian Forces, and includes an acting non-commissioned officer :

(5) "officer" means a British officer or Native officer, but does not include a warrant officer or non-commissioned officer :

(6) "commanding officer," when used in any provision of this Act with reference to any separate portion of His Majesty's forces or to any department, means the British officer whose duty it is under the regulations of the army, or, in the absence of any such regulation, by the custom of the service, to discharge with respect to that portion of the forces or that department the functions of commanding officer in regard to matters of the description referred to in that provision :

(7) "superior officer," when used in relation to a person subject to this Act, includes a warrant officer and a non-commissioned officer ; and, as regards persons placed under his orders, a warrant officer or non-commissioned officer subject to the Army Act

(8) "army," "division" and "brigade" mean respectively an army, division or brigade which is under the command of an officer subject to the authority of the Governor General in Council :

(9) "corps" means any separate body of persons subject to this Act or the Army Act which is prescribed as a corps for the purposes of all or any of the provisions of this Act :

(10) "independent brigade" means a brigade which does not form part of a division :

(11) "department" includes any division or branch of a department :

(12) "enemy" includes all armed mutineers, armed rebels, armed rioters, pirates and any person in arms against whom it is the duty of a person subject to military law to act :

(13) "active service," as applied to a person subject to this Act, means the time during which such person is attached to, or forms part of, a force which is engaged in operations against an

enemy, or is engaged in military operations in, or is on the line of march to, a country or place wholly or partly occupied by an enemy or is in military occupation of any foreign country :

(14) "military custody" means the arrest or confinement of a person according to the usages of the service :

(15) "military reward" includes any gratuity or annuity for long service or good conduct, any good conduct pay, good service pay or pension, and any other military pecuniary reward :

(16) "court-martial" means a court-martial held under this Act :

(17) "criminal court" means a court of ordinary criminal justice in British India, or established elsewhere by the authority of the Governor General in Council :

(18) "civil offence" means an offence which, if committed in British India, would be triable by a criminal court :

(19) "offence" means any act or omission punishable under this Act, and includes a civil offence as hereinbefore defined :

(20) "notification" means a notification published in the *Gazette of India* :

(21) "prescribed" means prescribed by rules made under this Act : and

(22) all words and expressions used herein and defined in the Indian Penal Code and not hereinbefore defined shall be deemed to have the meanings respectively attributed to them by that Code.

CHAPTER II.

ENROLMENT AND ATTESTATION.

Enrolment.

8. Upon the appearance before the prescribed enrolling officer of any person desirous of being enrolled, the enrolling officer shall read and explain to him, or cause to be read and explained to him in his presence, the conditions of the service for which he is to be enrolled; and shall put to him the questions set forth in the prescribed form of enrolment, and shall, after having cautioned him that if he makes a false answer to any such question he will be liable to punishment

under this Act, record or cause to be recorded his answer to each such question.

9. If, after complying with the provisions of section 8, the enrolling officer is satisfied that the person desirous of being enrolled fully understands the questions put to him and consents to the conditions of service, and if he perceives no impediment, he shall sign the enrolment paper, and the person shall then be deemed to be enrolled.

10. Every person who has for the space of six months been in the receipt of military pay and been borne on the rolls of any corps or department (of which the last pay statement, if produced, shall be evidence) shall be deemed to have been duly enrolled, and shall not be entitled to claim his discharge on the ground of illegality or irregularity in his enrolment.

Attestation.

11. The following persons shall be attested, namely :—

- (a) all persons enrolled as combatants;
- (b) all other enrolled persons prescribed by the Governor-General in Council.

12. (1) When a person who is to be attested is reported fit for duty, or has completed the prescribed period of probation, an oath or affirmation shall be administered to him in the prescribed form by his commanding officer in front of his corps or such portion thereof or such members of his department as may be present or by any other prescribed person.

(2) The form of oath or affirmation prescribed under this section shall contain a promise that the person to be attested will be faithful to His Majesty, His heirs and successors, and that he will serve in His Majesty's Indian Forces and go wherever he is ordered by land or sea, and that he will obey all commands of any officer set over him, even to the peril of his life.

(3) The fact of an enrolled person having taken the oath or affirmation directed by this section to be taken shall be entered on his enrolment paper, and authenticated by the signature of the officer administering the oath or affirmation.

CHAPTER III.

DISMISSAL AND DISCHARGE.

Dismissal by
Governor-General
in Council and
Commander-in-
Chief in India.

13. The Governor-General in Council or the Commander-in-Chief in India may dismiss from the service any person subject to this Act.

14. An officer commanding an army, division or brigade, or any prescribed officer, may dismiss from the service any person serving under his command other than a Native officer.

15. Every person sentenced by any court-martial or by any criminal court to transportation or to rigorous imprisonment for any term exceeding three months, shall be dismissed from the service by his commanding officer :

Provided that on active service any such person may be retained to serve in the ranks, and his service therein shall be reckoned as part of his term of transportation or imprisonment.

16. The prescribed authority may, in conformity with any rules prescribed in this behalf, discharge from the service any person subject to this Act.

17. Every enrolled person who is dismissed or discharged from the service shall be furnished by his commanding officer with a certificate, in the English language and in the mother tongue of such person (when his mother tongue is not English), setting forth—

- (a) the authority dismissing or discharging him ;
- (b) the cause of his dismissal or discharge ;
- (c) the full period of his service in the army.

18. (1) Any person enrolled under this Act who is entitled under the conditions of his enrolment to be discharged, or whose discharge is ordered by competent authority, and who, when he is so entitled or ordered to be discharged, is serving out of India, and requests to be sent to India, shall, before being discharged, be sent to India with all convenient speed.

(2) Any person enrolled under this Act who is dismissed from the service and who, when he is so dismissed, is serving out of India, shall be sent to India with all convenient speed.

(3) If any such person has been sentenced by court-martial to any punishment, such punishment may be inflicted before he is sent to India.

CHAPTER IV.

SUMMARY REDUCTION AND PUNISHMENTS OTHERWISE THAN

BY ORDER OF COURT-MARTIAL.

19. (1) The Commander-in-Chief in India, an officer commanding an army, division or brigade, or any prescribed officer, may reduce to a lower grade or to the ranks any non-commissioned officer under his command.

Reduction of non-commissioned officers.

(2) The commanding officer of an acting non-commissioned officer may order him to revert to his permanent grade as a non-commissioned officer or, if he has no permanent grade above the ranks, to the ranks.

20. (1) The Commander-in-Chief in India may, subject to the control of the Governor-General in Council specify the minor punishments to which persons subject to this Act shall be liable without the intervention of a court-martial, and the officer or officers by whom, and the extent to which, such minor punishments may be awarded.

Minor punishments.

(2) Imprisonment in military custody may be specified as such a minor punishment, provided that—

(a) the term of such imprisonment shall not exceed twenty-eight days; and

(b) it shall not be awarded to any person of or above the rank of non-commissioned officer, or who, when he committed the offence in respect of which it is awarded, was of or above such rank.

21. Whenever any weapon or part of a weapon forming part of the equipment of a half squadron, battery, company or other similar unit is lost or stolen, the officer commanding the army, division or independent brigade to which such

Collective fines.

unit belongs may, after obtaining the report of a court of inquiry, impose a collective fine upon the Native officers, non-commissioned officer and men of such unit, or upon so many of them as, in his judgment, should be held responsible for such loss or theft.

22. (1) For any offence, in breach of good order, the commanding officer of any corps or detachment on active service, in camp, on the march, or at any frontier post specified by the Governor-General in Council by notification in this behalf at which troops are stationed, may punish any Native follower of such corps or detachment who is subject to this Act under section 2, sub-section (1), clause (c)—

(a) if such follower is not a menial servant, with imprisonment for a term which may extend to thirty days, or with fine which may extend to fifty rupees:

(b) if such follower is a menial servant, with imprisonment for a term which may extend to seven days, or, if on active service, with corporal punishment not exceeding twelve strokes of a rattan.

(2) Imprisonment awarded under this section may be carried out in a military guard, or in a jail, as ordered by the said commanding officer; and the officer in charge of any jail shall, on the delivery to him of the person of the offender, with a warrant, under the hand of the said commanding officer, detain the offender according to the exigency of the warrant or until he is discharged by due course of law.

Provost-Marshals.

23. For the prompt and instant repression of irregularities and offences committed in the field or on the march, provost-marshals may be appointed by the Commander-in-Chief in India or an officer commanding an army, division or independent brigade or an officer commanding the forces in the field; and the powers and duties of such provost-marshals shall be regulated according to the established custom of war and the rules of the service.

24. (1) The duties of a provost marshal so appointed are to take charge of prisoners confined for offences of a general description, to preserve good order

and discipline, and to prevent breaches of the same by persons belonging or attached to the army.

(2) The provost-marshal may punish, corporally, then and there, any person subject to this Act below the rank of non-commissioned officer who, on active service and in his view or in the view of any of his assistants, commits any breach of good order and military discipline :

Provided that such punishment shall be limited to the necessity of the case, and shall accord with the orders which the provost-marshal may from time to time receive from the officer commanding the troops, and shall be inflicted with the regulation cat.

Provided also that the orders of the said commanding officer shall in no case authorise such corporal punishment in excess of that awardable by sentence of a court-martial.

(3) If the offender is not on active service or if the actual commission of the offence is not witnessed by the provost-marshal or any of his assistants, but sufficient proof can be obtained of the offender's guilt, he shall report the case to the officer commanding the troops, who shall deal with the case as he may deem most conducive to the maintenance of good order and military discipline.

CHAPTER V.

OFFENCES.

Offences in respect of Military Service.

Offences punishable with death.

25. Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) shamefully abandons or delivers up any garrison, fortress, post or guard committed to his charge, or which it is his duty to defend ; or
- (b) in presence of an enemy, shamefully casts away his arms or ammunition, or intentionally uses words or any other means to induce any person subject to military law to abstain from acting against the enemy, or to discourage such person from acting against the enemy, or misbehaves in such manner as to show cowardice ; or

- (c) directly or indirectly holds correspondence with, or communicates intelligence to, the enemy, or any person in arms against the State, or who, coming to the knowledge of any such correspondence or communication, omits to discover it immediately to his commanding or other superior officer; or
- (d) treacherously makes known the watch-word to any person not entitled to receive it; or
- (e) directly or indirectly assists or relieves with money, victuals or ammunition, or knowingly harbours or protects, any enemy or person in arms against the State; or
- (f) in time of war, or during any military operation, intentionally occasions a false alarm in action, camp, garrison or quarters, or spreads reports calculated to create alarm or despondency; or
- (g) being a sentry in time of war or alarm, or over any State prisoner, treasure, magazine or dockyard, sleeps upon his post, or quits it without being regularly relieved or without leave; or
- (h) in time of action, leaves his commanding officer or his post or party to go in search of plunder; or
- (i) in time of war, quits his guard, picquet, party or patrol without being regularly relieved or without leave; or
- (j) in time of war or during any military operation, uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to the camp or quarters of any of His Majesty's forces, or forces a safeguard, or breaks into any house or any other place for plunder, or plunders, injures or destroys any field, garden or other property of any kind;

shall, on conviction by court-martial, be punished with death, or with such less punishment as is in this Act mentioned.

26. Any person subject to this Act who commits any of the following offences, that is to say,—

Offences not punishable with death.

- (a) strikes, or forces or attempts to force, any sentry; or

- (b) in time of peace, intentionally occasions a false alarm in camp, garrison or cantonment; or
- (c) being a sentry, or on guard, plunders or wilfully destroys or injures any property placed under his charge or under charge of his guard; or
- (d) being a sentry, in time of peace, sleeps upon his post, or quits it without being regularly relieved or without leave;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Mutiny and Insubordination.

Offences punishable with death.

27. Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) begins, excites, causes or joins in any mutiny; or
- (b) being present at any mutiny, does not use his utmost endeavours to suppress the same; or
- (c) knowing or having reason to believe in the existence of any mutiny, or of any intention to mutiny, or of any conspiracy against the State, does not, without delay, give information thereof to his commanding or other superior officer; or
- (d) uses or attempts to use criminal force to, or commits an assault on, his superior officer, whether on or off duty, knowing or having reason to believe him to be such; or
- (e) disobeys the lawful command of his superior officer; shall, on conviction by court-martial, be punished with death, or with such less punishment as is in this Act mentioned.

Offences not punishable with death.

28. Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) is grossly insubordinate or insolent to his superior officer in the execution of his office; or
- (b) refuses to superintend or assist in the making of any field-work or other military work of any description ordered to be made either in quarters or in the field; or

(c) impedes a provost-marshal or an assistant provost-marshal, or any officer or non-commissioned officer, or other person legally exercising authority under or on behalf of a provost-marshal, or, when called on, refuses to assist, in the execution of his duty, the provost-marshal, assistant provost-marshal, or any such officer, non-commissioned officer or other person; shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Desertion, Fraudulent Enrolment and Absence without Leave.

29. Any person subject to this Act who deserts or attempts to desert the service shall, on conviction by court-martial, be punished with death, or with such less punishment as is in this Act mentioned.

Harbouring deserter, absence without leave, etc.

30. Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) knowingly harbours any deserter, or who, knowing, or having reason to believe, that any other person has deserted, or that any deserter has been harboured by any other person, does not without delay give information thereof to his own or some other superior officer, or use his utmost endeavours to cause such deserter to be apprehended; or
- (b) knowing, or having reason to believe, that a person is a deserter, procures or attempts to procure the enrolment of such person; or
- (c) without having first obtained a regular discharge from the corps or department to which he belongs, enrols himself in the same or any other corps or department; or
- (d) absents himself without leave, or without sufficient cause overstays leave granted to him; or
- (e) being on leave of absence and having received information from proper authority that any corps or portion of a corps, or any department, to which he belongs, has been ordered on active service, fails, without sufficient cause, to rejoin without delay; or

- (f) without sufficient cause fails to appear at the time fixed at the parade or place appointed for exercise or duty; or
 - (g) when on parade, or on the line of march, without sufficient cause or without leave from his superior officer quits the parade or line of march; or
 - (h) in time of peace, quits his guard, picquet or patrol without being regularly relieved or without leave; or
 - (i) without proper authority is found two miles or upwards from camp; or
 - (j) without proper authority is absent from his cantonment or lines after tattoo, or from camp after retreat-beating;
- shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Disgraceful Conduct.

Disgraceful
conduct.

31. Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) dishonestly misappropriates or converts to his own use any money, provisions, forage, arms, clothing, ammunition, tools, instruments, equipments or military stores of any kind, the property of Government entrusted to him or;
- (b) dishonestly receives or retains any property in respect of which an offence under clause (a) has been committed, knowing or having reason to believe the same to have been dishonestly misappropriated or converted; or
- (c) wilfully destroys or injures any property of Government entrusted to him; or
- (d) commits theft in respect of any property of Government, or of any military mess, band or institution, or of any person subject to military law, or serving with, or attached to, the army; or
- (e) dishonestly receives or retains any such property as is specified in clause (d) knowing or having reason to believe it to be stolen; or

- (f) does any other thing with intent to defraud, or to cause wrongful gain to one person or wrongful loss to another person ; or
 - (g) malingers or feigns or produces disease or infirmity in himself, or intentionally delays his cure or aggravates his disease or infirmity ; or
 - (h) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or any other person ; or
 - (i) commits any offence of a cruel, indecent or unnatural kind, or attempts to commit any such offence and does any act towards its commission ;
- shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Intoxication.

32. Any person subject to this Act who is in a state of intoxication, whether on duty or not on duty, shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Offences in relation to Persons in Custody.

33. Any person subject to this Act who, without proper authority, releases any State prisoner, enemy or person taken in arms against the State, or place, under his charge, or who negligently suffers any such prisoner, enemy or person to escape, shall, on conviction by court-martial be punished with death, or with such less punishment as is in this Act mentioned.

34. Any person subject to this Act who commits any of the following offences, that is to say,

- (a) being in command of a guard, picket or patrol, refuses to receive any prisoner or person duly committed to his charge ; or
- (b) without proper authority releases any prisoner or person placed under his charge, or negligently suffers any such prisoner or person to escape ; or

(a) being in military custody, leaves such custody before he is set at liberty by proper authority; shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Offences in relation to Property.

Offences in relation to property. to say,—

35. Any person subject to this Act who commits any of the following offences, that is

- (a) commits extortion, or without proper authority exacts from any person, carriage, portorage or provisions; or
- (b) in time of peace, commits house-breaking for the purpose of plundering, or plunders, destroys or damages any field, garden or other property; or
- (c) designedly or through neglect kills, injures, makes away with, ill-treats or loses his horse or any animal used in the public service; or
- (d) makes away with, or is concerned in making away with, his arms, ammunition, equipments, instruments, tools, clothing or regimental necessaries; or
- (e) loses by neglect anything mentioned in clause (d); or
- (f) wilfully injures anything mentioned in clause (d) or any property belonging to Government, or to any military mess, band or institution, or to any person subject to military law, or serving with, or attached to, the army; or
- (g) sells, pawns, destroys or defaces any medal or decoration granted to him;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Offences in relation to False Documents and Statements.

False accusation and offences in relation to documents.

36. Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) makes a false accusation against any person subject to military law, knowing such accusation to be false, or

- (b) in making any complaint under section 117, knowingly makes any false statement affecting the character of any person subject to military law, or knowingly and wilfully suppresses any material fact; or
- (c) obtains or attempts to obtain for himself, or for any other person, any pension, allowance or other advantage or privilege by a statement which is false, and which he either knows or believes to be false or does not believe to be true, or by making or using a false entry in any book or record, or by making any document containing a false statement, or by omitting to make a true entry or document containing a true statement; or
- (d) knowingly furnishes a false return or report of the number or state of any men under his command or charge, or of any money, arms, ammunition, clothing, equipments, stores or other property in his charge, whether belonging to such men or to Government or to any person in or attached to the army, or who, through design or culpable neglect, omits or refuses to make or send any return or report of the matters aforesaid; shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

37. Any person having become subject to this Act who is discovered to have made a wilfully false answer to any question set forth in the prescribed form of enrolment which has been put to him by the enrolling officer before whom he appears for the purpose of being enrolled, shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Offences in relation to Courts-Martial.

38. Any person subject to this Act who commits any of the following offences, that is to say,—

Offences in relation to Courts-Martial.

- (a) When duly summoned to attend as a witness before a court-martial, intentionally omits to attend, or refuses to be sworn or affirmed or to answer any question, or to produce or deliver up any book, document or

other thing which he may have been duly warned and called upon to produce or deliver up ; or

(b) Intentionally offers any insult or causes any interruption or disturbance to, or uses any menacing or disrespectful word, sign or gesture, or is insubordinate or violent in the presence of, a court-martial while sitting ; or

(c) having been duly sworn or affirmed before any court-martial or other military court competent to administer an oath or affirmation, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true ;

shall, on conviction by court-martial, be punished with imprisonment or with such less punishment as is in this Act mentioned.

Miscellaneous Military Offences.

Miscellaneous
military offences.

39. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) being an officer or warrant officer, behaves in a manner unbecoming his position and character ; or

(b) strikes or otherwise ill-treats any person subject to this Act being his subordinate in rank or position ; or

(c) being in command at any post or on the march, and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has disturbed any fair or market, or committed any riot or trespass, fails to have due reparation made to the injured person or to report the case to the proper authority ; or

(d) by defiling any place of worship, or otherwise, intentionally insults the religion or wounds the religious feelings of any person ; or

(e) attempts to commit suicide and does any act towards the commission of such offence ; or

(f) being below the rank of warrant officer, when off duty, appears, without proper authority, in or about camp or cantonments, or in or about, or when going to or returning from, any town or bazaar, carrying a sword, bludgeon or other offensive weapon ; or

(g) directly or indirectly accepts or obtains, or agrees to accept or attempts to obtain, for himself or for any other person, any gratification as a motive or reward for procuring the enrolment of any person, or leave of absence, promotion or any other advantage or indulgence for any person in the service ; or

(h) neglects to obey any general or garrison or other orders, or

(i) is guilty of any act or omission which, though not specified in this Act, is prejudicial to good order and military discipline ;

shall, on conviction by court-martial, be punished with imprisonment or with such less punishment as is in this Act mentioned.

Abetment.

40. Every person subject to this Act who abets any offence punishable under this Act may be punished with the punishment provided in this Act for such offence.

Civil Offences.

41. Every person subject to this Act who at any place beyond British India, or when on active service in British India, commits any civil offence shall be deemed to be guilty of an offence against military law, and, if charged therewith under this section, shall, subject to the provisions of this Act, be liable to be tried for the same by court-martial, and on conviction to be punished as follows, that is to say :—

Civil offences
committed outside
India or on active
service in British
India.

(a) if the offence is one which would be punishable under the law of British India with death or with transportation, he shall be liable to suffer any punishment assigned for the offence by the law of British India ; and

(b) in other cases he shall be liable to suffer any punishment assigned for the offence by the law of British India, or such punishment as might be awarded to him in pursuance of this Act in respect of an act prejudicial to good order and military discipline.

42. Every person subject to this Act who commits or attempts to commit or abets the commission of an offence punishable under Chapter VI of the Indian Penal Code, or any of the following offences against any person subject to military law, that is to say, murder, culpable homicide or any offence punishable under any of the sections 323 to 335 (both inclusive) or section 506 of the said Code, shall be deemed to be guilty of an offence against military law, and, if charged under this section with any such offence, shall, subject to the provisions of this Act, be liable to be tried by court-martial, and on conviction shall be liable to suffer any punishment assigned for the offence by the said Code.

CHAPTER VI.

PUNISHMENTS.

43. Punishments may be inflicted in respect of offences committed by persons subject to this Act, and convicted by court-martial, according to the scale following, that is to say :—

- (a) death ;
- (b) transportation for life or for any period not less than seven years ;
- (c) imprisonment (with or without solitary confinement) for any term not exceeding fourteen years ;
- (d) dismissal from the service ;
- (e) in the case of officers and warrant officers, suspension from rank, pay and allowances for any stated period ;
- (f) reduction, in the case of a warrant officer, to a lower grade or class (if any) of warrant officer, or in the case of a non-commissioned officer, to a lower grade or to the ranks ;
- (g) in the case of officers, warrant officers and non-commissioned officers, forfeiture of seniority of rank ;
- (h) forfeitures and stoppages as follows, namely :—
- (i) forfeiture of service for the purpose of promotion, increased pay, pension or any other prescribed purpose ;

- (ii) forfeiture of any military decoration or military reward;
- (iii) forfeiture, in the case of a person sentenced to dismissal from the service or whose sentence involves such dismissal, of all arrears of pay and allowances and other public money due to him at the time of such dismissal;
- (iv) stoppages of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good.

44. Where in respect of any offence under this Act there is specified a particular punishment or such less punishment as is in this Act mentioned, there may be awarded in respect of that offence instead of such particular punishment (but subject to the other provisions of this Act as to punishments and regard being had to the nature and degree of the offence) any one punishment lower in the above scale than the particular punishment.

45. Where any person subject to this Act and under the rank of warrant officer—

- (a) on active service is guilty of any offence; or
- (b) at any time is guilty of the offence specified in clause (d) of section 31; or
- (c) at any time is guilty of a civil offence which would be punishable with whipping under the law of British India, and is triable by court-martial under this Act.

it shall be lawful for a court-martial to award for that offence corporal punishment not exceeding thirty lashes.

46. Corporal punishment shall, for the purpose of commutation, be deemed to stand in the scale of punishments next below dismissal.

47. A sentence of a court-martial may award, in addition to or without any one other punishment, any one or more of the punishments specified in clauses (d), (f) and (h) of section 43.

48. Whenever any person is sentenced to rigorous imprisonment, the court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is

sentenced, not exceeding three months in the whole, according to the following scale, that is to say,—

- (a) a time not exceeding one month if the term of imprisonment does not exceed six months ;
- (b) a time not exceeding two months if the term of imprisonment exceeds six months and does not exceed one year ;
- (c) a time not exceeding three months if the term of imprisonment exceeds one year.

49. A non-commissioned officer sentenced by court-martial
Reduction of non-commissioned officers to ranks. to transportation, imprisonment, corporal punishment or dismissal from the service, shall be deemed to be reduced to the ranks.

CHAPTER VII.

PENAL DEDUCTIONS.

50. The following penal deductions may be made from the
Deduction from pay and allowances. pay and allowances of a person subject to this Act, that is to say,—

- (a) all pay and allowances for every day of absence either on desertion or without leave, or as a prisoner of war, and for every day of imprisonment awarded by a criminal court, a court-martial, or an officer exercising authority under section 20 ;
- (b) all pay and allowances for every day whilst he is in custody on a charge for an offence of which he is afterwards convicted by a criminal court or court-martial, or on a charge of absence without leave for which he is afterwards awarded imprisonment by an officer exercising authority under section 20 ;
- (c) all pay and allowances for every day on which he is in hospital on account of sickness certified by the proper medical officer attending on him at the hospital to have been caused by an offence under this Act committed by him ;

(d) all pay and allowances ordered by a court-martial to be suspended or forfeited under section 43;

(e) any sum ordered by a court martial to be stopped under section 43;

(f) any sum required to make good such compensation for any expenses caused by him, or for any loss of or damage or destruction done by him to any arms, ammunition, equipment, clothing, instruments, regimental necessities or military decoration, or to any buildings or property, as may be awarded by his commanding officer;

(g) any sum required to pay a fine awarded by a criminal court, a court-martial exercising jurisdiction under section 41 or section 42, or an officer exercising authority under section 20 or section 21:

Provided that the total deductions from the pay and allowances of a person subject to this Act made under clauses (e) to (g), both inclusive, shall not (except in the case of a person sentenced to dismissal or whose sentence involves dismissal), exceed in any one month one-half of his pay and allowances for that month.

Explanation.—For the purposes of clauses (a) and (b)—

(i) absence or custody for six consecutive hours or upwards, whether wholly in one day or partly in one day and partly in another, may be reckoned as absence or custody for a day;

(ii) absence or custody for twelve consecutive hours or upwards may be reckoned as absence or custody for the whole of each day during any portion of which the person was absent or in custody; and

(iii) any absence or custody for less than a day may be reckoned as absence or custody for a day if such absence or custody prevented the absentee from fulfilling any military duty which was thereby thrown upon some other person.

51. Any sum authorized by this Act to be deducted from the pay and allowances of any person may, without prejudice to any other mode of recovery

Deductions
from public money
other than pay.

ing the same, be deducted from any public money due to him other than a pension.

52. Any deduction from pay and allowances authorized by Remission of this Act may be remitted in such manner and deductions. by such authority as may from time to time be prescribed.

CHAPTER VIII.

COURTS-MARTIAL.

Constitution and Dissolution of Courts-martial.

53. For the purposes of this Act there shall be four kinds of Courts-martial courts-martial, that is to say :—
and the kinds thereof.

- (1) general courts-martial ;
- (2) district courts-martial ;
- (3) summary general courts-martial ; and
- (4) summary courts-martial.

54. A general court-martial may be convened by the Commander-in-Chief in India, or by any officer empowered in this behalf by warrant of the Commander-in-Chief in India.

55. A district court-martial may be convened by any officer having power to convene a general court-martial, or by any officer empowered in this behalf by warrant of any such officer.

56. A warrant issued under section 54 or section 55 may contain such restrictions, reservations or conditions as the officer issuing it may think fit.

57. A general court-martial shall consist of not less than seven officers unless that number, due regard being had to the public service, is not available, in which case the court may consist of not less than five officers

58. A district court-martial shall consist of not less than three officers.

59. Whenever a general court-martial is ordered to be composed of the smaller number of officers specified in section 57, the order convening the court shall state that the larger number of officers is not, due regard being had to the public service, available, and such statement shall be conclusive evidence of the fact so stated:

60. The officers composing a general or district court-martial shall, at the discretion of the convening officer, but subject to the provisions of section 61, either be British or Native officers, but shall not be partly British and partly, Native officers.

61. (1) Any person subject to this Act who is under orders for trial by general or district court-martial may claim to be tried by British officers.

(2) In all cases the right of making such a claim shall, before the court is convened, be explained to the person under orders for trial by the commanding officer, or some officer deputed by him in this behalf, and, when such a claim is made, the court shall be constituted accordingly.

The following authorities shall have power to convene a summary general court-martial, namely:—

- (a) on officer empowered in this behalf by an order of the Governor-General in Council or of the Commander-in-Chief in India;
- (b) on active service, the officer commanding the forces in the field, or any officer empowered by him in this behalf;
- (c) an officer commanding any detached portion of His Majesty's troops upon active service when, in his opinion, it is not practicable, with due regard to discipline and the exigencies of the service, that an offence should be tried by an ordinary general court-martial.

63. A summary general court-martial shall consist of not less than three officers,

Summary courts-martial.

64. (1) A summary court-martial may be held—

(a) by the commanding officer of any corps or department of His Majesty's Indian forces, or of any detachment of those forces ;

(b) by the commanding officer of any British corps or detachment to which details subject to this Act are attached.

(2). At every summary court-martial the officer holding the trial shall alone constitute the court, but the proceeding shall be attended throughout by two other officers who shall not, as such, be sworn or affirmed.

65. (1) If a court-martial after the commencement of a trial is reduced below the smallest number of officers of which it is by this Act required to consist, it shall be dissolved :

Provided that a general court-martial shall not be dissolved under the provisions of this sub-section unless it is reduced below five officers.

(2) If, on account of the illness of the accused before the finding, it is impossible to continue the trial, a court-martial shall be dissolved.

(3) Where a court-martial is dissolved under this section, the accused may be tried again.

Jurisdiction of Courts-martial.

66. When any person subject to this Act has been acquitted or convicted of an offence by a court-martial or by a criminal court, or has been summarily dealt with for an offence under section 20 or section 22, he shall not be liable to be tried again for the same offence by a court-martial or dealt with summarily in respect of it under either of the said sections.

67. No person subject to this Act shall be tried or punished by a court-martial for any offence after the expiration of three years from the date of such offence, unless the offender, by reason of absence or of some other manifest impediment, could not be arrested or confined and

brought to trial within that period; in which case he shall be liable to be tried at any time not exceeding two years after such impediment has ceased.

68. Any person subject to this Act who commits any offence
 Place of trial. against it may be tried and punished for such
 offence in any place whatever.

*Adjustment of the jurisdiction of Courts-martial and
 Criminal Courts.*

69. When a criminal court and a court-martial have each
 Order in case of jurisdiction in respect of an offence, it shall be
 concurrent juris- in the discretion of the prescribed military
 diction. authority to decide before which court the pro-
 ceedings shall be instituted, and, if that authority decides that
 they shall be instituted before a court-martial, to direct that the
 accused person shall be detained in military custody.

70. (1) When a criminal court having jurisdiction is of
 Power of crimi- opinion that proceedings ought to be instituted
 nal court to re- before itself in respect of any alleged offence, it
 quire delivery of may, by written notice, require the prescribed
 offender. military authority at its option either to deliver
 over the offender to the nearest magistrate to be proceeded against
 according to law, or to postpone proceedings pending a reference
 to the Governor-General in Council.

(2) In every such case the said authority shall either deliver
 over the offender in compliance with the requisition or shall forth-
 with refer the question as to the court before which the proceed-
 ings are to be instituted for the determination of the Governor-
 General in Council, whose order upon such reference shall be
 final.

71. (1) Notwithstanding anything contained in section 26
 Trial by court- of the General Clauses Act, 1897, or in section
 martial no bar to 403 of the Code of Criminal Procedure, 1898, a
 subsequent trial person convicted or acquitted by a court-
 by criminal court. martial may be afterwards tried by a criminal court for the same
 offence or on the same facts.

(2) If a person sentenced by a court-martial in pursuance of
 this Act to punishment for an offence is afterwards tried by a cri-

minal court for the same offence or on the same facts, that court shall, in awarding punishment, have regard to the military punishment he may already have undergone.

Powers of courts-martial.

Powers of general and summary general courts-martial.

72. A general or summary general court martial shall have power to try any person subject to this Act for any offence made punishable therein, and to pass any sentence authorized by this Act.

73. A district court-martial shall have power to try any person subject to this Act other than an officer for any offence made punishable therein, and to pass any sentence authorized by this Act other than a sentence of death, or transportation, or imprisonment for a term exceeding two years.

Offences triable by summary court-martial.

74. A summary court-martial may try any offence punishable under any of the provisions of this Act:

Provided that when there is no grave reason for immediate action, and reference can without detriment to discipline be made to the officer empowered to convene a district court-martial for the trial of the alleged offender, an officer holding a summary court-martial shall not try without such reference any of the following offences, namely:—

(a) any offence punishable under sections 25, 27, clauses (a), (b) or (c), 33, 41 or 42, or

(b) any offence against the officer holding the court.

75. A summary court-martial may try any person subject to this Act and under the command of the officer holding the court, except an officer or warrant officer.

76. (1) A summary court-martial held by the commanding officer of a corps or department may pass any sentence which can be passed under this Act, except a sentence of death or transportation, or of imprisonment for a term exceeding one year.

(2) A summary court-martial held by any other officer may pass any sentence which can be passed under this Act, except a sentence of death or transportation, or of imprisonment for a term exceeding six months.

Procedure at trials by Court-martial.

77. At every general, district or summary general court-martial the senior member shall sit as president.
President.

78. Every general court-martial shall, and every district court-martial may, be attended by a judge advocate, who shall be either an officer belonging to the department of the Judge Advocate General in India, or, if no such officer is available, a person appointed by the convening officer.
Judge Advocate.

79. A British officer of not less than four years' service, herein-after called the superintending officer, shall be appointed to superintend the proceedings of every court-martial composed of Native officers which is not attended by a judge advocate.
Superintending officer.

80. (1) At all trials by general, district or summary general courts-martial, as soon as the court is assembled, the names of the president and members shall be read over to the accused, who shall thereupon be asked whether he objects to being tried by any officer sitting on the court.
Challenges.

(2) If the accused objects to any such officer, his objection, and also the reply thereto of the officer objected to, shall be heard and recorded, and the remaining officers of the court shall, in the absence of the challenged officer, decide on the objection.

(3) If the objection is allowed by one-half or more of the votes of the officers entitled to vote, the objection shall be allowed, and the member objected to shall retire, and his vacancy may be filled in the prescribed manner by another officer, subject to the same right of the accused to object.

(4) When no challenge is made, or when challenge has been made and disallowed, or the place of every officer successfully challenged has been filled by another officer to whom no objection is made or allowed, the court shall proceed with the trial.

81. (1) Every decision of a court-martial shall be passed by an absolute majority of votes; and where there is an equality of votes, as to either finding or sentence, the decision shall be in favour of the accused.
Voting of members.

(2) In matters other than a challenge or the finding or sentence, the president shall have a casting vote.

82. An oath or affirmation in the prescribed form shall be administered to every member of every court-martial and to the Judge Advocate or superintending officer before the commencement of the trial.

Oaths of president and members.

83. Every person giving evidence at a court-martial shall be examined on oath or affirmation, and shall be duly sworn or affirmed in the prescribed form.

Oaths of witnesses.

84. (1) The convening officer, the president of the court, the Judge Advocate, or the commanding officer of the accused person, may, by summons under his hand, require the attendance before the court, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing.

Summoning witnesses and production of documents.

(2) In the case of a witness amenable to military authority, the summons shall be sent to the officer commanding the corps, department or detachment to which he belongs, and such officer shall serve it upon him accordingly.

(3) In the case of any other witness, the summons shall be sent to the magistrate within whose jurisdiction he may be or reside, and such magistrate shall give effect to the summons as if the witness were required in the court of such magistrate.

(4) When a witness is required to produce any particular document or other thing in his possession or power, the summons shall describe it with convenient certainty.

(5) Nothing in this section shall be deemed to affect the Indian Evidence Act, 1872, sections 123 and 124, or to apply to any letter, postcard, telegram or other document in the custody of the postal or telegraph authorities.

(6) If any document in such custody is, in the opinion of any District Magistrate, Chief Presidency Magistrate, High Court or Court of Session, wanted for the purpose of any court-martial, such magistrate or court may require the postal or telegraph authorities,

as the case may be, to deliver such document to such person as such magistrate or court may direct.

(7) If any such document is, in the opinion of any other Magistrate or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the postal or telegraph authorities, as the case may be, to cause search to be made for and to detain such document pending the orders of any such District Magistrate, Chief Presidency Magistrate or court.

85. (1) Whenever, in the course of a trial by court-martial, it appears to the court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, in the circumstances of the case, would be unreasonable, such court may address the Judge Advocate General in order that a commission to take the evidence of such witness may be issued.

(2) The Judge Advocate General may then, if he thinks necessary, issue a commission to any District Magistrate or Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

(3) When the witness resides in the territories of any prince or chief in India in which there is an officer representing the British Indian Government, the commission may be issued to such officer.

(4) The magistrate or officer to whom the commission is issued, or, if he is the District Magistrate, he or such magistrate of the first class as he appoints in this behalf, shall proceed to the place where the witness is or shall summon the witness before him and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant-cases under the Code of Criminal Procedure, 1898.

(5) Where the commission is issued to such officer as is mentioned in sub-section (3), he may delegate his powers and duties under the commission to any officer subordinate to him whose powers are not less than those of a magistrate of the first class in British India.

(6) When the witness resides out of India, the commission may be issued to any British consular officer, British magistrate or

other British official competent to administer an oath or affirmation in the place where such witness resides.

(7) The prosecutor and the accused person in any case in which a commission is issued may respectively forward any interrogatories in writing which the court may think relevant to the issue, and the magistrate or officer to whom the commission is issued shall examine the witness upon such interrogatories.

(8) The prosecutor and the accused person may appear before such magistrate or officer by pleader or, except in the case of an accused person in custody, in person, and may examine, cross-examine and re-examine (as the case may be) the said witness.

(9) After any commission issued under this section has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Judge Advocate General.

(10) On receipt of a commission and deposition returned under sub-section (9), the Judge Advocate General shall forward the same to the court at whose instance the commission was issued or, if such court has been dissolved, to any other court convened for the trial of the accused person; and the commission, the return thereto and the deposition shall be open to the inspection of the prosecutor and the accused person, and may, subject to all just exceptions, be read in evidence in the case by either the prosecutor or the accused, and shall form part of the proceedings of the court.

(11) In every case in which a commission is issued under this section the trial may be adjourned for a specified time reasonably sufficient for the execution and the return of the commission.

Explanation.—In this section, the expression “Judge Advocate General” means the Judge Advocate General in India, and includes a Deputy Judge Advocate General.

86. (1) A person charged before a court-martial with the conviction of one offence permissible on charge of another desertion may be found guilty of attempting to desert or of being absent without leave.

(2) A person charged before a court-martial with attempting to desert may be found guilty of desertion or of being absent without leave.

(3) A person charged before a court-martial with any of the following offences specified in section 31, that is to say, theft, dishonest misappropriation or conversion to his own use of property entrusted to him, or dishonestly receiving or retaining property in respect of which any of the aforesaid offences has been committed knowing or having reason to believe it to have been stolen or dishonestly misappropriated or converted, may be found guilty of any other of these offences with which he might have been charged.

(4) A person charged before a court-martial with an offence punishable under section 41 or section 42 may be found guilty of any other offence of which he might have been found guilty if the provisions of the Code of Criminal Procedure, 1898, were applicable.

(5) A person charged before a court-martial with any other offence under this Act may, on failure of proof of an offence having been committed in circumstances involving a more severe punishment, be found guilty of the same offence as having been committed in circumstances involving a less severe punishment.

87. No sentence of death shall be passed by any court-martial without the concurrence of two-thirds at the least of the members of the court.

Majority requisite to sentence of death.

Evidence before Courts-Martial.

88. The Indian Evidence Act, 1872, shall, subject to the provisions of this Act, apply to all proceedings before a court-martial.

General rule as to evidence.

89. A court-martial may take judicial notice of any matter within the general military knowledge of the members.

Judicial notice.

90. In any proceeding under this Act, any application, certificate, warrant, reply or other document purporting to be signed by an officer in the civil or military service of the Government shall, on production, be pre-

Presumption as to signatures.

sumed to have been duly signed by the person and in the character by whom and in which it purports to have been signed, until the contrary is shown.

91. Any enrolment paper purporting to be signed by an enrolling officer shall, in proceedings under this Act, be evidence of the person enrolled having given the answers to questions which he is therein represented as having given, and of the enrolment of such person.

92. (1) If at any trial for desertion, absence without leave, overstaying leave or not rejoining when warned for service, the person tried states in his defence any sufficient or reasonable excuse for his unauthorized absence, and refers in support thereof to any officer in the civil or military service of Government, or if it appears that any such officer is likely to prove or disprove the said statement in the defence, the court shall address such officer and adjourn until his reply is received.

(2) The written reply of any officer so referred to shall, if signed by him, be received in evidence and have the same effect as if made on oath before the court.

(3) If the court is dissolved before the receipt of such reply, or if the court omits to comply with the provisions of this section, the convening officer may, at his discretion, annul the proceedings and order a fresh trial by the same or another court-martial.

93. (1) When any person subject to this Act has been convicted by a court-martial of any offence, such court-martial may inquire into, and receive and record evidence of, any previous convictions of such person, either by a court-martial or by a criminal court, and may further inquire into and record the general character of such person, and such other matters as may be prescribed.

(2) Evidence received under this section may be either oral, or in the shape of entries in, or certified extracts from, court-martial books or other official records; and it shall not be necessary to prove the signature to such certified extracts, nor shall it be necessary to give notice before trial to the person tried that evidence as to his previous convictions or character will be received.

(3) At a summary court-martial the officer holding the trial may, if he thinks fit, record any previous convictions against the offender, his general character, and such other matters as may be prescribed, as of his own knowledge, instead of requiring them to be proved under the foregoing provisions of this section.

Confirmation and Revision of Findings and Sentences.

94. No finding or sentence of a general or district court-martial shall be valid except so far as it may be confirmed as provided by this Act.

Finding and sentence invalid without confirmation.

95. The findings and sentences of general courts-martial may be confirmed by the Commander-in-Chief in India, or by any officer empowered in this behalf by warrant of the Commander-in-Chief in India.

Power to confirm finding and sentence of general court martial.

96. The findings and sentences of district courts-martial may be confirmed by any officer having power to convene a general court-martial, or by any officer empowered in this behalf by warrant of any such officer.

Power to confirm finding and sentence of district court-martial.

97. A warrant issued under section 95 or section 96 may contain such restrictions, reservations or conditions as the officer issuing it may think fit.

Contents of warrant issued under section 95 or section 96.

98. (1) The finding and sentence of a summary general court-martial shall require to be confirmed by the convening officer—

Confirmation of finding and sentence.

(a) in the case of the trial of an officer,

(b) in the case of an acquittal or a sentence of death or transportation or imprisonment for a term exceeding two years, and

(c) in any other case if so ordered by the said officer.

(2) Save as provided in sub-section (1), a sentence passed by a summary general court-martial shall not require to be confirmed, but may be carried out forthwith.

99. Subject to such restrictions as may be contained in any warrant issued under section 95 or section 96, a confirming officer may, when confirming the sentence of a court-martial, mitigate or remit the punishment thereby awarded, or commute that punishment for any less punishment or punishments to which the offender might have been sentenced by the court-martial.

Provided that a sentence of transportation shall not be commuted for a sentence of imprisonment for a term exceeding the term of transportation awarded by the court.

100. (1) Any finding or sentence of a court-martial which requires confirmation may be once revised by order of the confirming officer; and on such revision, the court, if so directed by him, may take additional evidence.

(2) The court, on revision, shall consist of the same officers as were present when the original decision was passed, unless any of those officers are unavoidably absent.

(3) In case of such avoidable absence the cause thereof shall be duly certified in the proceedings, and the court shall proceed with the revision, provided that, if a general court-martial, it shall consist of five officers, or if a district court-martial, of three officers.

101. The finding and sentence of a summary court-martial shall not require to be confirmed, but may be carried out forthwith:

Provided that, if the officer holding the trial is of less than five years' service, he shall not, except on active service, carry into effect any sentence until it has received the approval of an officer commanding not less than a corps.

102. The proceedings of every summary court-martial shall without delay be forwarded to the officer commanding the division or brigade within which the trial was held, or to the prescribed officer; and such officer, or the Commander-in-Chief in India, or the officer commanding the army in which the trial was held, may, for reasons

based on the merits of the case, but not on any merely technical grounds, set aside the proceedings or reduce the sentence to any other sentence which the court might have passed

103. Where a sentence passed by a court-martial which has been confirmed, or which does not require confirmation, is found for any reason to be invalid, the authority who would have had power under section 112 to commute the punishment awarded by the sentence if it had been valid may pass a valid sentence:

Provided that the punishment awarded by the sentence so passed shall not be higher in the scale of punishments than, or in excess of, the punishment awarded by the invalid sentence.

CHAPTER IX.

EXECUTION OF SENTENCES.

104. In awarding a sentence of death a court-martial shall, in its discretion, direct that the offender shall suffer death by being hanged by the neck until he be dead, or shall suffer death by being shot to death.

105. Whenever any person is sentenced under this Act to simple imprisonment, such sentence shall be carried out by confinement in military custody.

106. Whenever any person is sentenced under this Act to transportation or imprisonment, the term of his sentence shall, whether it has been revised or not, be reckoned to commence on the day on which the original proceedings were signed by the president or, in the case of a summary court-martial, by the court.

107. Whenever any sentence of transportation or rigorous imprisonment is passed under this Act, or whenever any sentence so passed is commuted to transportation or to rigorous imprisonment, the commanding officer of the person under sentence, or such other officer as may be prescribed shall forward a warrant in the prescribed form to the officer in charge of the civil prison in which such person is to be confined, and shall forward him to such prison with the warrant.

Provided that, in the case of a sentence of rigorous imprisonment for a period not exceeding three months, the confirming officer, or, in the case of a sentence which does not require confirmation, the court may direct that the sentence shall be carried out by confinement in military custody.

108. Whenever, in the opinion of an officer commanding an army, division or independent brigade, any sentence or portion of a sentence of imprisonment cannot, for special reasons, conveniently be carried out in accordance with the provisions of section 105 or section 107, such officer may direct that such sentence or portion of sentence shall be carried out by confinement in any civil prison or other fit place.

109. Whenever an order is duly made under this Act setting aside or varying any sentence, order or warrant under which any person is confined in a civil prison, a warrant in accordance with such order shall be forwarded by the prescribed officer to the officer in charge of the prison in which such person is confined.

110. In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods, and, when the imprisonment awarded exceeds three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.

111. Whenever any person is sentenced under this Act by a court-martial to corporal punishment, such punishment shall be inflicted on the bare back with the regulation cat.

CHAPTER X.

PARDONS AND REMISSIONS.

112. When any person subject to this Act has been convicted by a court-martial of any offence,

(a) the Governor General in Council, or

- (b) when the person has been convicted of any offence other than an offence punishable under section 41, the Commander-in-Chief in India or, in the case of a sentence which he could have confirmed or which did not require confirmation, the officer commanding the army, division or independent brigade in which such person, at the time of his conviction, was serving, may—
- (1) pardon the person ;
 - (2) mitigate or remit the punishment awarded, or commute such punishment for any less punishment or punishment to which he might have been sentenced by the court-martial ;
 - (3) order the restoration to him of any service or other advantage forfeited under his sentence ; or
 - (4) re-admit him to the service when he has been dismissed therefrom :

Provided that a sentence of transportation shall not be commuted for a sentence of imprisonment for a term exceeding the term of transportation awarded by the court.

CHAPTER XI.

RULES.

113 (1) The Governor General in Council may make rules Power to make rules. for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the discharge from the service of persons subject to this Act ;
- (b) the amount and incidence of fines to be imposed under section 21 ;
- (c) the assembly and procedure of courts of inquiry, and the administration of oaths or affirmations by such courts ;
- (d) the convening and constituting of courts-martial ;
- (e) the adjournment, dissolution and sittings of courts-martial ;
- (f) the procedure to be observed in trials by courts-martial ;

- (g) the confirmation and revision of the findings and sentences of courts-martial ;
- (h) the carrying into effect of sentences of courts-martial ;
- (i) the forms of orders to be made under the provisions of this Act relating to courts-martial, transportation or imprisonment ; and
- (j) any matter in this Act directed to be prescribed.

(3) All rules made under this Act shall be published in the *Gazette of India*, and, on such publication, shall have effect as if enacted in this Act.

CHAPTER XII.

PROPERTY OF DECEASED PERSONS, DESERTERS AND LUNATICS.

114. The following rules are enacted respecting the disposal of the property of every person subject to this Act who dies or deserts:—

Property of deceased persons and deserters.

(1) The commanding officer shall secure all the moveable property that is on the spot, and cause an inventory thereof to be made, and draw any pay and allowances due to the deceased or deserter.

(2) In the case of a deceased person who has left in a Government savings bank (including any post office savings bank; however named) a deposit not exceeding one thousand rupees, the commanding officer may, if he thinks fit, require the secretary or other proper officer of the bank to pay the deposit to him forthwith notwithstanding anything in any departmental rules ; and, after the payment thereof in accordance with such requisition, no person shall have any right in respect of the deposit except as hereinafter provided.

(3) In the case of a deceased person whose representative is on the spot and has given security for the payment of the regimental debts (if any) of the deceased, the commanding officer shall deliver over the property and the amount of the deposit (if any) received under clause (2) to that representative.

(4) In the case of a deceased person whose estate is not dealt with under clause (3), and in the case of any deserter, the commanding officer shall cause the property to be sold by public

• auction, and shall pay the regimental debts and other debts in camp or quarters (if any), and in the case of a deceased person • the expenses of his funeral ceremonies, from the proceeds of the sale and the amount of the deposit (if any) received under clause (2).

(5) The surplus, if any, shall in the case of a deceased person be paid to his representative (if any), or in the event of no claim to such surplus being established within twelve months after the death, then the same shall be remitted to the prescribed person.

(6) In the case of the sale of the effects of a deserter, the amount remaining in the hands of the commanding officer shall be forthwith remitted to the prescribed person.

Explanation.—A person shall be deemed to be a deserter within the meaning of this section who has been convicted of desertion, or who has without authority been absent from duty for a period of sixty days and has not subsequently surrendered or been apprehended.

115. Property deliverable and money payable to the representative of a deceased person under section 114 may, if the total value or amount thereof does not exceed one thousand rupees, and if the prescribed person thinks fit, be delivered or paid to any person appearing to him to be entitled to receive it or to administer the estate of the deceased, without requiring the production of any probate, letters of administration, certificate or other such conclusive evidence of title; and such delivery or payment shall be a full discharge to those ordering or making the same and to the Secretary of State for India in Council from all further liability in respect of the property or money; but nothing in this section shall affect the rights of any executor or administrator or other representative, or of any creditor, of a deceased person against any person to whom such delivery or payment has been made.

116. The provisions of section 114 shall, so far as they can be made applicable, apply in the case of a person subject to this Act becoming insane.

Disposal of certain property without production of probate, etc.
Application of section 114 to lunatics.

CHAPTER XIII.

MISCELLANEOUS.

Military Privileges.

117. (1) Any person subject to this Act who deems himself wronged by any superior or other officer, may, if not attached to a troop or company, complain to the officer under whose command or orders he is serving; and may, if attached to a troop or company, complain to the officer commanding the same.

(2) When the officer complained against is the officer to whom any complaint should, under sub-section (1), be preferred, the aggrieved person may complain to such officer's next superior officer.

(3) Every officer receiving any such complaint shall examine into it, and, when necessary, refer it to superior authority.

(4) Every such complaint shall be preferred through such channels as may be from time to time specified by proper authority.

118. (1) No president or member of a court-martial, no judge of persons attending courts-martial, no advocate or superintending officer, no party to any proceeding before a court-martial, or his legal practitioner or agent, and no witness acting in obedience to a summons to attend a court-martial, shall, while proceeding to, attending on or returning from a court-martial, be liable to arrest under civil or revenue process.

(2) If any such person is arrested under any such process, he may be discharged by order of the court-martial.

119. (1) No person subject to this Act shall, so long as he belongs to His Majesty's Indian forces, be liable to be arrested for debt under any process issued by, or by the authority of, any civil or revenue court or revenue-officer.

(2) The judge of any such court may examine into any complaint made by such person or his superior officer of the arrest of such person contrary to the provisions of this section, and may, by warrant under his hand, discharge the person, and award reasonable costs to the complainant, who may recover those

costs in like manner as he might have recovered costs awarded to him by a decree against the person obtaining the process.

(3) For the recovery of such costs no fee shall be payable to the court by the complainant.

120. Neither the arms, clothes, equipment, accoutrements or necessities of any person subject to this Act, nor any animal used by him for the discharge of his duty, shall be seized, nor shall the pay and allowances of any such person or any part thereof be attached, by direction of any civil or revenue court or any revenue-officer, in satisfaction of any decree or order enforceable against him.

121. Every person belonging to the Indian Reserve Forces shall, when called out for or engaged upon or returning from training or service, be entitled to all the privileges accorded by sections 119 and 120 to a person subject to this Act.

122. (1) On the presentation to any court by or on behalf of any person subject to this Act of a certificate, from the proper military authority, of leave of absence having been granted to or applied for by him for the purpose of prosecuting or defending any suit or other proceeding in such court, the court shall, on the application of such person, arrange, so far as may be possible, for the hearing and final disposal of such suit or other proceeding within the period of the leave so granted or applied for.

(2) The certificate from the proper military authority shall state the first and last day of the leave or intended leave, and set forth a description of the case with respect to which the leave was granted or applied for.

(3) No fee shall be payable to the court in respect of the presentation of any such certificate, or in respect of any application by or on behalf of any such person for priority for the hearing of his case.

(4) Where the court is unable to arrange for the hearing and final disposal of the suit or other proceeding within the period of such leave or intended leave as aforesaid, it shall record its reasons for having been unable to do so, and shall cause a copy thereof to be furnished to such person on his application

without any payment whatever by him in respect either of the application for such copy or of the copy itself.

(5) If in any case a question arises as to the proper military authority qualified to grant such certificate, as aforesaid, such question shall be at once referred by the court to an officer commanding a corps, whose decision shall be final.

Deserters and Military Offenders.

123. (1) Whenever any person subject to this Act deserts, the commanding officer of the corps, department or detachment to which he belongs shall give written information of the desertion to such civil authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person for whose apprehension a warrant had been issued by a magistrate, and shall deliver the deserter, when apprehended, to military custody.

(2) Any police-officer may arrest without warrant any person reasonably believed to be subject to this Act and to be travelling without authority, and shall bring him without delay before the nearest magistrate, to be dealt with according to law.

124. (1) Any person subject to this Act who is charged with an offence may be taken into military custody.

(2) Any such person may be ordered into military custody by any superior officer.

(3) The charge against every person taken into military custody shall, without unnecessary delay, be investigated by the proper military authority, and, as soon as may be, either proceedings shall be taken for punishing the offence, or such person shall be discharged from custody.

125. Whenever any person subject to this Act, who is accused of any offence under this Act, is within the jurisdiction of any magistrate, or police-officer, such magistrate or officer shall aid in the apprehension and delivery to military custody of such person upon receipt of a written application to that effect signed by his commanding officer.

126. (1) When any person subject to this Act has been absent without due authority from his duty for a period of sixty days, a court of inquiry shall, as soon as practicable, be assembled and, upon oath or affirmation administered in the prescribed manner, shall inquire respecting the absence of the person, and the deficiency, if any, of property of the Government entrusted to his care, or of his arms, ammunition, equipments, instruments, clothing or necessities; and, if satisfied of the fact of such absence without due authority or other sufficient cause, the court shall declare such absence and the period thereof, and the said deficiency, if any; and the commanding officer of the corps or department to which the person belongs shall enter in the court-martial book of the corps or department a record of the declaration.

(2) If the person declared absent does not afterwards surrender, or is not apprehended, he shall, for the purposes of this Act, be deemed to be a deserter.

(3) If the person declared absent surrenders or is apprehended, the record or a copy thereof, purporting to bear the signature of the officer having the custody of the court-martial book, shall, on the trial of the person for desertion, be presumptive evidence of the facts therein recorded.

Repeal.

127. The enactments mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof:

Provided that all warrants issued and persons enrolled or attested under the provisions of any of the said enactments shall be deemed to have been respectively issued, enrolled or attested under this Act.

THE SCHEDULE.

REPEAL OF ENACTMENTS.

(See section 127.)

1	2	3	4
Year.	No.	Short title.	Extent of repeal.
1869	V	The Indian Articles of War.	The whole.
1875	V	The Unattested Sepoys Act, 1875.	Do.
1891	XII	The Amending Act, 1891.	So much of section 2, sub-section (2), and the Second Schedule as relates to the Indian Articles of War.
1894	XII	The Indian Articles of War Amendment Act, 1894.	The whole.
1897	XIV	The Indian Short Titles Act, 1897.	So much of section 2 and the schedule as relates to Act V of '75.
1900	I	The Indian Articles of War Amendment Act, 1900.	The whole.
1901	IX	The Indian Articles of War Amendment Act, 1901.	Do.
1904	XIII	The Indian Articles of War Amendment Act, 1904.	Do.
1905	V	The Indian Articles of War Amendment Act, 1905.	Do.

THE BIRTHS, DEATHS AND MARRIAGES REGISTRATION (AMENDMENT) ACT, 1911.

RECEIVED THE ASSENT OF THE GOVERNOR GENERAL ON THE
16TH MARCH 1911.

ACT No. IX OF 1911.

*An Act further to amend the Births, Deaths and Marriages
Registration Act, 1886.*

WHEREAS it is expedient further to amend the Births, Deaths and Marriages Registration Act, 1886; It is hereby enacted as follows :—

1. This Act may be called the Births, Deaths and Marriages Registration (Amendment) Act, 1911.

Short title.

2. In section 22 of the Births, Deaths and Marriages Registration Act, 1886, the following amendments shall be made namely:—

Amendment of section 22 of Act VI of 1886.

(1) To sub-section (1) of the said section the following proviso shall be added, namely :—

“ Provided that it shall not be necessary for the person giving notice to attend before the Registrar or to sign the entry in the register if he has given such notice in writing and has furnished to the satisfaction of the Registrar such evidence of his identity as may be required by any rules made by the Local Government in this behalf.”

(2) In sub-section (2) of the said section, after the word “signed” the words “or the conditions specified in the proviso to sub-section (1) have been complied with” shall be inserted.

3. In section 26 and in section 28 of the said Act, for the words “Governor-General in Council” the words “Local Government” shall be substituted.

Amendment of sections 26 and 28.

4. For section 36 of the said Act the following section shall be substituted namely:—

Substitution of new section 36.

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

Rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) fix the fees payable under this Act ;
- (b) prescribe the forms required for the purposes of this Act ;
- (c) prescribe the time within which, and the mode in which, persons authorized under this Act to give notice of a birth or death to a Registrar of Births and Deaths must give the notice ;
- (d) prescribe the evidence of identity to be furnished to a Registrar of Births and Deaths by persons giving notice of a birth or death in cases where personal attendance before such Registrar is dispensed with ;
- (e) prescribe the registers to be kept and the form and manner in which Registrars of Births and Deaths are to register births and deaths under this Act, and the intervals at which they are to send to the Registrar General of Births, Deaths and Marriages true copies of the entries of births and deaths in the registers kept by them ;
- (f) prescribe the conditions and circumstances on and in which Registrars of Births and Deaths may correct entries of births and deaths in registers kept by them ;
- (g) prescribe the particulars which the descriptive list or lists to be prepared by the Commissioners appointed under Chapter V are to contain, and the manner in which they are to refer to the registers or records or portions of registers or records, to which they relate ; and
- (h) prescribe the custody in which those registers or records are to be kept.

(3) Every power to make rules conferred by this Act is subject to the condition of the rules being made after previous publication.

(4) All rules made under this Act shall be published in the local official Gazette, and on such publication shall have effect as if enacted in this Act."

Repeal of section
37.

5. Section 37 of the said Act is hereby repealed.

6 All rules heretofore made under the said Act by the Governor-General in Council shall after the commencement of this Act, be deemed to have been made by the Local Government.

Continuation of
rules heretofore
made by Governor-
General in Council

THE PREVENTION OF SEDITIOUS MEETINGS ACT, 1911.

RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL
ON THE 22ND MARCH-1911.

ACT NO. X OF 1911.

An Act to consolidate and amend the law relating to the prevention of public meetings likely to promote sedition or to cause a disturbance of public tranquillity.

WHEREAS it is expedient to consolidate and amend the law relating to the prevention of public meetings likely to promote sedition or to cause a disturbance of public tranquillity; It is hereby enacted as follows:—

Short title and
extent.

1. (1) This Act may be called the Prevention of Seditious Meetings Act 1911.

(2) It extends to the whole of British India, but shall have operation only in such Provinces or parts of Provinces as the Governor-General in Council may from time to time notify in the *Gazette of India*.

2 (1) The Local Government may, with the previous sanction of the Governor-General in Council, by notification in the local official Gazette, declare the whole or any part of a Province, in which this Act is for the time being in operation, to be a proclaimed area.

Power of Local
Government to
notify proclaimed
areas.

(2) A notification made under Sub-Section (1) shall not remain in force for more than six months, but nothing in this subsection shall be deemed to prevent the Local Government, with the previous sanction of the Governor-General in Council, from making any further notifications in respect of the same area from time to time as it may think fit.

3. (1) In this Act, the expression "public meeting" means a meeting which is open to the public or any class or portion of the public.

Definition.

ACT NO. X OF 1911.

(2) A meeting may be a public meeting notwithstanding that it is held in a private place and notwithstanding that admission thereto may have been restricted by ticket or otherwise.

4. (1) No public meeting for the furtherance or discussion of any subject likely to cause disturbance or public excitement or for the exhibition or distribution of any writing or printed matter relating to any such subject shall be held in any proclaimed area—

Notice to be given of public meetings.

(a) unless written notice of the intention to hold such meeting and of the time and place of such meeting has been given to the District Magistrate or the Commissioner of Police, as the case may be, at least three days previously; or

(b) unless permission to hold such meeting has been obtained in writing from the District Magistrate or the Commissioner of Police, as the case may be.

(2) The District Magistrate or any Magistrate of the first class authorized by the District Magistrate in this behalf may, by order in writing, depute one or more Police-officers, not being below the rank of Head Constable, or other persons to attend any such meeting for the purpose of causing a report to be taken of the proceedings.

Power of Magistrate to cause report to be taken.

(3) Nothing in this section shall apply to any public meeting held under any statutory or other express legal authority or to public meetings convened by a Sheriff or to any public meetings or class of public meetings exempted for that purpose by the Local Government by general or special order.

Exception.

5. The District Magistrate or the Commissioner of Police, as the case may be, may at any time, by order in writing, of which public notice shall forthwith be given, prohibit any public meeting in a proclaimed area if, in his opinion, such meeting is likely to promote sedition, or disaffection or to cause a disturbance of the public tranquillity.

Power to prohibit public meetings.

6. (1) Any person concerned in the promotion or conduct of a public meeting held in a proclaimed area contrary to the provisions of section 4 shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

Penalties.

(2) Any public meeting which has been prohibited under section 5 shall be deemed to be an unlawful assembly, within the meaning of Chapter VIII of the Indian Penal Code and of Chapter IX of the Code of Criminal Procedure, 1898.

7. Whoever, in a proclaimed area, in a public place or a place of public resort, otherwise than at a public meeting held in accordance with, or exempted from, the provisions of section 4, without the permission in writing of the Magistrate of the District or of the Commissioner of Police, as the case may be, previously obtained delivers any lecture, address or speech on any subject likely to cause disturbance or public excitement to persons then present, may be arrested without warrant and shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

8. No Court inferior to that of a Presidency Magistrate or of a Magistrate of the First Class or Sub-Divisional Magistrate shall try any offence against this Act.

9. The Prevention of Seditious Meetings Act, 1907, and the Repeals. Continuing Act, 1910, are hereby repealed.

THE INDIAN UNIVERSITIES (AMENDMENT) ACT, 1911.

RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL ON THE
21ST MARCH 1911.

ACT NO. XI OF 1911.

An Act to amend the Indian Universities Act, 1904.

WHEREAS it is expedient to amend the Indian Universities Act, 1904 ; It is hereby enacted as follows :—

1. This Act may be called the Indian Universities (Amendment) Act, 1911.

2. To section 6, sub-section (2), of the said Act, the following proviso shall be added, namely :—

Amendment
of section 6, Act
VIII of 1904.

“ Provided that, in the case of the University of Allahabad, the Chancellor may direct that such number as he may specify of the ordinary Fellows referred to in clause (a) shall be elected by the Senate, and the remainder by registered graduates.”

THE INDIAN FACTORIES ACT, 1911.

RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL ON THE
24TH MARCH 1911.

ACT No. XII OF 1911.

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SCHEDULES.

An Act to consolidate and amend the law regulating labour in factories.

WHEREAS it is expedient to consolidate and amend the law regulating labour in factories; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

- 1. (1) This Act may be called the Indian Factories Act, 1911.
Short title, commencement and extent.
- (2) It shall come into force on the first day of July, 1912; and

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

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

"Child." (1) "child" means a person who is under the age of fourteen years :

"Employed." (2) a person who works in a factory, whether for wages or not,—

(a) in a manufacturing process or handicraft, or

(b) in cleaning any part of the factory used for any manufacturing process or handicraft, or

(c) in cleaning or oiling any part of the machinery, or

(d) in any other kind of work whatsoever, incidental to, or connected with, the manufacturing process or handicraft, or connected with the article made or otherwise the subject of the manufacturing process or handicraft therein,

shall be deemed to be employed therein :

Explanation.—The term "manufacturing process" shall be deemed to include the baling of any material for transport :

(3) "factory" means any premises wherein, or within the precincts of which, steam, water or other mechanical power or electrical power is used in

aid of any process for, or incidental to, making, altering, repairing, ornamenting, finishing or otherwise adapting for use, for transport or for sale any article or part of an article :

"Inspector." (4) "inspector" includes an additional inspector :

(5) "mill-gearing" includes every shaft, whether upright, oblique or horizontal, and every wheel, drum,

"Mill-gearing." pulley, rope, chain, wire, driving strap or band by which the motion of the first moving power is communicated to any machine appertaining to any manufacturing process :

"Occupier." (6) "occupier" includes a managing agent or other person authorised to represent the occupier :

"Prescribed." (7) "prescribed" means prescribed by this Act or by rules made thereunder :

(8) "system of shifts" means a system of relays in which the time of the beginning and ending of the period or periods of the employment of each person is fixed for each relay :

"System of shifts."

(9) "textile factory" means a factory wherein is carried on any process for, or incidental to, making, altering, repairing, ornamenting, finishing or otherwise adapting for use, for transport or for sale cotton, wool, hair, silk, flax, hemp, jute, tow, china-grass, cocoanut fibre or other like material, either separately or mixed together or mixed with any other material, or any fabric made thereof:

Provided that the term "textile factory" shall not be deemed to include the following factories, namely:—cloth-printing works, bleaching and dyeing works, lace warehouses, paper mills, flax scutch mills, silk filatures, factories for ginning cotton, decorticating fibre, pressing cotton, jute or other fibre, rope works and hat works.

Application of 3. (1) Nothing in the following chapters
Act. shall apply to—

- (a) any mine subject to the operation of the Indian Mines Act, 1901, or
- (b) any electrical generating or transforming station, or
- (c) any indigo factory, or
- (d) any factory situated on and used solely for the purposes of a tea or coffee plantation, or
- (e) any factory wherein on no day in the year are more than forty-nine persons simultaneously employed :

Provided that the Local Government may, subject to the control of the Governor-General in Council, by notification in the local official Gazette, apply to any factory or class of factories, wherein any specified number of persons, not being less than twenty, are on any day simultaneously employed, all or any of the provisions of this Act which would save for clause (e) of this subsection, have applied.

(2) The provisions of Chapters IV and V and sections 35 and 36 shall not, unless the Local Government by order in writing otherwise directs, apply to any person employed solely in any place within the precincts of a factory, not being a cotton reeling room or winding-room, in which place no steam, water or other mechanical power or electrical power is used in aid of the manufacturing process carried on in such factory, or in which such power is used solely for the purpose of moving or working any

appliances in connection with the bringing or taking of any goods into or out of the factory.

CHAPTER II.

INSPECTORS AND CERTIFYING SURGEONS.

4. (1) The Local Government may, by notification in the local official Gazette, appoint such persons as it thinks fit to be inspectors of factories within such local limits as it may assign to them respectively.

(2) No person shall be appointed to be an inspector under sub-section (1), or, having been so appointed, shall continue to hold the office of inspector, who is or becomes directly or indirectly interested in a factory or in any process or business carried on therein or in any patent or machinery connected therewith.

(3) The District Magistrate shall be an inspector under this Act.

(4) The Local Government may also, by notification as aforesaid, and subject to the control of the Governor-General in Council, appoint such public officers as it thinks fit to be additional inspectors for all or any of the purposes of this Act within such local limits as it may assign to them respectively.

(5) In any area where there are more inspectors than one, the Local Government may, by notification as aforesaid, declare the powers which such inspectors shall respectively exercise, and the inspector to whom the prescribed notices are to be sent.

Every inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code and shall be officially subordinate to such authority as the Local Government may indicate in this behalf.

5. Subject to any rules in this behalf, an inspector may, with-
Powers of inspec- in the local limits for which he is appointed,—
tor.

(a) enter, with such assistants (if any) as he thinks fit, any place which is, or which he has reason to believe to be, used as a factory ;

(b) make such examination of the premises and machinery and of any prescribed registers, and take on the spot or otherwise such evidence of any persons as he may deem necessary for carrying out the purposes of this Act ; and

Act No. XII of 1911.

(c) exercise such other powers as may be necessary for carrying out the purposes of this Act :

Provided that no one shall be required under this section to answer any question or give any evidence tending to criminate himself.

6. The Local Government may appoint such qualified medical practitioners as it thinks fit to be certifying surgeons for the purposes of this Act within such local limits as it may assign to them respectively.

7. (1) A certifying surgeon shall, at the request of any person desirous of being employed in a factory situated within the local limits for which he is appointed, or of the parent or guardian of such person or of the Manager of the factory in which such person desires to be employed, examine such person and grant him a certificate in the prescribed form, stating his age, as nearly as it can be ascertained from such examination, and whether he is fit for employment in a factory.

(2) Where a certifying surgeon refuses to certify that a person is fit for employment in a factory, he shall, if required by such person, or his parent or guardian, or the manager of the factory in which such person desires to be employed, state in writing his reasons for such refusal.

8. A certifying surgeon may authorize any person practising medicine or surgery to exercise the functions assigned to him by section 7, and may revoke such authority.

Provided that no certificate granted under this section shall, unless confirmed, on personal examination of the person named therein, by the certifying surgeon who conferred the authority, be valid after the first date subsequent to the grant thereof on which such certifying surgeon visits the factory in which the person named therein is employed.

CHAPTER III.

HEALTH AND SAFETY.

Sanitary provisions.

9. The following provisions shall apply to every factory :—

- (a) it shall be kept clean, and free from effluvia arising from any drain, privy or other nuisance;
- (b) it shall not be so overcrowded while work is carried on therein as to be dangerous or injurious to the health of the persons employed therein;
- (c) it shall be ventilated in such a manner as to render harmless, as far as practicable, any gases, vapours, dust or other impurities generated in the course of the work carried on therein that may be injurious to health.

10. If in a factory, in which any process is carried on by which dust or other impurity is generated and inhaled by the workers to an injurious extent, it appears to the inspector that such inhalation could be to a great extent prevented by the use of a fan or other mechanical means, the inspector may serve on the manager of the factory an order in writing that a fan or other mechanical means of a proper construction for preventing such inhalation be provided, maintained and used before a specified date.

Lighting. 11. (1) Every factory shall be sufficiently lighted.

(2) In the case of any factory which is not, in the opinion of the inspector, so lighted, the inspector may serve on the manager of the factory an order in writing specifying the measures which he considers necessary for the attainment of a sufficient standard of lighting, and requiring him to carry them out before a specified date.

12. (1) In any factory in which humidity of the atmosphere is produced by artificial means, the water used for the purpose of producing humidity shall be taken either from a public supply of drinking water or from some other source of water ordinarily used for drinking, or shall be effectively purified before being used for the purpose of producing humidity.

(2) In the case of any factory in which any water required under sub-section (1) to be effectively purified is not in the opinion of the inspector so purified, the inspector may serve on the manager of the factory an order in writing specifying the measures which he considers necessary for effectively purifying the water and requiring him to carry them out before a specified date.

13. Every factory shall be provided with sufficient and suitable latrine accommodation, and, if the Local Government so requires, with separate urinal accommodation for the persons employed in the factory:

Provided that the inspector may, subject to such conditions as the Local Government may lay down in this behalf, by an order in writing exempt any factory from the provisions of this section.

14. In every factory there shall be maintained a sufficient and suitable supply of water fit for drinking for the use of the persons employed in the factory.

15. In every factory, the construction of which is commenced after the commencement of this Act, the doors of each room in which more than thirty persons are employed shall, except in the case of sliding doors, be constructed so as to open outwards.

16. (1) Every factory shall be provided with such means of escape in case of fire for the persons employed therein as can reasonably be required in the circumstances of each case.

(2) In the case of any factory which is not in the opinion of the inspector so provided, the inspector may serve on the manager of the factory an order in writing, specifying the measures which he considers necessary for providing such means of escape, and requiring him to carry them out before a specified date.

17. No person shall smoke, or use a naked light or cause or permit any such light to be used, in the immediate vicinity of any inflammable material in any factory.

18. (1) (a) Every fly-wheel directly connected with a steam-engine, water-wheel or other mechanical power or electrical power in any part of any water-wheel or engine worked by any such power,

(b) every hoist or teagle and every hoist-well, trap-door or other similar opening near which any person is liable to pass or be employed, and

(c) every part of the machinery which the Local Government may by rule require to be kept fenced, shall be securely fenced.

(2) If in any factory there is any other part of the machinery or mill-gearing which may in the opinion of the inspector be dangerous if left unfenced, the inspector may serve on the manager of the factory an order in writing, specifying the measures which he considers necessary for fencing such part in order to remove the danger, and requiring him to carry them out before a specified date.

(3) All fencing must be constantly maintained in an efficient state while the parts required to be fenced are in motion or use, except where they are under repair or are under examination in connection with repair or are necessarily exposed for the purpose of cleaning or lubricating or for altering the gearing or arrangements of the parts of the machinery.

(4) Such provisions as may be prescribed shall be made for the protection from danger of persons employed in attending to the machinery or boilers of any factory.

19. No woman or child shall be allowed to clean any part of the mill-gearing or machinery of a factory while the same is in motion by the action of steam, water or other mechanical power or electrical power, as the case may be, or to work between the fixed and traversing parts of any self-acting machine while such machine is in motion by the action of any power above described.

Prohibition of employment of women and children in certain dangerous work. 20. No woman or child shall be employed in the part of a factory for pressing cotton in which a cotton-opener is at work :

Provided that, if the feed-end of a cotton opener is in a room separated from the delivery end by a partition extending from the floor to the roof, women and children may be employed in the room in which the feed-end is situated.

CHAPTER IV.

HOURS OF EMPLOYMENT AND HOLIDAYS.

21. (1) In every factory there shall be fixed for each working day, at intervals not exceeding six hours, periods of not less than half an hour, during which all work shall be discontinued,

Periodical stop-
page of work.

(2) Nothing in sub-section (1) shall apply to—

- (a) any work performed by any person while employed in accordance with a system of shifts approved by the inspector, or
- (b) the work of sizing, calendering, finishing, sewing or tailoring in textile factories, or in cloth-printing works, or in bleaching or dyeing works, or
- (c) work on urgent repairs executed in railway or tramway workshops or running sheds, or in engineering works or ship repairing works, or
- (d) any work mentioned in Part A or in Part B of Schedule I, or
- (e) the factories mentioned in Part C of the said Schedule.

(3) Where it is proved to the satisfaction of the Local Government—

- (a) that any class of work not specified in Part A of Schedule I is of an urgent nature or is such as in the interests of efficiency is commonly performed while the main manufacturing process of the factory is discontinued, or
- (b) that there is in any class of factories not specified in Part B of the said Schedule any work which necessitates continuous production for technical reasons, or
- (c) that any class of factories not specified in Part C of the said Schedule requires, by reason of the exigencies or special circumstances of the trade carried on therein, an uninterrupted working day,

the Local Government may, subject to the control of the Governor-General in Council, by notification in the local official Gazette, except,—

in case (a), such class of work,

in case (b), work of the nature described in such class of factories,

in case (c), such class of factories,

from the provisions of sub-section (1) on such conditions, if any, as it may impose.

22. (1) No person shall be employed in any factory on a Weekly holiday. Sunday, unless—

(a) he has had, or will have, a holiday for a whole day on one of the three days immediately preceding or succeeding the Sunday, and

(b) the manager of the factory has previous to the Sunday or the substituted day, whichever is earlier, given notice to the inspector of his intention so to employ the said person and of the day which is to be substituted and has at the same time affixed a notice to the same effect in the place mentioned in section 36.

(2) Nothing in sub-section (1) shall apply to work on urgent repairs executed in railway or tramway workshops or running sheds or in engineering works or ship-repairing works.

(3) Nothing in sub-section (1) shall apply to any person employed on any work specified in Part A of Schedule I or in Part A of Schedule II or to any factory specified in Part B of Schedule II.

(4) Where it is proved to the satisfaction of the Local Government—

(a) that any class of work not specified in Part A of Schedule I is of an urgent nature or is such as in the interests of efficiency commonly performed while the main manufacturing process of the factory is discontinued, or

(b) that there is in any class of factories not specified in Part A of Schedule II any work which necessitates continuous production for technical reasons, or

(c) that any class of factories not specified in Part B of Schedule II supplies the public with articles of prime necessity which must be made or supplied every day, or

(d) that in any class of factories the work performed, by the exigencies of the trade or by its nature, cannot be carried on except at stated seasons, or at times dependent on the irregular action of natural forces,

the Local Government may, subject to the control of the Governor-General in Council, by notification in the local official Gazette, exempt,—

in case (a), such class of work,

in case (b), work of the nature described in such class of factories, and,

in cases (c) and (d), such class of factories, from the provisions of sub-section (1), on such conditions, if any, as it may impose.

Employment of children.

With respect to the employment of children in factories the following provisions shall apply:—

(a) no child shall be employed in any factory unless he is in possession of a certificate granted under S. 7 or S. 8 showing that he is not less than nine years of age and is fit for employment in a factory, and while at work carries either the certificate itself or a token giving reference to such certificate;

(b) no child shall be employed in any factory before half-past five o'clock in the morning or after seven o'clock in the evening;

(c) no child shall be employed in any factory for more than seven hours in any one day.

Employment of women.

24. With respect to the employment of women in factories the following provisions shall apply:—

(a) no woman shall be employed in any factory before half-past five o'clock in the morning or after seven o'clock in the evening;

(b) no woman shall be employed in any factory for more than eleven hours in any one day.

25. No person shall employ, or permit to be employed, in any factory any woman or child whom he knows, or has reason to believe, to have already been employed on the same day in any other factory.

Prohibition of employment of woman or child in two factories on same day.

26. The manager of a factory shall fix specified hours for the employment of each woman and child employed in such factory, and no woman or child shall be employed except during such hours.

Hours of employment of women and children to be fixed.

27. Nothing in section 24 or section 26 shall apply to any woman in any factory for ginning or pressing cotton, in which such number of women are employed as are in the opinion of the inspector, sufficient to make the hours of employment of each woman not more than eleven in any one day.

Exception to provisions relating to employment of women.

CHAPTER V.

SPECIAL PROVISIONS FOR TEXTILE FACTORIES.

28. No person shall be employed in any textile factory for more than twelve hours in any one day.

Limitation of hours of work:

29. (1) No person shall be employed in any textile factory before half-past five o'clock in the morning or after seven o'clock in the evening.

Limits between which a person may be employed.

(2) Nothing in sub-section (1) shall apply to any person while employed in accordance with a system of shifts approved by the inspector.

30. (1) Nothing in section 28 or section 29 shall apply to—

Exceptions from section 28 and 29.

(a) the work of calendering, finishing, sewing or tailoring, or

(b) the work of cloth-printing, bleaching or dyeing, or

(c) any work specified in Part A of Schedule I.

(2) Where it is proved to the satisfaction of the Local Government that any work not specified in Part A of Schedule I is of an urgent nature, or is such as in the interests of efficiency is commonly performed while the main manufacturing process of the factory is discontinued, the Local Government may, subject to the control of the Governor-General in Council, by notification in the local official Gazette, exempt any person employed on such work from the operation of section 28 or section 29 on such conditions, if any, as it may impose.

31. (1) The period for which mechanical power or electrical power is used in any textile factory shall not in any one day exceed twelve hours.

(2) Nothing in sub-section (1) shall apply to any mechanical power or electrical power while being solely used in aid of the work performed by any person employed in accordance with a system of shifts approved by the inspector.

(3) Nothing in sub-section (1) shall apply to any mechanical power or electrical power required in connection with any work specified in sub-section (1) of section 30 or in connection with any work which is exempted by the Local Government under sub-section (2) of the same section.

Limitation of hours of children. 32. No child shall be employed in any textile factory for more than six hours in any one day.

CHAPTER VI.

NOTICES AND REGISTERS.

Person occupying factory to give notice.

33. (1) Every person occupying a factory shall,—

- (a) in the case of existing factories, within one month after the commencement of this Act, or
 - (b) in the case of a factory which starts work after the commencement of this Act, within one month after he begins to occupy the factory,
- send to the inspector a written notice containing
- (i) the name of the factory and of the place where it is situate,
 - (ii) the address to which he desires his letters to be directed,
 - (iii) the nature of the work performed in such factory,
 - (iv) the nature and amount of the moving power therein, and
 - (v) the name of the person who shall be deemed to be the manager of the factory for the purposes of this Act :

Provided that in the case of a seasonal factory such notice shall be sent on or before the date of starting work for each season.

(2) If the manager of the factory is changed, the occupier shall send to the inspector, within seven days from the date on which the change is made, written notice of the change.

(3) During any period for which no person has been designated as manager of a factory under this section, the occupier shall himself be deemed to be the manager of the factory for the purposes of this Act.

34. When any accident occurs in a factory causing death or,
Notice to be given of accident. bodily injury, whereby the person injured is prevented from returning to his work in the factory during the forty-eight hours next after the occurrence of the accident, the manager shall send notice of the accident to such authorities in such form and within such time as may be prescribed.

35. In every factory there shall be kept, in the prescribed
Register of children. form, a register of the children (if any) employed in such factory, and of the nature of their respective employment.

36. (1) There shall be affixed in some conspicuous place
Affixing of abstract notices. near the main entrance of every factory, in English and in the language of the majority of the operatives in such factory, the prescribed abstracts of this Act and of the rules made thereunder, and also a notice containing the standing orders of the factory upon the following matters, namely:—

- (a) the time of beginning and ending work on each day;
- (b) the periods during which all work is discontinued under section 21;
- (c) the hours of beginning and ending work for each shift (if any); and
- (d) the hours of employment of women and children respectively, if not employed in shifts.

(2) A copy of the said notice shall be sent to the inspector within one month of the commencement of this Act, or, in the case of a factory which starts work after the commencement of this Act, within one month of commencing work.

(3) The said notice shall be correctly maintained and kept up to date, and intimation of any change therein shall be sent by the manager to the inspector within seven days.

(4) Nothing in this section, except in so far as it relates to affixing the prescribed abstracts of this Act and the rules made thereunder, shall apply to any seasonal factory.

37. (1) Subject to the control of the Governor-General in Council, the Local Government may make rules.. rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the inspection of factories;
- (b) the manner in which inspectors are to exercise the powers conferred on them by this Act;
- (c) the duties to be performed by certifying surgeons;
- (d) the form of the certificate prescribed by section 7; the grant of a duplicate in the event of loss of the original certificate, and the fee, if any, to be charged for such duplicate;
- (e) the methods, including lime-washing, painting, varnishing and washing, to be adopted in order to secure cleanliness and freedom from effluvia;
- (f) the proportion which the number of cubic feet of space in any room shall bear to the number of persons employed at one time therein;
- (g) standards of ventilation, and the methods to be adopted in order to secure their observance;
- (h) standards of latrine and urinal accommodation;
- (i) standards of water-supply;
- (j) the parts of the machinery to be kept fenced in accordance with section 18, sub-section (1), clause

- (c) and the provisions to be made for the protection from danger of persons employed in attending to the machinery or boilers;
- (k) the form of the notice prescribed by section 34, and the time within which and the authorities to whom it shall be sent;
- (l) the form of the register prescribed by section 35;
- (m) the abstracts of the Act and of the rules required by section 36;
- (n) the procedure to be followed in presenting and hearing appeals under this Act, including the appointment and remuneration of assessors; and
- (o) the manner of service of notices and orders upon occupiers or managers of factories.

38. The Governor-General in Council may from time to time make rules requiring occupiers or managers of factories to furnish such returns, occasional or periodical, as may in his opinion be necessary for the effectual carrying out of this Act.

39. (i) The power to make rules, conferred by section 37, except clauses (k), (l) and (m) of sub-section (2) thereof, and by section 38 is subject to the condition of the rules being made after previous publication.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897, as that after which draft of rules proposed to be made under sections 37 and 38 will be taken into consideration; shall not be less than three months from the date on which the draft of the proposed rules was published for general information.

40. Rules made under this Chapter shall be published in the local official Gazette or the *Gazette of India*, as the case may be, and shall thereupon have effect as if enacted in the Act.

CHAPTER VIII.

PENALTIES AND PROCEDURE.

Penalties.

41. If in any factory—

- (a) any person is employed or allowed to work contrary to any of the provisions of this Act ;
 - (b) any of the provisions of section 9 are not complied with ;
 - (c) latrine or urinal accommodation in accordance with the provisions of section 13 is not provided ;
 - (d) a supply of water for the persons employed is not maintained in accordance with the provisions of section 14 ;
 - (e) any door is constructed in contravention of section 15 ;
 - (f) any of the provisions of section 18, sub-sections (1), (3) and (4), regarding fencing and the protection from danger of persons employed in attending to the machinery or boilers are not complied with ;
 - (g) any order of an inspector under section 10, section 11, section 12, section 16 or section 18 is not complied with ;
 - (h) the register prescribed by section 35 is not kept up to date ;
 - (i) any of the provisions of section 36 are not complied with ;
 - (j) any notice or return required by this Act or by rules made thereunder to be furnished is not furnished ;
- the occupier and manager shall be jointly and severally liable to a fine which may extend to two hundred rupees :

Provided that in cases where an appeal is allowed by section 50 no prosecution under clause (g) of this section shall be instituted until either the time prescribed by section 50 for the presentation of an appeal has expired or such appeal, if made, has been determined.

42. (1) Where the occupier or manager of a factory is charged with an offence against this Act, he shall be entitled, upon complaint duly made by him to have any other person whom he charges as the actual offender brought before the Court at the

time appointed for hearing the charge; and if, after the commission of the offence has been proved, the occupier or manager of the factory proves to the satisfaction of the Court—

(a) that he has used due diligence to enforce the execution of this Act, and

(b) that the said other person committed the offence in question without his knowledge, consent or connivance, that other person shall be convicted of the offence and shall be liable to the like fine as if he were the occupier or manager, and the occupier or manager shall be discharged from any liability under this Act.

(2) When it is made to appear to the satisfaction of the inspector at any time prior to the institution of the proceedings—

(a) that the occupier or manager of the factory has used all due diligence to enforce the execution of this Act, and

(b) by what person the offence has been committed, and

(c) that it has been committed without the knowledge, consent or connivance of the occupier or manager, and in contravention of his orders,

the inspector shall proceed against the person whom he believes to be the actual offender without first proceeding against the occupier or manager of the factory, and such person shall be liable to the like fine as if he were the occupier or manager.

Penalties for certain offences.

43. Any person who—

(a) wilfully obstructs an inspector in the exercise of any power under section 5, or fails to produce, on demand by an inspector, any registers or other documents kept in pursuance of this Act or the rules made thereunder, or conceals or prevents or attempts to prevent any person employed in a factory from appearing before or being examined by an inspector;

(b) smokes, or uses a naked light, or causes or permits any such light to be used, in the immediate vicinity of any inflammable material in contravention of section 17; or

(c) does or omits to do any other act prohibited or prescribed by this Act or any order or rule made thereunder; shall be punishable with fine which may extend to two hundred rupees.

44. Any person who knowingly uses or attempts to use, as ^{Using false cer-} a certificate granted to himself under section 7 ^{tificate.} or section 8, a certificate granted to another person under either of those sections, or who, having procured such a certificate, knowingly allows it to be used, or an attempt to use it to be made, by another person, shall be punishable with fine which may extend to twenty rupees.

45. A person shall not be liable in respect of a repetition of ^{Limit to penalty} the same kind of offence from day to day to ^{in case of repeti-} any larger amount of fines than the highest fine ^{tion of offence.} fixed by this Act for the offence, except—

(a) Where the repetition of the offence occurs after a prosecution has been instituted in respect of the original offence, or

(b) Where the offence is one of employing or allowing to be employed two or more persons contrary to the provisions of this Act.

46. If a child over the age of six years is found inside any ^{Presumption as} room or part of a factory in which room or ^{to employment.} part children are employed and in which any manufacturing process or work incidental to any manufacturing process is being carried on, he shall, until the contrary is proved, be deemed to be employed in the factory.

47. (1) When an act or omission would, if a person were ^{Evidence as to} under or over a certain age, be an offence puni- ^{age.} shable under this Act, and such person is in the opinion of the Court apparently under or over such age, it shall be on the accused to prove that such person is not under or over such age.

(2). A declaration in writing by a certifying surgeon that he has personally examined a person employed in a factory and believes him to be under or over the age set forth in such declaration shall, for the purposes of this Act, be admissible as evidence of the age of that person.

48. (1) No prosecution under this Act, except a prosecution ^{Cognizance of} under section 43, clause (b), shall be instituted ^{offences.} except by or with the previous sanction of the inspector.

(2) No Court inferior to that of a Presidency Magistrate or of a Magistrate of the first class shall try any offence against this Act or any rule or order thereunder, other than an offence against section 43, clause (b).

49. No Court shall take cognizance of any offence against this Act or any rule or order thereunder, unless a complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

CHAPTER IX.

SUPPLEMENTAL PROVISIONS.

50. (1) Any person on whom an order under section 10, section 11, section 12, section 16 or section 18 has been served may, within fourteen days from the date of service of the order, appeal against such order to the Local Government or to such authority as it may appoint in this behalf, who may confirm, modify or reverse any such order.

(2) Where an inspector refuses to approve a system of shifts he shall, if required by the manager of the factory, record his order of refusal with the reasons therefor, and the manager of the factory may, within fourteen days from the date of such order, appeal against it to the Local Government or to such authority as it may appoint in this behalf, who may confirm, modify or reverse any such order.

(3) In the case of any appeal under sub-section (1) the appellate authority may, and if so requested by the appellant in the petition of appeal shall, hear the appeal with the aid of two assessors, one of whom shall be appointed by the said authority and the other by such body representing the interest of the industry concerned as the Local Government may in this behalf prescribe :

Provided that if no assessor is appointed by such body within the prescribed period, or if the assessor so appointed fails to attend at the time and place fixed for the hearing of the appeal, the said authority may proceed to hear the appeal without the aid of such assessor, or if it thinks fit, without the aid of any assessor.

51. (1) In respect of any area in which the hours of the day are not ordinarily reckoned according to local mean time, the times and hours referred to in section 2, sub-section (8), section 26 and section 36 shall be reckoned according to the standard of time ordinarily observed in such area.

(2) The Local Government may, by notification in the local official Gazette, direct that, for any specified area and during any specified months, for the morning and evening hours mentioned in section 23, clause (b), section 24, clause (a), and section 29, such one of the following sets of morning and evening hours, as it deems suitable, reckoned according to the standard of time ordinarily observed in such area, shall be substituted, namely :

- five o'clock in the morning and half past six o'clock in the evening ;
- six o'clock in the morning and half past seven o'clock in the evening .
- half past six o'clock in the morning and eight o'clock in the evening ;
- seven o'clock in the morning and half past eight o'clock in the evening .

In computing the hours referred to in section 23, clause (c), section 24, clause (b), section 28 and section 32, any interval by which work is interrupted for half an hour or more shall be excluded.

53. The Local Government may, subject to the control of the Governor-General in Council, by special order in writing, direct, with respect to any factory or class of factories, that different branches or departments of work carried on in the same factory shall for all or any of the purposes of this Act be treated as if they were separate factories.

Application to Crown factories. 54. This Act shall apply to factories belonging to the Crown.

55. Notwithstanding anything in section 22, sub-section (1), any person may in the province of Burma be employed on Sunday for any time not exceeding four hours in cleaning the machinery and apparatus in a factory, provided that he has not worked in the factory later than two o'clock in the afternoon on the previous day.

In case of any public emergency, the Local Government may, by an order in writing, exempt any factory from this Act to such extent and during such period as it thinks fit.

Exercise of powers by Governor-General in Council.

57. The Governor-General in Council may, if he thinks fit, exercise any power which is by this Act conferred upon the Local Government.

58. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Repeal and savings.

59. The Indian Factories Act, 1881, and the Indian Factories Act, 1891, are hereby repealed :

Provided that all appointments made and all certificates given under the said Acts shall be deemed to have been made or given under this Act.

SCHEDULE. I.

(See sections 21, 22, 30.)

PART A.

[See sections 21 (2), (3) ; 22 (3) ; 30.]

WORK OF AN URGENT NATURE OR SUCH AS IN THE INTERESTS OF EFFICIENCY IS COMMONLY PERFORMED WHILE THE MAIN MANUFACTURING PROCESS OF THE FACTORY IS DISCONTINUED.

- (a) Work by the supervising staff, clerks, watchmen or messengers ;
- (b) work in the machanic shop, the smithy or foundry, the boiler-house, the engine room or power-house, or in connection with the mill-gearing, the electric driving or lighting apparatus, mechanical or electrical lifts, or the steam or water pipes or pumps ;
- (c) work on the cleaning of walls, ceilings or other portions of factory buildings, tanks, wells, humidifying or ventilating apparatus, tunnels, blow-room flues or line-shaft alleys or of galleries in ginning factories ;
- (d) work by persons engaged in oiling, examining or repairing or in supervising or aiding in the oiling, examination or repair of any machinery or other

thing whatsoever which is necessary for the carrying on of the work in a factory;

Explanation.—Periodical cleaning is not included in the terms “examining” or “repairing;”

- (e) work on the processes of packing, bundling or baling of finished articles or the receiving or despatching of goods.

PART B.

[See section 21 (2), (3).]

WORK NECESSITATING CONTINUOUS PRODUCTION FOR TECHNICAL REASONS IN THE FOLLOWING FACTORIES, NAMELY:—

Tanneries.

Sugar refineries.

Breweries.

Distilleries.

Oil refineries.

Oil mills.

Cement works.

Cloth-printing works.

Bleaching and dyeing works.

Carbonic acid gas works.

Chemical works.

Glass works.

Paper mills.

Shellac factories.

Potteries.

Blast furnaces, ore smelting works, or works for the manufacture of iron or steel or other metals.

PART C.

[See section 21 (2), (3).]

FACTORIES WHICH BY REASON OF THE EXIGENCIES OR THE SPECIAL CIRCUMSTANCES OF THE TRADE CARRIED ON THEREIN REQUIRE AN UNINTERRUPTED WORKING DAY, NAMELY:—

Flour mills.

Rice mills.

Letter-press printing works.

Dairies.

Bakeries.
 Ice factories.
 The mints.
 Gas works.
 Air-compressor stations.
 Water works or water-supply pumping stations.

SCHEDULE II.

(See section 22.)

PART A.

[See section 22 (3), (4).]

WORK NECESSITATING CONTINUOUS PRODUCTION FOR TECHNICAL REASONS IN THE FOLLOWING FACTORIES, NAMELY:—

Tanneries.
 Sugar refineries.
 Breweries.
 Distilleries.
 Oil refineries.
 Cement works.
 Carbonic acid gas works.
 Chemical works.
 Glass works.
 Shellac factories.
 Potteries.
 Blast furnaces, ore smelting works or works for the manufacture of iron or steel or other metals.

PART B.

[See section 22 (3), (4).]

FACTORIES WHICH SUPPLY THE PUBLIC WITH ARTICLES OF PRIME NECESSITY WHICH MUST BE MADE OR SUPPLIED EVERY DAY, NAMELY:—

Ice factories.
 Dairies.
 Bakeries.
 Gas works.
 Air-compressor stations.
 Water-works or water-supply pumping stations.

THE INDIAN CHRISTIAN MARRIAGE (AMENDMENT) ACT.

RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL ON
THE 18TH SEPTEMBER, 1911.

ACT NO. XIII OF 1911.

*An Act further to amend the Indian Christian
Marriage Act, 1872.*

WHEREAS it is expedient further to amend the Indian
Christian Marriage Act, 1872; It is hereby enacted as follows:—

Short title. 1. This Act may be called the Indian
Christian Marriage (Amendment) Act, 1911.

2. For section 81 of the Indian Christian Marriage Act,
Substitution of 1872, the following section shall be substituted,
new section 81, Act XV of 1872. namely:—

“81. The Registrar General of Births, Deaths and Marriages
Certificates of and the officers appointed under section 56
certain marriages shall, at the end of every quarter in each year,
for secretary of State. select, from the certificates of marriages for-
warded to them, respectively, during such quarter, the certificates
of the marriages of which the Governor-General in Council may
desire that evidence shall be transmitted to England, and shall
send the same certificates, signed by them respectively, to the
Secretary of State for India.”

COURT FEES (AMENDMENT) ACT.

RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL ON
THE 18TH SEPTEMBER, 1911.

ACT NO. XIV OF 1911.

An Act further to amend the Court-fees Act, 1870.

WHEREAS it is expedient further to amend the Court-fees
Act, 1870; It is hereby enacted as follows:—

1. This Act may be called the Court-fees (Amendment) Act,
Short title. 1911.

2. In Schedule II of the Court-fees Act, 1870, after article 1
 Amendment of the following article shall be inserted,
 Schedule II, Act namely:—
 VII of 1870.

“1A. Applica- tion to any Civil Court that records may be called for from another Court.	When the Court grants the applica- tion and is of opi- nion that the transmission of such records in- volves the use of the post.	Twelve annas in addition to any fee levied on the application under clause (a), clause (b) or clause (d) of article 1 of this Schedule.”
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THE INDIAN FOREST (AMENDMENT) ACT.

RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL ON
 THE 18TH SEPTEMBER, 1911.

ACT No. XV OF 1911.

An Act further to amend the Indian Forest Act, 1878.

WHEREAS it is expedient further to amend the Indian Forest
 Act, 1878; It is hereby enacted as follows:—

1. This Act may be called the Indian Forest (Amendment)
 Short title. Act, 1911.

2. In section 2 of the Indian Forest Act, 1878, in sub-clause
 Amendment of (a) of the definition of “forest produce”, after
 section 2, Act the words “mahua flowers” the word “mahua
 VII, 1878. seeds” shall be inserted.

3. In section 26 of the said Act, for the words “with the
 Amendment of previous sanction” the words “subject to the
 section 26, Act control” shall be substituted.
 VII, 1878.

4. In section 31 of the said Act, after the words “from time
 Amendment of to time” the words “and subject to the control
 section 31, Act of the Governor-General in Council” shall be
 VII, 1878. inserted.

5. In section 39 of the said Act:
 Amendment of
 section 39, Act
 VII, 1878.

(a) for the words “with the previous sanction” the words
 “subject to the control” shall be substituted;

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

“ Provided that a notification directing the levy of a duty, in the case of timber and other forest-produce brought from any place beyond the frontier of British India, which is not under the control of the Local Government, shall not be issued without the previous sanction of the Governor-General in Council ”; and

(c) for the words “with the like sanction” the words “subject to the like control or sanction, respectively” shall be substituted.

Repeal of proviso to section 77, Act VII, 1878.

6. The proviso to section 77 of the said Act is hereby repealed.

THE BENGAL, AGRA AND ASSAM CIVIL COURTS (AMENDMENT) ACT.

RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL ON
THE 18TH SEPTEMBER, 1911.

ACT NO. XVI OF 1911.

An Act further to amend the Bengal, North-Western Provinces and Assam Civil Courts Act, 1887.

WHEREAS it is expedient further to amend the Bengal, North-Western Provinces and Assam Civil Courts Act, 1887; It is hereby enacted as follows :—

1. This Act may be called the Bengal, Agra and Assam
Short title. Civil Courts (Amendment) Act, 1911

2. In sub-section (1) of section 1 of the Bengal, North
Amendment of section 1 (1), Act XII, 1887. Western Provinces and Assam Civil Courts Act, 1887, for the words “North-Western Provinces” the word “Agra” shall be substituted.

3. In sub-section (1) of section 8 of the said Act, the words
Amendment of section 8 (1), Act XII, 1887. “and with the previous sanction of the Governor-General in Council” are hereby repealed.

4. In section 25 of the said Act, for the words “one hundred
Amendment of section 25, Act XII, 1887. rupees” the words “two hundred and fifty rupees” shall be substituted.

IMPERIAL ACTS.

THE INDIAN AIRSHIPS ACT.

RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL
ON THE 23RD SEPTEMBER, 1911.

ACT No. XVII OF 1911.

*An Act to control the manufacture, possession, use,
sale, import and export of airships.*

WHEREAS it is expedient to take power to control the manufacture, possession, use, sale, import and export of airships It is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Indian Airships Act, 1911.

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

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

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

(1) "airship" means any machine fitted with mechanical or other means of propulsion designed to fly or float in the air without connection with the earth, and includes any part of any such machine:

(2) "export" means taking out of British India:

(3) "import" means bringing into British India: and

(4) "prescribed" means prescribed by rules under this Act.

3. (1) The Governor-General in Council, or the Local Government subject to the control of the Governor-General in Council, may make rules consistent with this Act to regulate or prohibit, except under and in accordance with the conditions of a license granted as provided by such rules, the manufacture, possession, use, sale, import and export of airships or any specified class of airships.

Power to make rules for licensing the manufacture, possession, use, sale, import and export of airships.

(2) In particular and without prejudice to the generality of the foregoing power, the Governor-General in Council or the

Local Government, as the case may be, may make rules for all or any of the following, among other matters, that is to say:—

- (a) the authority by which licenses may be granted;
- (b) the fees to be charged for licenses, and the other sums (if any) to be paid for expenses by applicants for licenses;
- (c) the manner in which applications for licenses shall be made, and the matters to be specified in such application;
- (d) the forms in which, and the conditions subject to which, licenses may be granted;
- (e) the period for which licenses shall continue in force;
- (f) the keeping by the holder of any such license of a record or account in the prescribed form anything done under such license, and the exhibition of such record or account when called upon to do so by any officer of Government specially empowered by any such rule in this behalf;
- (g) the production by the person holding any license of such license, and the production or accounting for by him of the airship covered by such license, when called upon to do so by any officer of Government specially empowered by any such rule in this behalf;
- (h) the prohibition, either absolutely or subject to conditions, of the carrying in airships of all or any of the following things, namely:—explosives, arms, ammunition, carrier-birds, photographic or wireless telegraphic apparatus or such other things as may hereafter be prescribed in this behalf: and
- (i) the carrying of a number or other means of identification by airships and the registration of such number or means of identification.

(3) In making any rule under this section, other than under clause (h) thereof, the authority making the rule may direct that a breach of it shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

(1) Notwithstanding anything in any rule made under section 3, the Governor-General in Council may, by notification in the *Gazette of India*, prohibit either absolutely or subject to conditions the import or export of all or any airships or any class of airships if, in his opinion, the issue of such a notification is expedient in the interest of the public safety or tranquillity.

(2) When a notification has been issued under sub-section (1), the officers of sea customs shall have the same power in respect of the airships specified therein, and in respect of any vessel containing any such airships, as they have for the time being in respect of any article the import or export of which is prohibited or regulated by the law relating to sea customs and the vessel containing the same; and the enactments for the time being in force relating to sea customs or any such article or vessel shall apply accordingly.

Power to Governor-General in Council to cancel or suspend licenses and to acquire airships for the public service. (5) (1) If the Governor-General in Council is of opinion that, in the interest of the public safety or tranquillity, the issue of all or any of the following orders is expedient, he may by notification in the *Gazette of India*—

(i) cancel or suspend all or any licenses issued under this Act either absolutely or subject to such conditions as he may think fit to prescribe;

(ii) direct that all or any airships or any specified class of airships shall be delivered either forthwith or within a specified time, to such authority as he may appoint in this behalf;

(iii) direct that all or any airships delivered to any authority in accordance with a direction under sub-clause (ii) shall be at the disposal of his Majesty for the public service.

(2) On the issue of a notification under clause (ii) of sub-section (1) any person in whose possession any airship referred to in such notification may be, shall forthwith, or within the time specified in such notification, deliver the same to the authority specified therein.

(3) On the issue of a notification under clause (iii) of sub-section (1) in respect of any airship, the owner thereof shall be paid such compensation as may be determined by such officer as the Local Government may appoint in this behalf.

(4) In determining the amount of any compensation payable under sub-section (3), such officer shall have regard to any rules regulating the assessment and payment of compensation which the Governor-General in Council or the Local Government, subject to the control of the Governor General in Council, may make in this behalf.

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

(6) (1) The Governor-General in Council, or the Local Government subject to the control of the Governor-General in Council, may make rules consistent with this Act authorising any officer—

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

(b) to search for airships therein;

(c) to seize, detain and remove any airship found therein; and

(d) to search any airship for explosives, arms, ammunition, carrier-birds, photographic or wireless telegraphic apparatus or such other things as may hereafter be prescribed in this behalf, and to seize, detain and remove any such things if found thereon.

(2) The provisions of the Code of Criminal Procedure, 1898, relating to searches under that Code shall, so far as the same are applicable, apply to searches by officers authorised by rules under this section.

(7) (1) The Local Government, or any officer specially empowered in this behalf by the Local Government, may by order in writing prohibit the navigation of airships over such areas as may be prescribed in the order.

Prohibition and regulation of navigation by airships.

(2) Any such order may apply either generally to all airships or to airships of such classes and descriptions only as may be specified in the order, and may prohibit the navigation of airships over any such prescribed area either at all times or at such times or on such occasions only as may be specified in the order and either absolutely or subject to such exceptions or conditions as may be so specified.

Penalty for certain offences.

8. Whoever in contravention of—

- (1) a rule made under section 3, sub-section (2), clause (h), carries in an airship, explosives, fire-arms, ammunition, carrier-birds, photographic or wireless telegraphic apparatus or such other things as may hereafter be prescribed in this behalf, or
- (2) a notification issued under section 4, imports or exports an airship, or
- (3) a notification issued under section 5, sub-section (1) clause (i), does or abstains from doing any act, or
- (4) a notification issued under section 5, sub-section (1), clause (ii), fails to deliver to the proper authority any airship in his possession, or
- (5) an order made under section 7, undertakes a flight in an airship unless he proves that he was compelled to do so by reason of stress of weather or other circumstances over which he had no control,

shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

9. Whoever, in any case not provided for in section 8,

Penalty in cases not provided for in section 8.

manufactures, possesses, uses, sells, imports, or exports an airship in contravention of this Act or of the conditions of a license granted thereunder, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees or with both.

10. When a person is convicted of an offence punishable

Forfeiture on conviction.

under this Act or of the rules made thereunder, the Court before which he is convicted may direct that the airship or the thing (if any) in respect of which the offence has been committed, or any part of such thing, shall be forfeited to His Majesty.

11. Whoever abets the commission of an offence punishable under this Act, or the rules made thereunder, or attempts to commit any such offence and in such attempt does any act towards the commission of the same, shall be punishable as if he had committed the offence.

• Saving for acts done by Government or Government officers.

12. Nothing in this Act shall apply to the manufacture, possession, use, sale, import or export of any airship—

(a) by order of the Government; or

(b) by any person employed under the Government in the execution of this Act or to a public servant in the course of his employment or duty as such.

13. (1) The power to make rules conferred by this Act is subject to the condition of the rules being made after previous publication.

(2) All rules made under this Act shall be published in the *Gazette of India* or the local official Gazette, as the case may be, and shall thereupon have effect as if enacted in this Act.

14. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

• Saving for acts done in good faith under Act.

CALCUTTA IMPROVEMENT (APPEALS) ACT.

RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL
ON THE 23RD OF SEPTEMBER 1911.

ACT No. XVIII OF 1911.

An Act to modify certain provisions of the Calcutta Improvement Act, 1911.

WHEREAS it is expedient to modify the provisions of the Calcutta Improvement Act, 1911, so as to provide in certain cases for an appeal to the High Court from the awards of the Tribunal constituted under that Act; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Calcutta Improvement (Appeals) Act, 1911.

Definitions.

2. In this Act—

(1) "Court" means the High Court of Judicature at Fort William in Bengal: and

(2) "Tribunal" has the same meaning as in the Calcutta Improvement Act, 1911.

Appeal from awards of the Tribunal.

3. (1) Notwithstanding anything contained in the Calcutta Improvement Act, 1911, an appeal shall lie to the Court in any of the following cases, namely:—

(a) where the decision is that of the President of the Tribunal sitting alone in pursuance of clause (b) of section 77 of the said Act;

(b) where the decision is that of the Tribunal, and

(i) the President of the Tribunal grants a certificate that the case is a fit one for appeal, or

(ii) the Court grants special leave to appeal:

Provided that the Court shall not grant such special leave unless the President has refused to grant a certificate under sub-clause (i) and the amount in dispute is five thousand rupees or upwards.

(2) An appeal under clause (b) of sub-section (1) shall only lie on the following grounds, namely:—

(i) the decision being contrary to law or to some usage having the force of law;

(ii) the decision having failed to determine some material issue of law or usage having the force of law;

(iii) a substantial error or defect in the procedure provided by the said Act which may possibly have produced error or defect in the decision of the case upon the merits.

4. Subject to the provisions of section, 3, the provisions of the Code of Civil Procedure, 1908, with respect to appeals from original decrees shall, so far as may be, apply to appeals under this Act.

5. The Chief Judge of the Court of Small Causes of Calcutta shall, on application, execute any order passed by the Court on appeal as if it was a decree made by himself.

6. An appeal under section 3 shall be deemed to be an appeal under the Code of Civil Procedure, 1908, within the meaning of No. 156 of the First Schedule to the Indian Limitation Act, 1908.

Period of limitation for such appeals:

COWASJEE JEHANGIR, BARONETCY ACT.

RECEIVED THE ASSENT OF THE GOVERNOR-GENERAL
ON THE 23RD OF SEPTEMBER 1911.

ACT No. XIX OF 1911.

An Act for settling an annuity of fifty thousand rupees payable by the Secretary of State in Council of India in perpetuity and being of the value of fifteen lakhs of rupees and securities, being Promissory notes of the Government of India or Bonds of the Municipal Corporation of the City of Bombay, the Trustees of the Port of Bombay and the Trustees for the Improvement of the City of Bombay, of the nominal value of ten lakhs of rupees and producing a further annual income of about forty thousand rupees, and two Mansion houses and hereditaments called respectively 'Readymoney House', and "Fort Mansion" in the Island of Bombay, the property of Sir Cowasjee Jehangir, Baronet, so as to accompany and support the title and dignity of a Baronet lately conferred on him by His late Majesty King Edward VII, to hold to him and the heirs male of his body lawfully begotten and to be begotten, and for other purposes connected therewith.

WHEREAS by Letters Patent of His Majesty King Edward VII, by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, King, Defender of the Faith, dated at Westminster on or about the 16th day of July in the eighth year of His Reign, and by Warrant under the King's Sign Manual, His said Majesty made known that He, of His special Grace, certain knowledge and mere motion, had erected, appointed and created His trusty, and well beloved Sir Cowasjee Jehangir of Bombay, Knight, to the dignity, state and degree of a Baronet, and him, the said Sir Cowasjee Jehangir, for His Majesty, His heirs and successors, He did erect, appoint and create a Baronet of the United Kingdom of Great Britain and Ireland by the said Letters Patent, to hold to him and the heirs male of his body lawfully begotten and to be begotten;

and whereas the said Sir Cowasjee Jehangir is desirous of settling in perpetuity such property on himself and the heirs male of his body who may succeed to the said Baronetcy as shall be adequate to support the dignity of the title conferred on him and them as aforesaid;

and whereas the said Sir Cowasjee Jehangir is seised of two Mansion-houses and hereditaments both situate in the Island of Bombay called respectively "Readymoney House" and "Fort Mansion" and has an absolute estate of inheritance therein, and is entitled, by an indenture made the 20th day of October in the year one thousand eight hundred and seventy-seven, to an annuity of fifty thousand rupees payable by the Secretary of State in Council of India in perpetuity and being of the value of fifteen lakhs of rupees and is desirous of settling the said annuity of fifty thousand rupees and securities, being promissory notes of the Government of India or bonds of the Municipal Corporation of the City of Bombay, the Trustees of the Port of Bombay and the Trustees for the Improvement of the City of Bombay, of the nominal value of ten lakhs of rupees and producing a further annual income of about forty thousand rupees and the said Mansion-houses and hereditaments, to the uses, upon the trusts and for the purposes hereinafter limited and declared, concerning the same respectively;

and whereas the said Sir Cowasjee Jehangir is desirous that the heirs male of his body, to whom the said title and dignity of Baronet shall descend, shall, at the time of such descent upon them respectively, take and bear the names of "Cowasjee Jehangir" in lieu of any other name or names whatever which they respectively may bear at the time of such descent on them respectively, and he is also desirous that the Accountant General, Bombay, the Collector of Bombay and the Chief Presidency Magistrate, Bombay, all for the time being, shall be trustees of the aforesaid annuity, securities, Mansion-houses and hereditaments, and be likewise the trustees for carrying into execution the general purposes and powers of this Act, with relation to the said annuity and securities and also with relation to the said Mansion houses and hereditaments;

and whereas the said Sir Cowasjee Jehangir is desirous of settling the said annuity and the said securities and the said Mansion-houses and hereditaments so as aforesaid agreed to be settled by him for the purpose of supporting the dignity of the said Baronetcy, to the uses, upon the trusts and for the purposes hereinafter limited and declared concerning the same respectively;

and whereas it is expedient that the aforesaid purposes should be effected by an Act of the Council of the Governor General for making Laws and Regulations;

It is hereby enacted as follows:—

1. This Act may be called the Cowasjee Jehangir Baronetcy Act, 1911.

2. Lionel Edward Pritchard, Esquire, the Accountant General of Bombay, Edward Little Sale, Esquire, the Collector of Bombay, and Arthur Henry Southcote Aston, Esquire, the Chief Presidency Magistrate of Bombay, and their successors, the Accountant General of Bombay, the Collector of Bombay, and the Chief Presidency Magistrate of Bombay, all for the time being, shall be and they are hereby created a Corporation with perpetual succession and a common seal under the style and title of "The Trustees of the Sir Cowasjee Jehangir Baronetcy," and the said Lionel Edward Pritchard, Esquire, Edward Little Sale, Esquire, and Arthur Henry Southcote Aston, Esquire, and their said successors (herein after styled "The Corporation"); shall be and they are hereby constituted, as such Corporation the Trustees for executing the powers and purposes of this Act.

3. The heirs male of the body of Sir Cowasjee Jehangir to whom the said title and dignity shall descend, pursuant to the limitations of the Patent whereby the said dignity has been granted, shall take upon themselves respectively the names of "Cowasjee Jehangir" in lieu and in the place of any other name or names whatever; and such heirs male, severally and successively, shall be called by the names of "Cowasjee Jehangir" and by those names shall name, style and write themselves, respectively, upon all occasions whatever.

4. Immediately from and after the passing of this Act, the said annuity of fifty thousand rupees and securities, being promissory notes of the Government of India or bonds of the Municipal Corporation of the City of Bombay, the Trustees of the Port of Bombay and the Trustees for the Improvement of the City of Bombay, of the nominal value of ten lakhs of rupees and producing a further annual income of about forty thousand

rupees shall be assigned and transferred into the name of the Corporation, who shall hold the same upon the trusts and for the purposes hereinafter expressed concerning the same, (that is to say,) upon trust to continue to hold the said annuity and securities and as regards the said securities until such time as the same shall be discharged by the Secretary of State in Council of India or the Municipal Corporation of the City of Bombay, of the Trustees of the Port of Bombay or the Trustees for the Improvement of the City of Bombay, as the case may be, or shall be sold by the said Trustees with the previous consent in writing of the person who shall for the time being be in the enjoyment of the income of the said securities and on such discharge or sale to invest the sum to be received on such occasion, with the like consent of the person for the time being in the enjoyment of the said income, in or on any stocks, funds, or securities of, or the principal and interest of which is guaranteed by, the Government of the United Kingdom of Great Britain and Ireland or the Government of India; and in like manner, as often as the same shall become necessary, to alter, vary and change with like consent such stocks, funds and securities for others of the same or like nature; and upon further trust from time to time to pay and apply the said annuity of fifty thousand rupees and the dividends, interest and annual income of the said promissory notes, bonds, stocks, funds and securities unto and for the benefit of the said Sir Cowasjee Jehangir or the person who, as heir male of his body, shall for the time being have succeeded to, and be in the enjoyment of, the title of Baronet conferred by the said Letters Patent as aforesaid, notwithstanding any rule of law or equity to the contrary and upon failure and in default of heirs male of the body of the said Sir Cowasjee Jehangir, to whom the same title and dignity of Baronet may descend, upon trust for the said Sir Cowasjee Jehangir, his executors, administrators and assigns, which ultimate remainder or reversion it shall be lawful for the said Sir Cowasjee Jehangir, his executors, administrators and assigns, at any time or times, during the continuance of the said title and dignity of Baronet, and until there shall be a failure of heirs male of the body of the said Sir Cowasjee Jehangir, to assign, transfer, bequeath and dispose of by deed or will or other assurance or assurances.

5. The Corporation during the minority of any person for the time being entitled to and in enjoyment of the said dignity of Baronet under the limitations of the said Letters Patent shall pay and apply for and towards

the maintenance, education and benefit of such Baronet, in each and every year during such his minority as aforesaid, so much only of the annual interest, dividends and income of the said Trust Funds and premises as the Corporation shall in their discretion think proper, and shall from time to time invest the residue of the said annual interest, dividends and income of the said Trust Funds and premises in and upon stocks, funds and securities of, or the principal and interest of which is guaranteed by, the Government of the United Kingdom of Great Britain and Ireland or the Government of India, and shall upon such Baronet attaining his majority pay over, transfer and assign to him or as he shall direct and for his absolute benefit the said investments and all accumulations thereof.

6. The Mansion-houses and other hereditaments called Mansion-houses respectively "Readymoney House" and "Fort limited to the use of the Baronet for the time being. Mansion", situate in the Island of Bombay, with their rights, members and appurtenances, of which the said Sir Cowasjee Jehangir is seised to him and his heirs, shall, by force of this Act, from and immediately after the passing thereof, stand limited unto and to the use of the Corporation upon the trusts hereinafter declared, that is to say, upon trust for the said Sir Cowasjee Jehangir for and during the term of his natural life and from and immediately after his decease upon trust for the heirs male of the body of the said Sir Cowasjee Jehangir who may succeed to the title of Baronet conferred by the said Letters Patent as aforesaid, and upon failure and default of heirs male of the body of the said Sir Cowasjee Jehangir to whom the same title and dignity of Baronet may descend as aforesaid, upon trust for the said Sir Cowasjee Jehangir, his heirs and assigns for ever, which ultimate remainder or reversion it shall be lawful for the said Sir Cowasjee Jehangir and his heirs and assigns at any time or times during the continuance of the said title and dignity of Baronet, and until there shall be a failure of heirs male of the body of the said Sir Cowasjee Jehangir as aforesaid, to grant, convey, devise and dispose of by deed or will or by any other assurance or assurances by which such an estate in remainder or reversion is capable by law of being conveyed or disposed of by Parsee inhabitants of British India.

7. Provided always that in case any person to whom for the time being the said title of Baronet shall have descended shall, for the space of one whole year after he shall by virtue of this Act become entitled to the said annuity of fifty thousand rupees and the said dividends, interest and income of the said promissory notes, bonds, stocks, funds and securities, or to the possession or receipt of the rents and profits of the said hereditaments, of being then under age shall for the space of one whole year after he shall attain the age of twenty-one years, refuse or neglect to use the names of "Cowasjee Jehangir" as hereinbefore enacted, or in case any such person having so used those names shall, for the space of six calendar months consecutively during his natural life, discontinue so to use such names, then, in any or either of the said cases, the estate or interest in the said trust funds and premises of the person who shall so refuse or neglect to use or having used shall so discontinue to use the said names of "Cowasjee Jehangir" shall during the remainder of his respective natural life be suspended; and that, during any and every such suspension, the said annuity of fifty thousand rupees and the interest, dividends and income of the said promissory notes, bonds, stocks, funds and securities, and the possession and actual occupation, and also the rents and profits of the said hereditaments, shall devolve and belong to the person who would for the time being be entitled to succeed to the said title of Baronet next after the person so refusing or discontinuing to use the said name or in default of any such person to the person or persons who would be entitled to same in case there had been a total failure of issue male of the said Sir Cowasjee Jehangir.

8. It shall be lawful for the said Sir Cowasjee Jehangir and for any person to whom the said title of Baronet shall from time to time descend, when in the actual enjoyment of the said title, and who shall not refuse, neglect or discontinue to use, for the respective periods hereinbefore in that behalf mentioned, the said names of "Cowasjee Jehangir" as hereinbefore enacted, either before or after his marriage with any woman or women by any deed or deeds, writing or writings, with or without power of revocation to be by him sealed and delivered in the presence of two or more credible witnesses (but subject and without prejudice to the annuity or

Power to charge settled property for jointure of widow.

annuities, if any, which shall be then subsisting and payable by virtue of any appointment made under and in pursuance of this present power), to limit and appoint unto any woman or women whom he shall marry for her or their life or lives, and for her or their jointure or jointures in bar of dower or other legal or customary rights any annuity or yearly sum not exceeding the sum of ten thousand rupees, clear of all taxes, charges and deductions whatsoever to commence and take effect immediately after the decease of the person limiting or appointing the same and to be issuing and payable out of the said annuity of fifty thousand rupees and the dividends, interest and annual income of the said promissory notes, bonds, stocks, funds and securities, and to be paid and payable by equal half-yearly payments on the thirtieth day of June and the thirty-first day of December, the first of the said half-yearly payments to be made on the half-yearly day which shall first happen after the decease of the person who shall have appointed such annuity or yearly income : Provided always that in case any person on whom such title shall descend shall have refused or neglected to use the names of "Cowasjee Jehangir" or shall discontinue to use such names for six calendar months consecutively during his natural life, every such limitation and appointment, either previously or afterwards made by him shall be and become inoperative and invalid, and no such annuity thereby created or appointed shall take effect or be payable, or chargeable, on the said trust funds and premises, notwithstanding any such limitation or appointment.

9. Provided always that the said annuity of fifty thousand rupees and the interest, dividends and annual income of the said promissory notes, bonds, stocks, funds and securities shall not at one and the same time be subject to the payment of more than the yearly sum of twenty thousand rupees for or in respect of any jointure or jointures which shall be made in pursuance of the power hereinbefore contained, so that if by virtue of or under the same power the said annuity of fifty thousand rupees and interest, dividends and annual income would, in case this present provision had not been inserted, be charged at any one time with a greater yearly sum for jointures in the whole than the yearly sum of twenty thousand rupees, the yearly sum which shall occasion such excess or such part thereof as shall occasion the same shall during the time of such excess abate and not be payable.

10. The said Mansion-houses and hereditaments called respectively "Readymoney House" and "Fort Mansion", with their rights, members and appurtenances, shall not be subject to any right, inheritance or estate whatsoever which the wife of the said Sir Cowasjee Jehangir, or the wives of any of the persons who shall successively become entitled thereto, may or might have or claim to have in the said Mansion-houses and hereditaments under any custom or law of the Parsees, or otherwise howsoever.

11. Save as regards the ultimate remainders or reversions, hereinbefore limited in trust for the said Sir Cowasjee Jehangir, his heirs, executors, administrators and assigns respectively, so long as the said title and dignity of Baronet shall endure, and until there shall be a failure of heirs male of the body of the said Sir Cowasjee Jehangir, to whom the said title and dignity of Baronet might descend pursuant to the limitations of the Patent whereby the said dignity was granted, neither the said Cowasjee Jehangir nor any of the heirs male of his body in whose favour trusts are hereinbefore declared of the said annuity of fifty thousand rupees and the interest, dividends and annual income of the said promissory notes, bonds, stocks, funds and securities or of the said Mansion-houses and hereditaments called respectively "Readymoney House" and "Fort Mansion," shall transfer, dispose of, alien, convey, charge or encumber the said trust funds and permises or any part thereof, or the interest, dividends and annual income thereof, or any part thereof, or the said Mansion-houses or hereditaments, or any part thereof for any greater or larger estate, interest or time than during his natural life, and for such portion thereof only as he shall continue to use the names of "Cowasjee Jehangir," nor shall any such person as aforesaid either alone or jointly with any other or others of them or with any other person or persons whomsoever have any power to discontinue or bar the estates tail hereinbefore limited in trust for the heirs male of the body of the said Sir Cowasjee Jehangir, or any estate or interest hereby or herein created or declared in trust or for the benefit of any person or persons for whose benefit trusts are declared by this Act of the said annuity of fifty thousand rupees and the interest, dividends and annual income of the said promissory notes, bonds, stocks, funds and securities, or of the said Mansion-

houses, hereditaments, and the rents and profits thereof, or to prevent any such persons from succeeding to, holding or enjoying, receiving or taking the same premises according to the true intent of the provisions hereinbefore contained, nor shall the same premises or any of them be held by any Court of law or equity to have vested in any such person as aforesaid for any great estate or interest than during his life, and only during such portion thereof as he shall continue to use the names of "Cowasjee Jehangir," and every attempt to make any conveyance, assignment or assurance contrary to the intention of this Act shall be, and is hereby, declared and enacted to be void.

12. If at any time or times hereafter the said Sir Cowasjee Jehangir or any other person or persons shall be desirous of augmenting the funds and securities for the time being subject to the trusts of this Act, and for that purpose and with that intent shall at his or her own expense transfer and deliver to the Corporation any stocks, funds or securities of, or the principal and interest of which is guaranteed by, the Government of the United Kingdom of Great Britain and Ireland or the Government of India, then and as often as the same shall happen the said Corporation may, with the previous consent of the Governor of Bombay in Council, accept such stocks, funds and securities and the same shall thenceforth be held by the said Corporation upon the same trusts as are declared by this Act with regard to the said trust funds and premises or upon such of them as shall then be subsisting and capable of taking effect: Provided always that the total amount of the promissory notes, bonds, stocks, funds and securities for the time being subject to the trusts of this Act, shall at no time exceed fifty lakhs of rupees.

13. The said Mansion-houses called respectively "Ready-money House" and "Fort Mansion" and all the out-buildings and offices thereof, and also all other messuages, or buildings, which may from time to time be added thereto, or substituted therefor, or which may hereafter become subject to any of the trusts of this Act, shall be kept insured in the name of the said Corporation, or of the persons for the time being constituting the same against loss or damage by fire, in such sum as the Corporation may deem adequate by, and at the expense of the person,

for the time being, in the enjoyment of the said title of Baronet and in case any such person shall at any time neglect or refuse to insure the same in such amount, it shall be lawful for the Corporation to get the same insured, and to apply any portion of the income of the funds for the time being subject to the trusts of this Act to that purpose, and in case the hereditaments and premises so insured, or any part thereof shall be destroyed or damaged, by fire, the moneys received in respect of such insurance, shall either be laid out under the direction of the said Corporation in re-building, or reinstating the hereditaments and premises so destroyed, or damaged by fire, or, upon the application of the person for the time being entitled to, and in the enjoyment of, the said dignity of Baronet, and with the consent of the Governor of Bombay in Council, to be notified by a resolution of the Government of Bombay, may be laid out in the purchase of other hereditaments in the Presidency of Bombay, suitable for the support of the dignity of the said title, in which last-mentioned case the hereditaments so purchased shall immediately from and after the completion of the purchase thereof be and become subject to the uses and trusts of this Act, or such of them as shall then be subsisting, and capable of taking effect in the same manner, and to the same effect, as if such last-mentioned hereditaments had expressly been named, or described in section 6. Until such insurance moneys shall have been so laid out, the Corporation may invest the same, or any part thereof, in any of the securities specified in section 17.

14. The said Mansion-houses and premises called respectively "Readymoney House" and "Fort Mansion," and all additions thereto, and also all other messuage and hereditaments which from time to time may be or become subject to the trusts declared by this Act concerning the said Mansion-houses and premises, shall be kept in good repair, order and condition by and at the expense of the person for the time being in the enjoyment of the title of Baronet conferred by the said Letters Patent, and in case any such person shall at any time neglect or refuse to keep the said Mansion-houses, hereditaments and premises or any of them in such good order and condition, it shall be lawful for the Corporation to keep or cause the same to be kept in good order.