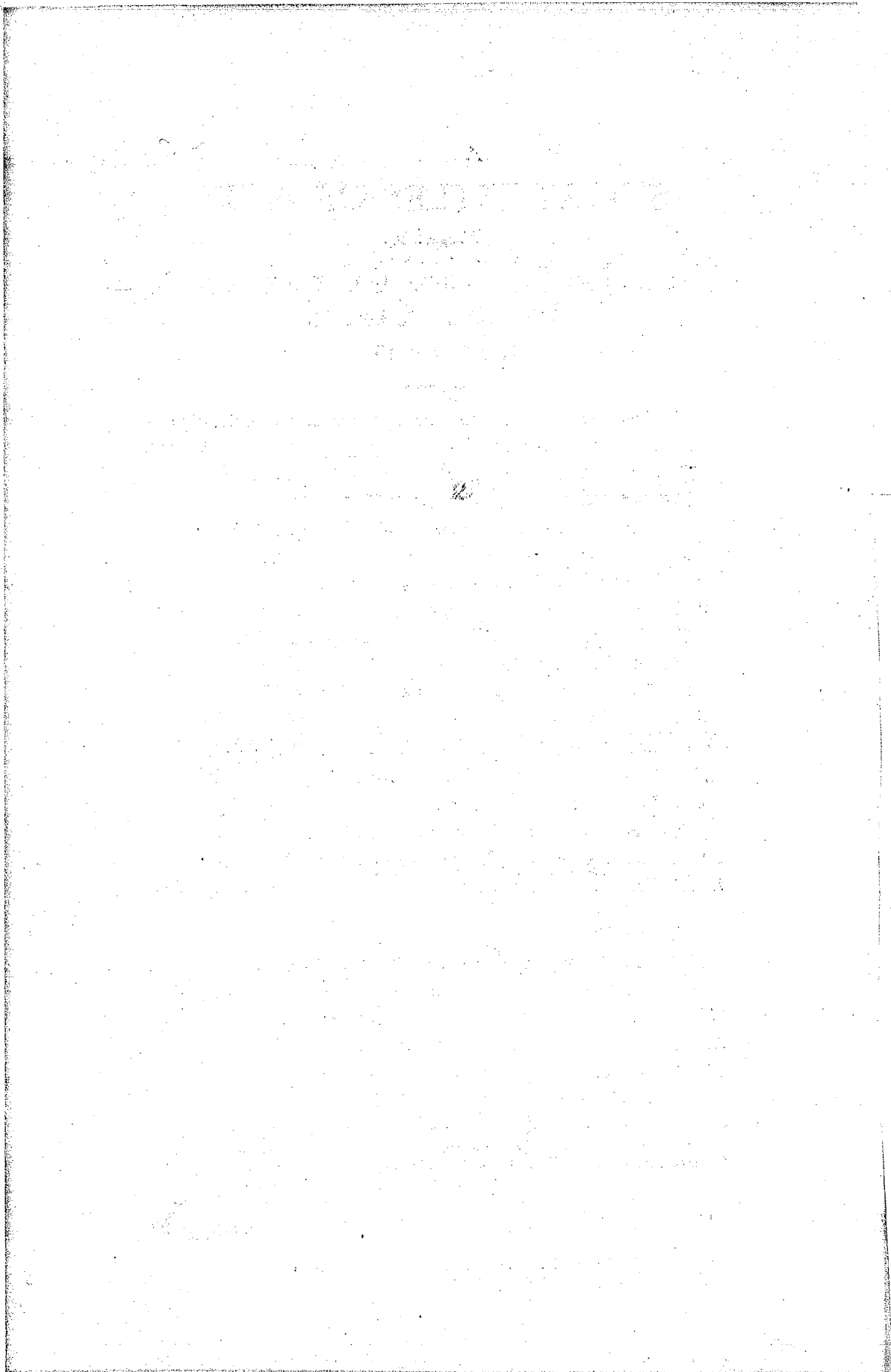


A
COLLECTION
OF
THE ACTS
OF
THE INDIAN LEGISLATURE
FOR THE YEAR
1936

DELHI: MANAGER OF PUBLICATIONS
1937



SHORT TITLES OF ACTS

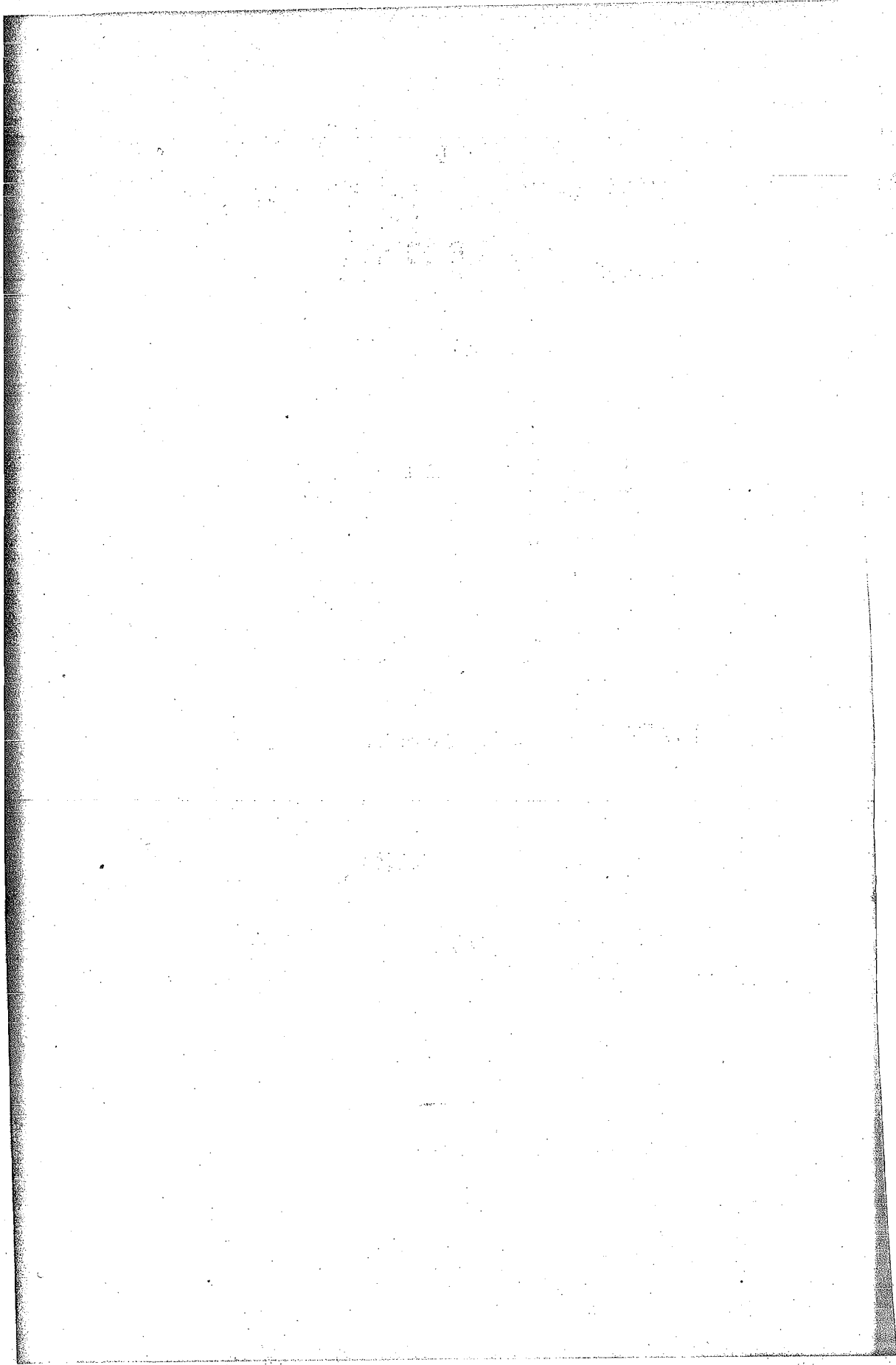
Passed by

The Indian Legislature and made by the
Governor General

In the year 1936.

-
- I. The Italian Loans and Credits Prohibition Act, 1936.
 - II. The Salt Additional Import Duty (Extending) Act, 1936.
 - III. The Parsi Marriage and Divorce Act, 1936.
 - IV. The Payment of Wages Act, 1936.
 - V. The Decrees and Orders Validating Act, 1936.
 - VI. The Cochin Port Act, 1936.
 - VII. The Indian Aircraft (Amendment) Act, 1936.
 - VIII. The Factories (Amendment) Act, 1936.
 - IX. The Indian Lac Cess (Amendment) Act, 1936.
 - X. The Indian Tariff (Amendment) Act, 1936.
 - XI. The Indian Mines (Amendment) Act, 1936.
 - XII. The Indian Tariff (Second Amendment) Act, 1936.
 - XIII. The Indian Tea Cess (Amendment) Act, 1936.
 - XIV. The Geneva Convention Implementing Act, 1936.
 - XV. The Indian Rubber Control (Amendment) Act, 1936.
 - XVI. The Bangalore Marriages Validating Act, 1936.
 - XVII. The Indian Tea Control (Amendment) Act, 1936.
 - XVIII. The Red Cross Society (Allocation of Property) Act, 1936.
 - XIX. The General Clauses (Amendment) Act, 1936.
 - XX. The Chittagong Port (Amendment) Act, 1936.
 - XXI. The Code of Civil Procedure (Amendment) Act, 1936.
 - XXII. The Indian Companies (Amendment) Act, 1936.
 - XXIII. The Durgah Khawaja Saheb Act, 1936.
 - XXIV. The Cantonments (Amendment) Act, 1936.
 - * The Indian Finance Act, 1936.

*No number was given to this Act which was made by the Governor General under section 87B of the Government of India Act.



ACT NO. 1 OF 1936.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General
on the 21st April, 1936.)

An Act to prohibit the making of certain loans and credits.

WHEREAS it is expedient in pursuance of the obligations imposed on India as a signatory to the Covenant of the League of Nations by Article 16 thereof, to prohibit the making of certain loans and credits; It is hereby enacted as follows:—

1. (1) This Act may be called the Italian Loans and Credits Prohibition Act, 1936. Short title
and extent.

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

2. (1) No person shall—

Prohibition
of loans.

(a) make, contribute to, participate in or assist in the making or issuing of any loan (wherever the loan is made or issued or to be made or issued) to or for the benefit of—

(i) the Government of any Italian territory, or

(ii) any person (not being a body corporate) of whatever nationality resident in any such territory, or

(iii) any person wherever resident, being a body corporate incorporated under the law of any such territory, or

(b) offer for subscription, underwrite or otherwise assist in the issue of or subscribe for any shares, wherever issued or to be issued, in any such body corporate.

(2) Any person who either—

(a) by giving a guarantee or by becoming a party to a bill of exchange assumes any liability for payment of money and thereby enables another person to raise money, or

(b) buys

1

Price anna 1 or 1½d.

Italian Loans and Credits Prohibition. [ACT I OF 1936.]

(b) buy a bill of exchange (not being a bill payable on demand) from another person, or in connection with the sale of goods gives credit in any form to or for the benefit of another person,

shall be deemed for the purposes of sub-section (1) to make a loan to or for the benefit of that other person.

(3) Nothing in this section shall be taken to prohibit the performance of any contract made before the 18th day of November, 1935, with any Government or person other than such a Government or person as is mentioned in clause (a) of sub-section (1), but save as aforesaid the provisions of this section shall have effect notwithstanding anything in any contract.

(4) Nothing in this section shall apply to any loan to or for the benefit of an institution which is declared by the Governor General in Council to be for the purposes of this section an institution having a humanitarian or religious object.

Penalty for contravention of section 2.

3. Whoever contravenes the provisions of section 2 shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

Liability of Director or other officer of body corporate.

4. Where any contravention of section 2 by a body corporate is proved to have been committed with the consent or approval of or to have been facilitated by any neglect on the part of any Director, Manager, Secretary or other officer of such body corporate, he as well as such body corporate shall be deemed to be guilty of the contravention and shall be punishable with the punishment provided for the offence.

Repeal of Ordinance III of 1935.

5. The Italian Loans and Credits Prohibition Ordinance, 1935, is hereby repealed.

Ord. III of 1935.

Termination of Act.

6. The Governor General in Council may, by notification in the Gazette of India, declare that with effect from such date as may be specified in the notification this Act shall cease to be in operation, and upon the issue of such notification this Act shall be deemed to be repealed on the date so specified.

ACT NO. II OF 1936.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on
the 21st April, 1936.)

An Act further to extend the operation of the Salt (Additional Import Duty) Act, 1931.

WHEREAS it is expedient further to extend the
operation of the Salt (Additional Import Duty)

XIV of 1931. Act, 1931; It is hereby enacted as follows :—

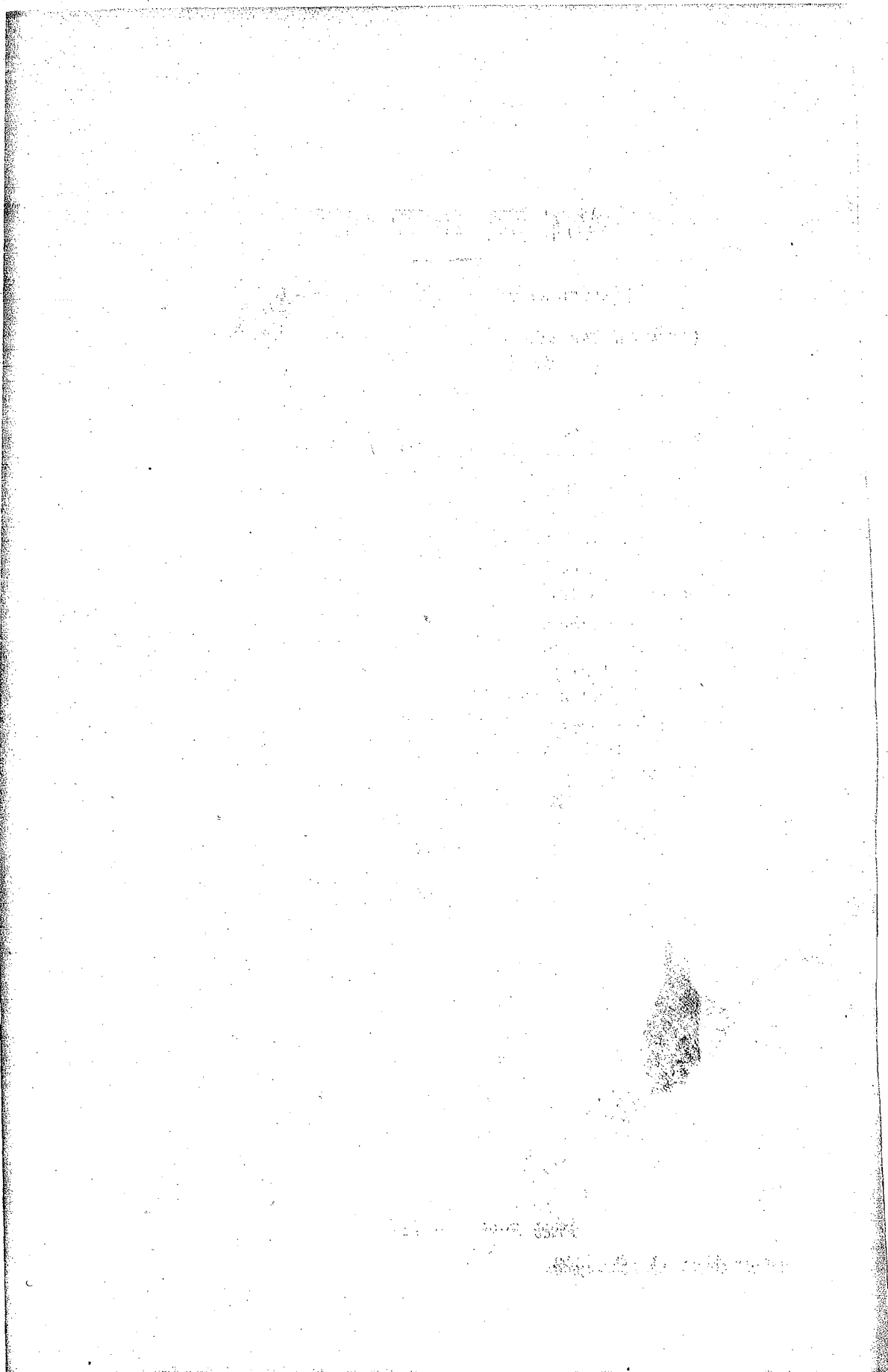
1. This Act may be called the Salt Additional Short title.
Import Duty (Extending) Act, 1936.

XIV of 1931. 2. In sub-section (3) of section 1 of the Salt (Addi- Amendment of
tional Import Duty) Act, 1931 (hereinafter referred to section
as the said Act), for the figures "1936" the figures Act XIV of
"1938" shall be substituted. 1931.

3. In sub-section (1) of section 3 of the said Act, Amendment of
for the word "two" the word "one" shall be section 3,
substituted. Act XIV of
1931.

Price anna 1 or 1½d.

GIPD-80LD-23.5.36-4,500.



**GOVERNMENT OF INDIA
LEGISLATIVE DEPARTMENT**

**THE
PARSI MARRIAGE AND DIVORCE ACT, 1936**

(III OF 1936)



SIMLA
GOVERNMENT OF INDIA PRESS
1936

Price: Anna 1 or 1½ d.

List of Agents from whom Government of India Publications are available.

ENGLAND.

THE HIGH COMMISSIONER FOR INDIA, INDIA HOUSE, ALDWYCH, LONDON, W. C. 2.

PALESTINE.

Steinmatzky, Jerusalem.

INDIA.

(a) PROVINCIAL GOVERNMENT BOOK DEPOTS.

MADRAS:—Superintendent, Government Press, Mount Road, Madras.

BOMBAY:—Superintendent, Government Printing and Stationery, Queen's Road, Bombay.

SIND:—Manager, Sind Government Book Depot, Karachi (Sadar).

UNITED PROVINCES OF AGRA AND OUDH:—Superintendent of Government Press, United Provinces of Agra and Oudh, Allahabad.

PUNJAB:—Superintendent, Government Printing, Punjab, Lahore.

BURMA:—Superintendent, Government Printing, Burma, Rangoon.

CENTRAL PROVINCES AND BERAR:—Superintendent, Government Printing, Central Provinces, Nagpur.

ASSAM:—Superintendent, Assam Secretariat Press, Shillong.

BIHAR AND ORISSA:—Superintendent, Government Printing, Bihar and Orissa, P. O. Gulzarbagh, Patna.

NORTH-WEST FRONTIER PROVINCE:—Manager, Government Printing and Stationery, Peshawar.

(b) PRIVATE BOOK-SELLERS.

Advani Bros., Cawnpore.
Aero Stores, Karachi City.*
Albert Library, Dacca.
Banerjee & Bros., Ranchi, Messrs. G.
Banthiya & Co., Ltd., Station Road, Ajmer.
Bengal Flying Club, Dum Dum Cantt.*
Bhawanani & Sons, New Delhi.
Book Company, Calcutta.
Booklover's Resort, Talkad, Trivandram, South India.
Burma Book Club, Ltd., Rangoon.
Butterworth & Co. (India), Ltd., Calcutta.
Calcutta Book Agency, 16-1, Shama Charan Dey Street, Calcutta.
Chatterjee & Co., 8, Bacharam Chatterjee Lane, Calcutta;
Chukervetty, Chatterjee & Co., Ltd., 13, College Square, Calcutta.
City Book Co., Madras.
City Book House, Meston Road, Cawnpore.
Commercial Book Co., Lahore.
Das Gupta & Co., 54/3, College Street, Calcutta.
Deccan Book Stall, Poona 4.
Delhi and U. P. Flying Club, Ltd., Delhi.*
English Book Depot, Eroozepora.
English Book Depot, Taj Road, Agra, and Saddar Bazar, Jhansi.
English Book Depot, Bank Road, Ambala Cantt., Kasauli.
English Bookstall, Karachi.
Fakir Chand Marwah, Peshawar Cantt.
Fono Book Agency, Simla.
Gaya Prasad & Sons, Agra.
Grantha Mandir, Cuttack.
Higginbothams, Madras.
Hindu Library, 137/E, Balaram De Street, Calcutta.
Hyderabad Book Depot, Chaderghat, Hyderabad (Deccan).
Imperial Book Depot and Press, near Jama Masjid (Machhlwalan), Delhi.
Indian Army Book Depot, Dayalbagh, Agra.
Indian Army Book Depot, Julundur City and Daryaganj, Delhi.
Indian Book Shop, Benares City.
Indian School Supply Depot, Central Avenue, South, P. O. Dharantola, Calcutta.
Insurance Publicity Co., Ltd., Lahore.
International Book Service, Poona 4.
Jaina & Bros., Mori Gate, Delhi, and Connaught Place, New Delhi, Messrs. J. M.
James Murray & Co., 12, Govt. Place, Calcutta (for Meteorological publications only).
Kall Charan & Co., Municipal Market, Calcutta.
Kamala Book Depot, 15, College Square, Calcutta.
Kamala Book Stores, Bankipore, Patna.
Karnataka Publishing House, Bangalore City.
Keale & Co., Karachi.
Krishnaswami & Co., Teppakulam P. O., Trichinopoly Fort, Messrs. S.
Lahiri & Co., Calcutta, Messrs. S. K.
Law Printing House, 11, Mount Road, Madras.
Law Publishing Co., Mylapore, Madras.
Lawrence and Mayo, Ltd., Bombay (for Meteorological publications only).
Local Self-Govt. Institute, Bombay.
London Book Co. (India) Arbab Road, Peshawar, Murree, Nowshera, Rawalpindi.
London Book Depot, B. I. Bazar, Farelly, U. P.
Malhotra & Co., Post Box No. 94, Lahore, Messrs. U. P.

Modern Book Depot, Bazar Road, Slalkot Cantonment.
Moharal Dossabhai Shah, Rajkot.
Motilal Banarsi Das, Oriental Bookseller, Saidmitha Street, Lahore.
Nandkishore & Bros., Chowk, Benares City.
Nateson & Co., Publishers, George Town, Madras, Messrs. G. A.
New Book Co., "Kitab Mahal", 192, Hornby Road, Bombay.
Newman & Co., Ltd., Calcutta, Messrs. W.
North India Christian Tract and Book Society, 18, Olive Road, Allahabad.
Oriental Book Supplying Agency, 15, Shukrawar, Poona City.
Oxford Book and Stationery Company, Delhi, Lahore, Simla, Meerut and Calcutta.
Parikh & Co., Baroda, Messrs. B.
Pioneer Book Supply Co., 20, Shih Narayan Das Lane, Calcutta, and 219, Cloth Market, Delhi.
Popular Book Depot, Grant Road, Bombay.
Punjab Religious Book Society, Lahore.
Raghunath Prasad & Sons, Fataa City.
Rama Krishna & Sons, Booksellers, Anarkali, Lahore.
Ram Krishna Bros., Opposite Bishrambag, Poona City.
Ram Narain Lal, Katra, Allahabad.
Ramesh Book Depot, Stationery Mart, Kashmere Gate, Delhi.
Ray & Sons, 43, K. & L. Edwardes Road, Rawalpindi, Murree and Peshawar, Messrs. J.
Ray Chowdhury & Co., 119, Ashutosh Mukherjee Road, Bhawanipur, Calcutta.
Rochose & Sons, Madras.
Roy Chowdhury & Co., 11, College Square, Calcutta, Messrs. N. M.
Sampson William & Co., 127-B, The Mall, Cawnpore.
Sarkar & Sons, 15, College Square, Calcutta, Messrs. M. O.
Sarkar & Co., Ltd., 18, Shama Charan De Street, and 8/2, Hastings Street, Calcutta, Messrs. P. C.
Scientific Publishing Co., 9, Taltola Lane, Calcutta.
Seshachalam & Co., Masulipatam, Messrs. M.
Shivji & Co., P. O. Chauliaganj, Cuttack.
Shri Shankar Karnataka Pustaka Bhandara, Malamuddi, Dharwar.
S. P. Bookstall, 21, Budhwar, Poona.
Standard Bookstall, Karachi.
Standard Book Depot, Lahore, Dalhousie and Delhi.
Standard Law Book Society, 5, Hastings Street, Calcutta.
Standard Literature Company, Ltd., Calcutta.
Students' Popular Depot, Kacheri Rd., Lahore.
Surat and District Trading Society, Surat.
Taraporevala Sons & Co., Bombay, Messrs. D. B.
Thacker and Co., Ltd., Bombay.
Thacker, Spink and Co., Ltd., Calcutta.
Tripathi & Co., Booksellers, Prinsep Street, Kalbadevi Road, Bombay, Messrs. N. M.
Union Stores, Indore City.
University Book Agency, Kacheri Road, Lahore.
Upper India Publishing House, Ltd., Literature Palace, Ammuddaula Park, Lucknow.
Varadachary & Co., Madras, Messrs. P.
Venkatasubban, A., Law Bookseller, Vellore.
Wheeler & Co., Allahabad, Calcutta and Bombay, Messrs. A. H.
Young Man & Co., Ajmer and Egerton Road, Delhi.

*Agent for publications on Aviation only.

THE PARSI MARRIAGE AND DIVORCE ACT, 1936.

CONTENTS.

I.—PRELIMINARY.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.

II.—MARRIAGES BETWEEN PARSIS.

3. Requisites to validity of Parsi marriages.
4. Remarriage when unlawful.
5. Punishment of bigamy.
6. Certificate and registry of marriage.
7. Appointment of Registrar.
8. Marriage register to be open for public inspection.
9. Copy of certificate to be sent to Registrar-General of Births, Deaths and Marriages.
10. Registration of divorces.
11. Penalty for solemnizing marriage contrary to section 4.
12. Penalty for priest's neglect of requirements of section 6.
13. Penalty for omitting to subscribe and attest certificate.
14. Penalty for making, etc., false certificate.
15. Penalty for failing to register certificate.
16. Penalty for secreting, destroying or altering register.
17. Formal irregularity not to invalidate marriage.

III.—PARSI MATRIMONIAL COURTS.

18. Constitution of Special Courts under the Act.
19. Parsi Chief Matrimonial Courts.
20. Parsi District Matrimonial Courts.
21. Power to alter territorial jurisdiction of District Courts.
22. Certain districts to be within jurisdiction of the Chief Matrimonial Court.
23. Court seal.
24. Appointment of delegates.
25. Power to appoint new delegates.
26. Delegates to be deemed public servants.
27. Selection of delegates under sections 19 and 20 to be from those appointed under section 24.
28. Practitioners in Matrimonial Courts.
29. Court in which suits to be brought.

SECTION.

IV.—MATRIMONIAL SUITS.

30. Suits for nullity.
31. Suits for dissolution.
32. Grounds for divorce.
33. Joining of co-defendant.
34. Suits for judicial separation.
35. Decrees in certain suits.
36. Suit for restitution of conjugal rights.
37. Counter-claim by defendant for any relief.
38. No suit to be brought to enforce marriage or contract arising out of marriage when husband is under sixteen years or wife under fourteen years.
39. Alimony *pendente lite*.
40. Permanent alimony.
41. Payment of alimony to wife or to her trustee.
42. Disposal of joint property.
43. Suits may be heard with closed doors.
44. Validity of trial.
45. Provisions of Civil Procedure Code to apply to suits under the Act.
46. Determination of questions of law and procedure and of fact.
47. Appeal to High Court.
48. Liberty to parties to marry again.

V.—CHILDREN OF THE PARTIES.

49. Custody of children.
50. Settlement of wife's property for benefit of children.

VI.—MISCELLANEOUS.

51. Superintendence of High Court.
52. Applicability of provisions of the Act.
53. Repeal.

SCHEDULE I.

SCHEDULE II.

ACT NO. III OF 1936.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 23rd April, 1936.)

An Act to amend the law relating to marriage and divorce among Parsis.

WHEREAS it is expedient to amend the law relating to marriage and divorce among Parsis; It is hereby enacted as follows:—

I.—PRELIMINARY.

1. (1) This Act may be called the Parsi Marriage and Divorce Act, 1936. Short title, extent and commencement.

(2) It extends to the whole of British India and, in respect of Parsi subjects of His Majesty, to the whole of India:

Provided that the Governor General in Council may, in respect of territories in India beyond the limits of British India, by notification in the Gazette of India, direct that the provisions of this Act relating to the constitution and powers of Parsi Matrimonial Courts and to appeals from the decisions and orders of such Courts shall apply with such modifications as may be specified in the notification.

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

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

(1) "Chief Justice" includes senior Judge;

(2) "Court" means a Court constituted under this Act;

(3) to "desert", together with its grammatical variations and cognate expressions, means to desert the other party to a marriage without reasonable cause and without the consent, or against the will, of such party;

(4) "grievous hurt" means—

(a) emasculation;

(b) permanent privation of the sight of either eye;

(c) permanent

- (c) permanent privation of the hearing of either ear ;
- (d) privation of any member or joint ;
- (e) destruction or permanent impairing of the powers of any member or joint ;
- (f) permanent disfiguration of the head or face ; or
- (g) any hurt which endangers life ;
- (5) " husband " means a Parsi husband ;
- (6) " marriage " means a marriage between Parsis whether contracted before or after the commencement of this Act ;
- (7) a " Parsi " means a Parsi Zoroastrian ;
- (8) " priest " means a Parsi priest and includes Dastur and Mobed ; and
- (9) " wife " means a Parsi wife.

II.—MARRIAGES BETWEEN PARSIS.

Requisites to validity of Parsi marriages.

3. No marriage shall be valid if—

- (a) the contracting parties are related to each other in any of the degrees of consanguinity or affinity set forth in Schedule I ; or
- (b) such marriage is not solemnized according to the Parsi form of ceremony called " Ashirvad " by a priest in the presence of two Parsi witnesses other than such priest ; or
- (c) in the case of any Parsi (whether such Parsi has changed his or her religion or domicile or not) who has not completed the age of twenty-one years, the consent of his or her father or guardian has not been previously given to such marriage.

Remarriage when unlawful.

4. (1) No Parsi (whether such Parsi has changed his or her religion or domicile or not) shall contract any marriage under this Act or any other law in the lifetime of his or her wife or husband, whether a Parsi or not, except after his or her lawful divorce from such wife or husband or after his or her marriage with such wife or husband has lawfully been declared null and void or dissolved, and, if the marriage was contracted with such wife or husband under the Parsi Marriage and Divorcé Act, 1865, or under this Act, XV of 1865. except after a divorce, declaration or dissolution as aforesaid under either of the said Acts.

(2) Every marriage contracted contrary to the provisions of sub-section (1) shall be void.

5. every

5. Every Parsi who during the lifetime of his or her wife or husband, whether a Parsi or not, contracts a marriage without having been lawfully divorced from such wife or husband, or without his or her marriage with such wife or husband having legally been declared null and void or dissolved, shall be subject to the penalties provided in sections 494 and 495 of the Indian Penal Code for the offence of marrying again during the lifetime of a husband or wife.

XLV of 1936.

6. Every marriage contracted under this Act shall immediately on the solemnization thereof, be certified by the officiating priest in the form contained in Schedule II. The certificate shall be signed by the said priest, the contracting parties, or their fathers or guardians when they shall not have completed the age of twenty-one years, and two witnesses present at the marriage; and the said priest shall thereupon send such certificate together with a fee of two rupees to be paid by the husband to the Registrar of the place at which such marriage is solemnized. The Registrar on receipt of the certificate and fee shall enter the certificate in a register to be kept by him for that purpose and shall be entitled to retain the fee.

7. For the purposes of this Act a Registrar shall be appointed. Within the local limits of the ordinary original civil jurisdiction of a High Court, the Registrar shall be appointed by the Chief Justice of such Court, and without such limits, by the Local Government. Every Registrar so appointed may be removed by the Chief Justice or Local Government appointing him.

8. The register of marriages mentioned in section 6 shall, at all reasonable times, be open for inspection, and certified extracts therefrom shall, on application, be given by the Registrar on payment to him by the applicant of two rupees for each such extract. Every such register shall be evidence of the truth of the statements therein contained.

9. Every Registrar, except the Registrar appointed by the Chief Justice of the High Court of Judicature at Bombay, shall, at such intervals as the Local Government by which he was appointed from time to time directs, send to the Registrar-General of Births, Deaths and Marriages for the territories administered by such Local Government a true copy certified by him in such form as such Local Government from time to time prescribes, of all certificates entered by him in the said register of marriages since the last of such intervals.

10. When a Court passes a decree for divorce, nullity or dissolution, the Court shall send a copy of the decree for registration to the Registrar of marriages.

of Marriages within its jurisdiction appointed under section 7 ; the Registrar shall enter the same in a register to be kept by him for the purpose, and the provisions of Part II applicable to the Registrars and registers of marriages shall be applicable, so far as may be, to the Registrars and registers of divorces and decrees of nullity and dissolution.

Penalty for solemnizing marriage contrary to section 4.

11. Any priest knowingly and wilfully solemnizing any marriage contrary to and in violation of section 4 shall, on conviction thereof, be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

Penalty for priest's neglect of requirements of section 6.

12. Any priest neglecting to comply with any of the requisitions affecting him contained in section 6 shall, on conviction thereof, be punished for every such offence with simple imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Penalty for omitting to subscribe and attest certificate.

13. Every other person required by section 6 to subscribe or attest the said certificate who shall wilfully omit or neglect so to do, shall, on conviction thereof, be punished for every such offence with a fine not exceeding one hundred rupees.

Penalty for making, etc., false certificate.

14. Every person making or signing or attesting any such certificate containing a statement which is false, and which he either knows or believes to be false, shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both ; and if the act amounts to forgery as defined in the Indian Penal Code, then such person shall also be liable, ^{XLV of 1860.} on conviction thereof, to the penalties provided in section 466 of the said Code.

Penalty or failing to register certificate.

15. Any Registrar failing to enter the said certificate pursuant to section 6 shall be punished with simple imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Penalty for secreting, destroying or altering register.

16. Any person secreting, destroying, or dishonestly or fraudulently altering the said register in any part thereof, shall be punished with imprisonment of either description as defined in the Indian Penal Code for ^{XLV of 1860.} a term which may extend to two years, or if he be a Registrar, for a term which may extend to five years and shall also be liable to fine which may extend to five hundred rupees.

Formal irregularity not to invalidate marriage.

17. No marriage contracted under this Act shall be deemed to be invalid solely by reason of the fact that it was not certified under section 6, or that the certificate

certificate was not sent to the Registrar, or that the certificate was defective, irregular or incorrect.

III.—PARSI MATRIMONIAL COURTS.

18. For the purpose of hearing suits under this Act, a special Court shall be constituted in each of the Presidency-towns of Calcutta, Madras and Bombay, and in such other places in the territories of the several Local Governments as such Governments respectively shall think fit.

Constitution of Special Courts under the Act.

19. The Court so constituted in each of the Presidency-towns shall be entitled the Parsi Chief Matrimonial Court of Calcutta, Madras or Bombay, as the case may be. The local limits of the jurisdiction of a Parsi Chief Matrimonial Court shall be coterminous with the local limits of the ordinary original civil jurisdiction of the High Court. The Chief Justice of the High Court, or such other Judge of the same Court as the Chief Justice shall from time to time appoint shall be the Judge of such Matrimonial Court, and, in the trial of cases under this Act, he shall be aided by seven delegates.

Parsi Chief Matrimonial Courts.

20. Every Court so constituted at a place other than a Presidency-town shall be entitled the Parsi District Matrimonial Court of such place. Subject to the provisions contained in section 21, the local limits of the jurisdiction of such Court shall be coterminous with the limits of the district in which it is held. The Judge of the principal Court of original civil jurisdiction at such place shall be the Judge of such Matrimonial Court, and in the trial of cases under this Act he shall be aided by seven delegates.

Parsi District Matrimonial Courts.

21. The Local Government may from time to time alter the local limits of the jurisdiction of any Parsi District Matrimonial Court, and may include within such limits any number of districts under its government.

Power to alter territorial jurisdiction of District Courts.

22. Any district which the Local Government, on account of the fewness of its Parsi inhabitants, shall deem it inexpedient to include within the jurisdiction of any District Matrimonial Court, shall be included within the jurisdiction of the Parsi Chief Matrimonial Court for the territories under such Local Government where there is such a Court.

Certain districts to be within jurisdiction of the Chief Matrimonial Court.

23. A seal shall be made for every Court constituted under this Act, and all decrees and orders and copies of decrees and orders of such Court shall be sealed with such seal, which shall be kept in the custody of the presiding Judge.

Court seals.

24. (1) The Local Governments shall, in the Presidency-towns and districts subject to their respective governments,

Appointment of delegates.

governments, respectively appoint persons to be delegates to aid in the adjudication of cases arising under this Act, after giving the local Parsis an opportunity of expressing their opinion in such manner as the respective Governments may think fit.

(2) The persons so appointed shall be Parsis, their names shall be published in the local official Gazette and their number shall, within the local limits of the ordinary original civil jurisdiction of a High Court, be not more than thirty, and in districts beyond such limits, not more than twenty.

Power to
appoint new
delegates.

25. The appointment of a delegate shall be for ten years; but he shall be eligible for reappointment for the like term or terms. Whenever a delegate shall die, or have completed his term of office, or be desirous of relinquishing his office, or refuse or become incapable or unfit to act, or cease to be a Parsi, or be convicted of an offence under the Indian Penal Code **XLV** of 1860, or other law for the time being in force, or be adjudged insolvent, then and so often the Local Government may appoint any person being a Parsi to be a delegate in his stead; and the name of the person so appointed shall be published in the local official Gazette.

Delegates to be
deemed public
servants.

26. All delegates appointed under this Act shall be considered to be public servants within the meaning of the Indian Penal Code.

XLV of 1860

Selection of
delegates under
sections 19 and
20 to be from
those appointed
under section 24.

27. The delegates selected under sections 19 and 20 to aid in the adjudication of suits under this Act, shall be taken under the orders of the presiding Judge of the Court in due rotation from the delegates appointed by the Local Government under section 24:

Provided that each party to the suit may, without cause assigned, challenge any three of the delegates attending the Court before such delegates are selected, and no delegate so challenged shall be selected.

Practitioners
in Matrimonial
Courts.

28. All legal practitioners entitled to practise in a High Court shall be entitled to practise in any Court constituted under this Act, and all legal practitioners entitled to practise in a District Court shall be entitled to practise in any Parsi District Matrimonial Court constituted under this Act.

Court in which
suits to be
brought.

29. (1) All suits instituted under this Act shall be brought in the Court within the limits of whose jurisdiction the defendant resides at the time of the institution of the suit.

(2) When the defendant shall at such time have left British India such suit shall be brought in the Court at the place where the plaintiff and defendant last resided together.

(3) In any case, whether the defendant resides in British India or not, such suit may be brought in the Court at the place where the plaintiff resides or at the place where the plaintiff and the defendant last resided together, if such Court, after recording its reasons in writing, grants leave so to do.

IV.—MATRIMONIAL SUITS.

30. In any case in which consummation of the marriage is from natural causes impossible, such marriage may, at the instance of either party thereto, be declared to be null and void. Suits for nullity.

31. If a husband or wife shall have been continually absent from his or her wife or husband for the space of seven years, and shall not have been heard of as being alive within that time by those persons who would have naturally heard of him or her, had he or she been alive, the marriage of such husband or wife may, at the instance of either party thereto, be dissolved. Suits for dissolution.

32. Any married person may sue for divorce on any one or more of the following grounds, namely:— Grounds for divorce.

(a) that the marriage has not been consummated within one year after its solemnization owing to the wilful refusal of the defendant to consummate it;

(b) that the defendant at the time of the marriage was of unsound mind and has been habitually so up to the date of the suit:

Provided that divorce shall not be granted on this ground, unless the plaintiff (1) was ignorant of the fact at the time of the marriage, and (2) has filed the suit within three years from the date of the marriage;

(c) that the defendant was at the time of marriage pregnant by some person other than the plaintiff;

Provided that divorce shall not be granted on this ground, unless (1) the plaintiff was at the time of the marriage ignorant of the fact alleged, (2) the suit has been filed within two years of the date of marriage, and (3) marital intercourse has not taken place after the plaintiff came to know of the fact;

(d) that the defendant has since the marriage committed adultery or fornication or bigamy or rape or an unnatural offence:

Provided that divorce shall not be granted on this ground, if the suit has been filed more than two years after the plaintiff came to know of the fact;

(e) that the defendant has since the marriage voluntarily caused grievous hurt to the plaintiff or has infected the plaintiff with venereal disease or, where the defendant is the husband, has compelled the wife to submit herself to prostitution:

Provided

Provided that divorce shall not be granted on this ground, if the suit has been filed more than two years (i) after the infliction of the grievous hurt, or (ii) after the plaintiff came to know of the infection, or (iii) after the last act of compulsory prostitution ;

(f) that the defendant is undergoing a sentence of imprisonment for seven years or more for an offence as defined in the Indian Penal Code :

XLV of 1860.

Provided that divorce shall not be granted on this ground, unless the defendant has prior to the filing of the suit undergone at least one year's imprisonment out of the said period ;

(g) that the defendant has deserted the plaintiff for at least three years ;

(h) that a decree or order for judicial separation has been passed against the defendant, or an order has been passed against the defendant by a Magistrate awarding separate maintenance to the plaintiff, and the parties have not had marital intercourse for three years or more since such decree or order ;

(i) that the defendant has failed to comply with a decree for restitution of conjugal rights for a year or more ; and

(j) that the defendant has ceased to be a Parsi.

Provided that divorce shall not be granted on this ground if the suit has been filed more than two years after the plaintiff came to know of the fact.

Joining of co-defendant.

33. In every such suit for divorce on the ground of adultery, the plaintiff shall, unless the Court shall otherwise order, make the person with whom the adultery is alleged to have been committed a co-defendant, and in any such suit by the husband the Court may order the adulterer to pay the whole or any part of the costs of the proceedings.

Suits for judicial separation.

34. Any married person may sue for judicial separation on any of the grounds for which such person could have filed a suit for divorce, or on the ground that the defendant has been guilty of such cruelty to him or her or their children, or has used such personal violence, or has behaved in such a way as to render it in the judgment of the Court improper to compel him or her to live with the defendant.

Decrees in certain suits.

35. In any suit under section 30, 31, 32 or 34, whether defended or not, if the Court be satisfied that any of the grounds set forth in those sections for granting relief exist, that none of the grounds therein set forth or withholding relief exist and that—

(a) the act or omission set forth in the plaint has not been condoned ;

(b) the

- (b) the husband and wife are not colluding together ;
- (c) the plaintiff has not connived at or been accessory to the said act or omission ;
- (d) (save where a definite period of limitation is provided by this Act) there has been no unnecessary or improper delay in instituting the suit ; and
- (e) there is no other legal ground why relief should not be granted ;

then and in such case, but not otherwise, the Court shall decree such relief accordingly.

36. Where a husband shall have deserted or without lawful cause ceased to cohabit with his wife, or where a wife shall have deserted or without lawful cause ceased to cohabit with her husband, the party so deserted or with whom cohabitation shall have so ceased may sue for the restitution of his or her conjugal rights and the Court, if satisfied of the truth of the allegations contained in the plaint, and that there is no just ground why relief should not be granted, may proceed to decree such restitution of conjugal rights accordingly.

Suit for restitution of conjugal rights.

37. In any suit under this Act, the defendant may make a counter-claim for any relief he or she may be entitled to under this Act.

Counter-claim by defendant for any relief.

38. Notwithstanding anything hereinbefore contained, no suit shall be brought in any Court to enforce any marriage or any contract connected with or arising out of any marriage, if, at the date of the institution of the suit, the husband shall not have completed the age of sixteen years, or the wife shall not have completed the age of fourteen years.

No suit to be brought to enforce marriage or contract arising out of marriage when husband is under sixteen years or wife under fourteen years.

39. In any suit under this Act if the wife shall not have an independent income sufficient for her support and the necessary expenses of the suit, the Court, on the application of the wife, may order the husband to pay her monthly or weekly during the suit such sum not exceeding one-fifth of her husband's net income as the Court, considering the circumstances of the parties, shall think reasonable.

Alimony pendente lite.

40. (1) The Court may, if it shall think fit at the time of passing any decree under this Act or subsequently thereto on application made to it for the purpose, order that the husband shall,—

Permanent alimony.

- (a) to the satisfaction of the Court, secure to the wife while she remains chaste and unmarried such gross sum or such monthly or periodical payment of money for a term not exceeding

exceeding her life as, having regard to her own property, if any, her husband's ability and the conduct of the parties, shall be deemed just, and for that purpose may require a proper instrument to be executed by all necessary parties and suspend the pronouncing of its decree until such instruments shall have been duly executed, or

- (b) make such monthly payments to the wife for her maintenance and support as the Court may think reasonable.

In case any such order shall not be obeyed by her husband it may be enforced in the manner provided for the execution of decrees and orders under the Code of Civil Procedure, 1908, and further the husband may be sued by any person supplying the wife with necessaries during the time of such disobedience for the price of such necessaries. v of 1908.

(2) The Court, if satisfied that there is a change in the circumstances of either party at any time, may at the instance of either party vary, modify or rescind such order in such manner as the Court may deem just.

Payment of alimony to wife or to her trustee.

41. In all cases in which the Court shall make any decree or order for alimony it may direct the same to be paid either to the wife herself, or to any trustee on her behalf to be approved by the Court, and may impose any terms or restrictions which to the Court may seem expedient, and may from time to time appoint a new trustee, if for any reason it shall appear to the Court expedient so to do.

Disposal of joint property.

42. In any suit under this Act the Court may make such provisions in the final decree as it may deem just and proper with respect to property presented at or about the time of marriage which may belong jointly to both the husband and wife.

Suits may be heard with closed doors.

43. In every suit preferred under this Act, the case shall be tried with closed doors should such be the wish of either of the parties.

Validity of trial.

44. Notwithstanding anything contained in section 19 or section 20, where in the case of a trial in a Parsi Matrimonial Court not less than five delegates have attended throughout the proceedings, the trial shall not be invalid by reason of the absence during any part thereof of the other delegates.

Provisions of Civil Procedure Code to apply to suits under the Act.

45. The provisions of the Code of Civil Procedure, 1908, v of 1908. shall, so far as the same may be applicable, apply to proceedings in suits instituted under this Act including proceedings in execution and orders subsequent to decree.

46. In

46. In suits under this Act all questions of law and procedure shall be determined by the presiding Judge; ^{Determination of questions of law and procedure and of fact.} but the decision on the facts shall be the decision of the majority of the delegates before whom the case is tried:

Provided that, where such delegates are equally divided in opinion, the decision on the facts shall be the decision of the presiding Judge.

47. An appeal shall lie to the High Court from — ^{Appeal to High Court.}

(a) the decision of any Court established under this Act, whether a Chief Matrimonial Court or District Matrimonial Court, on the ground of the decision being contrary to some law or usage having the force of law, or of a substantial error or defect in the procedure or investigation of the case which may have produced error or defect in the decision of the case upon the merits, and on no other ground; and

(b) the granting of leave by any such Court under sub-section (3) of section 29:

Provided that such appeal shall be instituted within three calendar months after the decision appealed from shall have been pronounced.

48. When the time hereby limited for appealing ^{Liberty to parties to marry again.} against any decree granting a divorce or annulling or dissolving a marriage shall have expired, and no appeal shall have been presented against such decree, or when any such appeal shall have been dismissed, or when in the result of any appeal a divorce has been granted or a marriage has been declared to be annulled or dissolved, but not sooner, it shall be lawful for the respective parties thereto to marry again, as if the prior marriage had been terminated by death.

V.—CHILDREN OF THE PARTIES.

49. In any suit under this Act, the Court may from ^{Custody of children.} time to time pass such interim orders and make such provisions in the final decree as it may deem just and proper with respect to the custody, maintenance and education of the children under the age of sixteen years, the marriage of whose parents is the subject of such suit, and may, after the final decree upon application, by petition for this purpose, make, revoke, suspend or vary from time to time all such orders and provisions with respect to the custody, maintenance and education of such children as might have been made by such final decree or by interim orders in case the suit for obtaining such decree were still pending.

50. In any case in which the Court shall pronounce ^{Settlement of wife's property for benefit of children.} a decree of divorce or judicial separation for adultery of the wife, if it shall be made to appear to the Court

that

that the wife is entitled to any property either in possession or reversion, the Court may order such settlement as it shall think reasonable to be made of any part of such property, not exceeding one half thereof, for the benefit of the children of the marriage or any of them.

VI.—MISCELLANEOUS.

Superintendence
of High Court.

51. The High Court shall have superintendence over all Courts constituted under this Act subject to its appellate jurisdiction in the same manner as it has over other Courts under section 107 of the Government of India Act, and all the provisions of that section shall apply to such Courts.

Applicability of
provisions of
the Act.

52. (1) The provisions of this Act shall apply to all suits to which the same are applicable whether the circumstances relied on occurred before or after the passing of this Act, and whether any decree or order referred to was passed under this Act or under the law in force before the passing of this Act, and where any proceedings are pending in any Court at the time of the commencement of this Act, the Court shall allow such amendment of the pleadings as may be necessary as the result of the coming into operation of this Act.

(2) A Parsi who has contracted a marriage under the Parsi Marriage and Divorce Act, 1865, or under this Act, even though such Parsi may change his or her religion or domicile, so long as his or her wife or husband is alive and so long as such Parsi has not been lawfully divorced from such wife or husband or such marriage has not lawfully been declared null and void or dissolved under the decree of a competent Court under either of the said Acts, shall remain bound by the provisions of this Act.

Repeal.

53. The Parsi Marriage and Divorce Act, 1865, is XV of 1865. hereby repealed.

SCHEDULE I.

SCHEDULE I.

(See section 3.)

Table of prohibited degrees of consanguinity and affinity

A man shall not marry his—

1. Paternal grand-father's mother.
2. Paternal grand-mother's mother.
3. Maternal grand-father's mother.
4. Maternal grand-mother's mother.
5. Paternal grand-mother.
6. Paternal grand-father's wife.
7. Maternal grand-mother.
8. Maternal grand-father's wife.
9. Mother or step-mother.
10. Father's sister or step-sister.
11. Mother's sister or step-sister.
12. Sister or step-sister.
13. Brother's daughter or step-brother's daughter, or any direct lineal descendant of a brother or step-brother.
14. Sister's daughter or step-sister's daughter, or any direct lineal descendant of a sister or step-sister.
15. Daughter or step-daughter, or any direct lineal descendant of either.
16. Son's daughter or step-son's daughter, or any direct lineal descendant of a son or step-son.
17. Wife of son or step-son, or of any direct lineal descendant of a son or step-son.
18. Wife of daughter's son or of step-daughter's son, or of any direct lineal descendant of a daughter or step-daughter.
19. Mother of daughter's husband.
20. Mother of son's wife.
21. Mother of wife's paternal grand-father.
22. Mother of wife's paternal grand-mother.
23. Mother of wife's maternal grand-father.
24. Mother of wife's maternal grand-mother.
25. Wife's paternal grand-mother.
26. Wife's maternal grand-mother.
27. Wife's mother or step-mother.
28. Wife's father's sister.
29. Wife's mother's sister.
30. Father's brother's wife.
31. Mother's brother's wife.
32. Brother's son's wife.
33. Sister's son's wife.

A woman

A woman shall not marry her—

1. Paternal grand-father's father.
2. Paternal grand-mother's father.
3. Maternal grand-father's father.
4. Maternal grand-mother's father.
5. Paternal grand-father.
6. Paternal grand-mother's husband.
7. Maternal grand-father.
8. Maternal grand-mother's husband.
9. Father or step-father.
10. Father's brother or step-brother.
11. Mother's brother or step-brother.
12. Brother or step-brother.
13. Brother's son or step-brother's son, or any direct lineal descendant of a brother or step-brother.
14. Sister's son or step-sister's son, or any direct lineal descendant of a sister or step-sister.
15. Son or step-son, or any direct lineal descendant of either.
16. Daughter's son or step-daughter's son, or any direct lineal descendant of a daughter or step-daughter.
17. Husband of daughter or of step-daughter, or of any direct lineal descendant of a daughter or step-daughter.
18. Husband of son's daughter or of step-son's daughter, or of any direct lineal descendant of a son or step-son.
19. Father of daughter's husband.
20. Father of son's wife.
21. Father of husband's paternal grand-father.
22. Father of husband's paternal grand-mother.
23. Father of husband's maternal grand-father.
24. Father of husband's maternal grand-mother.
25. Husband's paternal grand-father.
26. Husband's maternal grand-father.
27. Husband's father or step-father.
28. Brother of husband's father.
29. Brother of husband's mother.
30. Husband's brother's son, or his direct lineal descendant.
31. Husband's sister's son, or his direct lineal descendant.
32. Brother's daughter's husband.
33. Sister's daughter's husband.

SCHEDULE II.

NOTE.—In the above table the words "brother" and "sister" denote brother and sister of the whole as well as half blood. Relationship by step means relationship by marriages.

SCHEDULE II.

(See section 6.)

Certificate of Marriage.

	Date and place of marriage.
	Names of the husband and wife.
	Condition at the time of marriage.
	Rank or profession.
	Age.
	Residence.
	Names of the Fathers or Guardians.
	Rank or profession.
	Signature of the officiating Priest.
	Signatures of the contracting parties.
	Signatures of the fathers or guardians of the contracting parties under 21 years of age.
	Signatures of witnesses.



**GOVERNMENT OF INDIA
LEGISLATIVE DEPARTMENT**

**THE
PAYMENT OF WAGES ACT, 1936**

(IV OF 1936)



**SIMLA
GOVERNMENT OF INDIA PRESS
1936**

Price: Anna 1 or 1½d.

List of Agents from whom Government of India Publications are available.

ENGLAND

THE HIGH COMMISSIONER FOR INDIA, INDIA HOUSE, ALDWYCH LONDON, W. C. 2.

PALESTINE

Steinmätzky, Jerusalem.

INDIA.

(a) PROVINCIAL GOVERNMENT BOOK DEPOTS.

MADRAS :—Superintendent, Government Press, Mount Road, Madras.

BOMBAY :—Superintendent, Government Printing and Stationery, Queen's Road, Bombay.

SIND :—Manager, Sind Government Book Depot, Karachi (Sadar).

UNITED PROVINCES OF AGRA AND OUDH :—Superintendent of Government Press United Provinces of Agra and Oudh Allahabad.

PUNJAB :—Superintendent, Government Printing, Punjab, Lahore.

BURMA :—Superintendent, Government Printing, Burma, Rangoon

CENTRAL PROVINCES AND BERRAR :—Superintendent, Government Printing, Central Provinces, Nagpur.

ASSAM :—Superintendent, Assam Secretariat Press, Shillong.

BIHAR AND ORISSA :—Superintendent, Government Printing, Bihar and Orissa, P. O. Gulzarbagh, Patna.

NORTH-WEST FRONTIER PROVINCE :—Manager, Government Printing and Stationery, Peshawar.

(b) PRIVATE BOOK-SELLERS.

Advani Bros., Cawnpore.

Aero Stores, Karachi City.*

Albert Library, Dacca.

Banerjee & Bros., Ranchi, Messrs. G.

Banbhaya & Co., Ltd., Station Road, Ajmer.

Bengal Flying Club, Dum Dum Cantt.*

Bhawani & Sons, New Delhi.

Book Company, Calcutta.

Booklover's Resort, Talikad, Trivandrum, South India.

Burma Book Club, Ltd., Rangoon.

Busterworth & Co. (India), Ltd., Calcutta.

Calcutta Book Agency, 16-1, Shama Charan Dey Street, Calcutta.

Chatterjee & Co., 3, Bacharam Chatterjee Lane, Calcutta;

Chakraverty, Chatterjee & Co., Ltd., 13, College Square, Calcutta.

City Book Co., Madras.

City Book House, Meston Road, Cawnpore.

Commercial Book Co., Lahore.

Das Gupta & Co., 54/3, College Street, Calcutta.

Deccan Book Stall, Poona.

Delhi and U. P. Flying Club, Ltd., Delhi.*

English Book Depot, Ferozepore.

English Book Depot, Taj Road, Agra, and Saddar Bazar, Jhansi.

English Book Depot, Bank Road, Ambala Cantt., Kasauli.

English Bookstall, Karachi.

Fakir Chand Marwah, Peshawar Cantt.

Fono Book Agency, Simla.

Gaya Prasad & Sons, Agra.

Grantha Mandir, Cuttack.

Higginbothams, Madras.

Hindu Library, 137/F., Balam De Street, Calcutta.

Hyderabad Book Depot, Chaderghat, Hyderabad (Deccan).

Imperial Book Depot and Press, near Jama Masjid (Maabhiwalan), Delhi.

Indian Army Book Depot, Dayalbagh, Agra.

Indian Army Book Depot, Julundur City and Daryaganj, Delhi.

Indian Book Shop, Benares City.

Indian School Supply Depot, Central Avenue, South, P. O. Dharamtola, Calcutta.

Insurance Publicity Co., Ltd., Lahore.

International Book Service, Poona.

Jaina & Bros., Mori Gate, Delhi, and Connaught Place, New Delhi, Messrs. J. M.

James Murray & Co., 12, Govt. Place, Calcutta (for Meteorological publications only).

Kall Charan & Co., Municipal Market, Calcutta.

Kamala Book Depot, 15, College Square, Calcutta.

Kannala Book Stores, Bankipore, Patna.

Karnataka Publishing House, Bangalore City.

Keale & Co., Karachi.

Krishnaswami & Co., Teppakulam P. O., Trichinopoly Fort, Messrs. S.

Lahiri & Co., Calcutta, Messrs. S. K.

Law Printing House, 11, Mount Road, Madras.

Law Publishing Co., Mylapore, Madras.

Lawrence and Mayo, Ltd., Bombay (for Meteorological publications only).

Local Self-Govt. Institute, Bombay.

London Book Co. (India) Arbab Road, Peshawar, Murree, Nowshera, Rawalpindi.

London Book Depot, B. I. Bazar, Bareilly U. P.

Malhotra & Co., Post Box No. 94, Lahore, Messrs. U. P.

Modern Book Depot, Bazar Road, Slakot Cantonment.

Mohanlal Dossabhai Shah, Rajkot.

Motilal Banarsi Das, Oriental Bookseller, Saidmitha Street, Lahore.

Nandkishore & Bros., Chowk, Benares City.

Nateson & Co., Publishers, George Town, Madras, Messrs. G. A.

New Book Co., "Kitab Mahal", 192, Hornby Road, Bombay.

Newman & Co., Ltd., Calcutta, Messrs. W.

North India Christian Tract and Book Society, 18, Clive Road, Allahabad.

Oriental Book Supplying Agency, 15, Shukrawar, Poona City

Oxford Book and Stationery Company, Delhi, Lahore

Simla, Ameer and Calcutta.

Parikh & Co., Baroda, Messrs. D.

Pioneer Book Supply Co., 20, Shib Narayan Das Lane, Calcutta, and 219, Cloth Market, Delhi.

Popular Book Depot, Grant Road, Bombay.

Punjab Religious Book Society Lahore.

Raghunath Prasad & Sons, Patna City.

Rama Krishna & Sons, Booksellers, Anarkali, Lahore.

Ram Krishna Bros., Opposite Bishrambag, Poona City.

Ram Narain Lal, Katra, Allahabad.

Ramesh Book Depot, Stationery Mart, Kashmere Gate, Delhi.

Ray & Sons, 43, K. & L. Edwardes Road, Rawalpindi, Murree and Peshawar, Messrs. J.

Ray Chowdhury & Co., 119, Ashutosh Mukherjee Road, Bhawanipur, Calcutta.

Rochouse & Sons, Madras.

Roy Chowdhury & Co., 11, College Square, Calcutta, Messrs. N. M.

Sampson William & Co., 127-B, The Mall, Cawnpore.

Sarkar & Sons, 15, College Square, Calcutta, Messrs. M. G.

Sarkar & Co., Ltd., 18, Shama Charan De Street, and 8/2, Hastings Street, Calcutta, Messrs. P. C.

Scientific Publishing Co., 9, Taltola Lane, Calcutta.

Sheshachalam & Co., Masulipatam, Messrs. M.

Shivji & Co., P. O. Chauliganj, Cuttack.

Shri Shankar Karnataka Pustaka Bhandara, Malamuddi, Dharwar.

S. P. Bookstall, 21, Budhwar, Poona.

Standard Bookstall, Karachi.

Standard Book Depot, Lahore, Dalhousie and Delhi.

Standard Law Book Society, 5, Hastings Street, Calcutta.

Standard Literature Company, Ltd., Calcutta.

Students' Popular Depot, Kacheri Rd., Lahore.

Surat and District Trading Society, Surat.

Taraporevala Sons & Co., Bombay, Messrs. D. B.

Thacker and Co., Ltd., Bombay.

Thacker, Spink and Co., Ltd., Calcutta.

Tripathi & Co., Booksellers, Princess Street, Kalbadevi Road, Bombay, Messrs. N. M.

Union Stores, Indore City.

University Book Agency, Kacheri Road, Lahore.

Upper India Publishing House, Ltd., Literature Palace, Ammuddaula Park, Lucknow.

Varadachary & Co., Madras, Messrs. P.

Venkatasubban, A., Law Bookseller, Vellore.

Wheeler & Co., Allahabad, Calcutta and Pombay, Messrs. A. H.

Young Man & Co., Ajmer and Egerton Road, Delhi.

* Agent for publications on Aviation only.

THE PAYMENT OF WAGES ACT, 1936.

CONTENTS.

SECTIONS.

1. Short title, extent, commencement and application.
2. Definitions.
3. Responsibility for payment of wages.
4. Fixation of wage-periods.
5. Time of payment of wages.
6. Wages to be paid in current coin or currency notes.
7. Deductions which may be made from wages.
8. Fines.
9. Deductions for absence from duty.
10. Deductions for damage or loss.
11. Deductions for services rendered.
12. Deductions for recovery of advances.
13. Deductions for payments to co-operative societies and insurance schemes.
14. Inspectors.
15. Claims arising out of deductions from wages or delay in payment of wages and penalty for malicious or vexatious claims.
16. Single application in respect of claims from unpaid group.
17. Appeal.
18. Powers of authorities appointed under section 15.
19. Power to recover from employer in certain cases.
20. Penalty for offences under the Act.
21. Procedure in trial of offences.
22. Bar of suits.
23. Contracting out.
24. Powers to be exercised by Governor General in Council.
25. Display by notice of abstracts of the Act.
26. Rule-making power.



ACT NO. IV OF 1936.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 23rd April, 1936.)

An Act to regulate the payment of wages to certain classes of persons employed in industry.

WHEREAS it is expedient to regulate the payment of wages to certain classes of persons employed in industry ; It is hereby enacted as follows :—

1. (1) This Act may be called the Payment of Wages Act, 1936.

Short title, extent, commencement and application.

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

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

(4) It applies in the first instance to the payment of wages to persons employed in any factory and to persons employed (otherwise than in a factory) upon any railway by a railway administration or, either directly or through a sub-contractor, by a person fulfilling a contract with a railway administration.

(5) The Local Government may, after giving three months' notice of its intention of so doing, by notification in the local official Gazette, extend the provisions of the Act or any of them to the payment of wages to any class of persons employed in any industrial establishment or in any class or group of industrial establishments.

(6) Nothing in this Act shall apply to wages payable in respect of a wage-period which, over such wage-period, average two hundred rupees a month or more.

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

Definitions.

(i) " factory " means a factory as defined in clause (j) of section 2 of the Factories Act, 1934 ;

(ii) " industrial establishment " means any—

(a) tramway or motor omnibus service ;

(b) dock, wharf or jetty ;

(c) inland steam-vessel ;

(d) mine, quarry or oil-field ;

(e) plantation ;

- (e) plantation ;
- (f) workshop or other establishment in which articles are produced, adapted or manufactured, with a view to their use, transport or sale ;
- (iii) "plantation" means any estate which is maintained for the purpose of growing cinchona, rubber, coffee or tea, and on which twenty-five or more persons are employed for that purpose ;
- (iv) "prescribed" means prescribed by rules made under this Act ;
- (v) "railway administration" has the meaning assigned to it in clause (6) of section 3 of the Indian Railways Act, 1890 ; and
- (vi) "wages" means all remuneration, capable of being expressed in terms of money, which would, if the terms of the contract of employment, express or implied, were fulfilled, be payable, whether conditionally upon the regular attendance, good work or conduct or otherwise, to a person employed in respect of his employment or of work done in such employment, and includes any bonus or other additional remuneration of the nature aforesaid which would be so payable and any sum payable to such person by reason of the termination of his employment, but does not include—
 - (a) the value of any house-accommodation, supply of light, water, medical attendance or other amenity, or of any service excluded by general or special order of the Governor General in Council or Local Government ;
 - (b) any contribution paid by the employer to any pension fund or provident fund ;
 - (c) any travelling allowance or the value of any travelling concession ;
 - (d) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment ; or
 - (e) any gratuity payable on discharge.

IX of 1890.

Responsibility
for payment
of wages.

3. Every employer shall be responsible for the payment to persons employed by him of all wages required to be paid under this Act :

Provided that, in the case of persons employed (other wise than by a contractor)—

- (a) in factories, if a person has been named as the manager of the factory under clause (e) of sub-section. (1)

XXV of 1934.

of sub-section (1) of section 9 of the Factories Act, 1934.

- (b) in industrial establishments, if there is a person responsible to the employer for the supervision and control of the industrial establishment,
- (c) upon railways (otherwise than in factories), if the employer is the railway administration and the railway administration has nominated a person in this behalf for the local area concerned,

the person so named, the person so responsible to the employer, or the person so nominated, as the case may be, shall be responsible for such payment.

4. (1) Every person responsible for the payment of wages under section 3 shall fix periods (in this Act referred to as wage-periods) in respect of which such wages shall be payable.

(2) No wage-period shall exceed one month.

5. (1) The wages of every person employed upon or in—

- (a) any railway, factory or industrial establishment upon or in which less than one thousand persons are employed, shall be paid before the expiry of the seventh day,
- (b) any other railway, factory or industrial establishment, shall be paid before the expiry of the tenth day,

after the last day of the wage-period in respect of which the wages are payable.

(2) Where the employment of any person is terminated by or on behalf of the employer, the wages earned by him shall be paid before the expiry of the second working day from the day on which his employment is terminated.

(3) The Governor General in Council may, by general or special order, exempt, to such extent and subject to such conditions as may be specified in the order, the person responsible for the payment of wages to persons employed upon any railway (otherwise than in a factory) from the operation of this section in respect of the wages of any such persons or class of such persons.

(4) All payments of wages shall be made on a working-day.

6. All wages shall be paid in current coin or currency notes or in both.

7. (1) Notwithstanding the provisions of sub-section (2) of section 47 of the Indian Railways Act, 1890, the wages of an employed person shall be paid to him without

IX of 1890.

Wages to be paid in current coin or currency notes.

Deductions which may be made from wages.

without deductions of any kind except those authorised by or under this Act.

Explanation.—Every payment made by the employed person to the employer or his agent shall, for the purposes of this Act, be deemed to be a deduction from wages.

(2) Deductions from the wages of an employed person shall be made only in accordance with the provisions of this Act, and may be of the following kinds only, namely:—

- (a) fines ;
- (b) deductions for absence from duty ;
- (c) deductions for damage to or loss of goods expressly entrusted to the employed person for custody, or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default ;
- (d) deductions for house-accommodation supplied by the employer ;
- (e) deductions for such amenities and services supplied by the employer as the Governor General in Council or Local Government may, by general or special order, authorise ;

Explanation.—The word 'services' in this sub-clause does not include the supply of tools and raw materials required for the purposes of employment.

- (f) deductions for recovery of advances or for adjustment of over-payments of wages ;
- (g) deductions of income-tax payable by the employed person ;
- (h) deductions required to be made by order of a Court or other authority competent to make such order ;
- (i) deductions for subscriptions to, and for repayment of advances from any provident fund to which the Provident Funds Act, 1925, applies ^{XIX of 1925.} or any recognised provident fund as defined in section 58A of the Indian Income-tax Act, 1922, or any provident fund approved in this ^{XI of 1922.} behalf by the Local Government, during the continuance of such approval ; and
- (j) deductions for payments to co-operative societies approved by the Local Government or to a scheme of insurance maintained by the Indian Post Office.

Fines.

8. (1) No fine shall be imposed on any employed person save in respect of such acts and omissions on his part as the employer, with the previous approval of the
Local

Local Government or of the prescribed authority, may have specified by notice under sub-section (2).

(2) A notice specifying such acts and omissions shall be exhibited in the prescribed manner on the premises in which the employment is carried on or in the case of persons employed upon a railway (otherwise than in a factory), at the prescribed place or places.

(3) No fine shall be imposed on any employed person until he has been given an opportunity of showing cause against the fine, or otherwise than in accordance with such procedure as may be prescribed for the imposition of fines.

(4) The total amount of fine which may be imposed in any one wage-period on any employed person shall not exceed an amount equal to half-an-anna in the rupee of the wages payable to him in respect of that wage-period.

(5) No fine shall be imposed on any employed person who is under the age of fifteen years.

(6) No fine imposed on any employed person shall be recovered from him by instalments or after the expiry of sixty days from the day on which it was imposed.

(7) Every fine shall be deemed to have been imposed on the day of the act or omission in respect of which it was imposed.

(8) All fines and all realisations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under section 3 in such form as may be prescribed; and all such realisations shall be applied only to such purposes beneficial to the persons employed in the factory or establishment as are approved by the prescribed authority.

Explanation.—When the persons employed upon or in any railway, factory or industrial establishment are part only of a staff employed under the same management, all such realisations may be credited to a common fund maintained for the staff as a whole, provided that the fund shall be applied only to such purposes as are approved by the prescribed authority.

9. (1) Deductions may be made under clause (b) of sub-section (2) of section 7 only on account of the absence of an employed person from the place or places where, by the terms of his employment, he is required to work, such absence being for the whole or any part of the period during which he is so required to work.

(2) The amount of such deduction shall in no case bear to the wages payable to the employed person in respect of the wage-period for which the deduction is made a larger proportion than the period for which he was absent

Deductions for
absence from
duty.

absent bears to the total period, within such wage-period, during which by the terms of his employment, he was required to work :

Provided that, subject to any rules made in this behalf by the Local Government, if ten or more employed persons acting in concert absent themselves without due notice (that is to say without giving the notice which is required under the terms of their contracts of employment) and without reasonable cause, such deduction from any such person may include such amount not exceeding his wages for eight days as may by any such terms be due to the employer in lieu of due notice.

Deductions for
damage or loss.

10. (1) A deduction under clause (c) of sub-section (2) of section 7 shall not exceed the amount of the damage or loss caused to the employer by the neglect or default of the employed person and shall not be made until the employed person has been given an opportunity of showing cause against the deduction, or otherwise than in accordance with such procedure as may be prescribed for the making of such deductions.

(2) All such deductions and all realisations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under section 3 in such form as may be prescribed.

Deductions for
services
rendered.

11. A deduction under clause (d) or clause (e) of sub-section (2) of section 7 shall not be made from the wages of an employed person, unless the house-accommodation amenity or service has been accepted by him, as a term of employment or otherwise, and such deduction shall not exceed an amount equivalent to the value of the house-accommodation amenity or service supplied and, in the case of a deduction under the said clause (e), shall be subject to such conditions as the Governor General in Council or the Local Government may impose.

Deductions for
recovery of
advances.

12. Deductions under clause (f) of sub-section (2) of section 7 shall be subject to the following conditions, namely :—

- (a) recovery of an advance of money given before employment began shall be made from the first payment of wages in respect of a complete wage-period, but no recovery shall be made of such advances given for travelling-expenses ;
- (b) recovery of advances of wages not already earned shall be subject to any rules made by the Local Government regulating the extent to which such advances may be given and the instalments by which they may be recovered.

13. deductions

13. Deductions under clause (j) of sub-section (2) of section 7 shall be subject to such conditions as the Local Government may impose.

Deductions for payments to co-operative societies and insurance schemes.

XXV of 1934. 14. (1) An Inspector of Factories appointed under sub-section (1) of section 10 of the Factories Act, 1934, shall be an Inspector for the purposes of this Act in respect of all factories within the local limits assigned to him.

(2) The Governor General in Council may appoint Inspectors for the purposes of this Act in respect of all persons employed upon a railway (otherwise than in a factory) to whom this Act applies.

(3) The Local Government may, by notification in the local official Gazette, appoint such other persons as it thinks fit to be Inspectors for the purposes of this Act, and may define the local limits within which and the class of factories and industrial establishments in respect of which they shall exercise their functions.

(4) An Inspector may, at all reasonable hours, enter on any premises, and make such examination of any register or document relating to the calculation or payment of wages and take on the spot or otherwise such evidence of any person, and exercise such other powers of inspection, as he may deem necessary for carrying out the purposes of this Act.

XLV of 1860. (5) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code.

15. (1) The Local Government may, by notification in the local official Gazette, appoint any Commissioner for Workmen's Compensation or other officer with experience as a Judge of a Civil Court or as a stipendiary Magistrate to be the authority to hear and decide for any specified area all claims arising out of deductions from the wages, or delay in payment of the wages, of persons employed or paid in that area.

Claims arising out of deductions from wages or delay in payment of wages and penalty for malicious or vexatious claims.

(2) Where contrary to the provisions of this Act any deduction has been made from the wages of an employed person, or any payment of wages has been delayed, such person himself, or any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf, or any Inspector under this Act, or any other person acting with the permission of the authority appointed under sub-section (1), may apply to such authority for a direction under sub-section (3) :

Provided that every such application shall be presented within six months from the date on which the deduction from the wages was made or from the date on which

which the payment of the wages was due to be made, as the case may be :

Provided further that any application may be admitted after the said period of six months when the applicant satisfies the authority that he had sufficient cause for not making the application within such period.

(3) When any application under sub-section (2) is entertained, the authority shall hear the applicant and the employer or other person responsible for the payment of wages under section 3, or give them an opportunity of being heard, and, after such further inquiry (if any) as may be necessary, may, without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the refund to the employed person of the amount deducted, or the payment of the delayed wages, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount deducted in the former case and not exceeding ten rupees in the latter :

Provided that no direction for the payment of compensation shall be made in the case of delayed wages if the authority is satisfied that the delay was due to—

- (a) a *boná fide* error or *boná fide* dispute as to the amount payable to the employed person, or
- (b) the occurrence of an emergency, or the existence of exceptional circumstances, such that the person responsible for the payment of the wages was unable, though exercising reasonable diligence, to make prompt payment, or
- (c) the failure of the employed person to apply for or accept payment.

(4) If the authority hearing any application under this section is satisfied that it was either malicious or vexatious, the authority may direct that a penalty not exceeding fifty rupees be paid to the employer or other person responsible for the payment of wages by the person presenting the application.

(5) Any amount directed to be paid under this section may be recovered—

- (a) if the authority is a Magistrate, by the authority as if it were a fine imposed by him as Magistrate, and
- (b) if the authority is not a Magistrate, by any Magistrate to whom the authority makes application in this behalf, as if it were a fine imposed by such Magistrate.

Single application in respect of claims from unpaid group.

16. (1) Employed persons are said to belong to the same unpaid group if they are borne on the same establishment and if their wages for the same

wage-period

wage-period or periods have remained unpaid after the day fixed by section 5.

(2) A single application may be presented under section 15 on behalf or in respect of any number of employed persons belonging to the same unpaid group, and in such case the maximum compensation that may be awarded under sub-section (3) of section 15 shall be ten rupees per head.

(3) The authority may deal with any number of separate pending applications, presented under section 15 in respect of persons belonging to the same unpaid group, as a single application presented under sub-section (2) of this section, and the provisions of that sub-section shall apply accordingly.

17. (1) An appeal against a direction made under sub-section (3) of section 15 may be preferred, within thirty days of the date on which the direction was made, in a Presidency-town or in Rangoon before the Court of Small Causes and elsewhere before the District Court—

- (a) by the employer or other person responsible for the payment of wages under section 3, if the total sum directed to be paid by way of wages and compensation exceeds three hundred rupees, or
- (b) by an employed person, if the total amount of wages claimed to have been withheld from him or from the unpaid group to which he belonged exceeds fifty rupees, or
- (c) by any person directed to pay a penalty under sub-section (5) of section 15.

(2) Save as provided in sub-section (1), any direction made under sub-section (3) or sub-section (5) of section 15 shall be final.

18. Every authority appointed under sub-section (1) of section 15 shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such authority shall be deemed to be a Civil Court for all the purposes of section 195 and of Chapter XXXV of the Code of Criminal Procedure, 1898.

v of 1908.

v of 1898.

19. When the authority referred to in section 15 or the Court referred to in section 17 is unable to recover from any person (other than an employer) responsible under section 3 for the payment of wages any amount directed by such authority under section 15 or section 17 to be paid by such person, the authority shall recover the amount from the employer of the employed person concerned.

Powers of authorities appointed under section 15.
Power to recover from employer in certain cases.

20. (1) whoever

Penalty for offences under the Act.

20. (1) Whoever being responsible for the payment of wages to an employed person contravenes any of the provisions of any of the following sections, namely, section 5 and sections 7 to 13, both inclusive, shall be punishable with fine which may extend to five hundred rupees.

(2) Whoever contravenes the provisions of section 4, section 6 or section 25 shall be punishable with fine which may extend to two hundred rupees.

Procedure in trial of offences.

21. (1) No Court shall take cognizance of a complaint against any person for an offence under sub-section (1) of section 20, unless an application in respect of the facts constituting the offence has been presented under section 15 and has been granted wholly or in part and the authority empowered under the latter section or the appellate Court granting such application has sanctioned the making of the complaint.

(2) Before sanctioning the making of a complaint against any person for an offence under sub-section (1) of section 20, the authority empowered under section 15 or the appellate Court, as the case may be, shall give such person an opportunity of showing cause against the granting of such sanction, and the sanction shall not be granted if such person satisfies the authority or Court that his default was due to—

- (a) a *bonâ fide* error or *bonâ fide* dispute as to the amount payable to the employed person, or
- (b) the occurrence of an emergency, or the existence of exceptional circumstances, such that the person responsible for the payment of the wages was unable, though exercising reasonable diligence, to make prompt payment, or
- (c) the failure of the employed person to apply for or accept payment.

(3) No Court shall take cognizance of a contravention of section 4 or of section 6 or of a contravention of any rule made under section 26 except on a complaint made by or with the sanction of an Inspector under this Act.

(4) In imposing any fine for an offence under sub-section (1) of section 20 the Court shall take into consideration the amount of any compensation already awarded against the accused in any proceedings taken under section 15.

Bar of suits.

22. No Court shall entertain any suit for the recovery of wages or of any deduction from wages in so far as the sum so claimed—

- (a) forms the subject of an application under section 15 which has been presented by the plaintiff

- the plaintiff and which is pending before the authority appointed under that section or of an appeal under section 17;
or
- (b) has formed the subject of a direction under section 15 in favour of the plaintiff; or
- (c) has been adjudged, in any proceeding under section 15, not to be owed to the plaintiff;
or
- (d) could have been recovered by an application under section 15.

23. Any contract or agreement, whether made before or after the commencement of this Act, whereby an employed person relinquishes any right conferred by this Act shall be null and void in so far as it purports to deprive him of such right. Contra ting out.

24. The powers by this Act conferred upon the Local Government shall be exercised by the Governor General in Council in any case in which the exercise of such powers affects any persons employed by a railway administration. Powers to be exercised by Governor General in Council.

25. The person responsible for the payment of wages to persons employed in a factory shall cause to be displayed in such factory a notice containing such abstracts of this Act and of the rules made thereunder in English and in the language of the majority of the persons employed in the factory, as may be prescribed. Display by notice of abstracts of the Act.

26. (1) The Governor General in Council may make rules to regulate the procedure to be followed by the authorities and Courts referred to in sections 15 and 17. Rule-making power.

(2) The Local Government may, subject to the control of the Governor General in Council, by notification in the local official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(3) In particular and without prejudice to the generality of the foregoing power, rules made under sub-section (2) may—

- (a) require the maintenance of such records, registers, returns and notices as are necessary for the enforcement of the Act and prescribe the form thereof;
- (b) require the display in a conspicuous place on premises where employment is carried on of notices specifying rates of wages payable to persons employed on such premises;
- (c) provide for the regular inspection of the weights, measures and weighing machines used by employers

employers in checking or ascertaining the wages of persons employed by them ;

- (d) prescribe the manner of giving notice of the days on which wages will be paid ;
- (e) prescribe the authority competent to approve under sub-section (1) of section 8 acts and omissions in respect of which fines may be imposed ;
- (f) prescribe the procedure for the imposition of fines under section 8 and for the making of the deductions referred to in section 10 ;
- (g) prescribe the conditions subject to which deductions may be made under the proviso to sub-section (2) of section 9 ;
- (h) prescribe the authority competent to approve the purposes on which the proceeds of fines shall be expended ;
- (i) prescribe the extent to which advances may be made and the instalments by which they may be required with reference to clause (b) of section 12 ;
- (j) regulate the scales of costs which may be allowed in proceedings under this Act ;
- (k) prescribe the amount of court-fees payable in respect of any proceedings under this Act ; and
- (l) prescribe the abstracts to be contained in the notices required by section 25.

(4) In making any rule under this section the Local Government may provide that a contravention of the rule shall be punishable with fine which may extend to two hundred rupees.

(5) All rules made under this section shall be subject to the condition of previous publication, and the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897, shall not be less than three months from the date on which the draft of the proposed rules was published. ^{X of 1897.}

ACT NO. V OF 1936.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
26th April, 1936.)

An Act to remove certain doubts and to establish the validity of certain proceedings in High Courts of Judicature in British India.

WHEREAS doubts have arisen as to the validity of
certain proceedings in High Courts of Judicature
in British India under the Letters Patent erecting and
establishing those Courts ;

AND WHEREAS it is expedient to terminate those
doubts and to establish the validity of those proceed-
ings ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Decrees and Orders Validating Act, 1936. Short title and extent.

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

2. No decree passed or order made by the High Court of Judicature at Fort William in Bengal, the High Court of Judicature at Madras or the High Court of Judicature at Bombay, in the exercise of its ordinary original civil jurisdiction under clause 12 of its Letters Patent, or by the High Court of Judicature at Rangoon, in the exercise of its original civil jurisdiction under clause 10 of its Letters Patent, shall be called in question in any proceedings before any other Court on the ground that the High Court passing the decree or making the order had no jurisdiction to pass or make the decree or order. Certain decrees and orders not to be called in question.

3. Where-

Price anna 1 or 1½d.

Decrees and Orders Validating. [Act V of 1936.]

Restoration of
proceedings.

3. Where in any proceedings concluded on or after the 26th day of August, 1935, any such decree or order has been found to be invalid on such ground by any Court, such finding shall be void and of no effect ; and the Court shall, notwithstanding anything to the contrary in the Indian Limitation Act, 1908, or any other law for the time being in force, on application made within six months from the commencement of this Act by any person prejudicially affected by such finding, restore the proceedings at and continue the proceedings from the stage reached immediately before the order embodying or based on such finding was made.

ACT NO. VI OF 1936.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
26th April, 1936.)

An Act to make special provision for the administration of the port of Cochin.

WHEREAS it is expedient to make special provision for the administration of the port of Cochin ;
It is hereby enacted as follows :—

1. (1) This Act may be called the Cochin Port Act, Short title and commencement.
1936.

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

2. The enactments specified in the Schedule shall, Construction of certain enactments in their application to the port of Cochin.
in their application to the port of Cochin, be construed as if references in the said enactments to the Local Government, to the local official Gazette and to the Fort St. George Gazette were references to the Governor General in Council and to the Gazette of India, respectively, and where anything done in respect of the said port under any of the said enactments is in force immediately before the commencement of this Act, it shall be deemed, as from the commencement of this Act, to have been done under that enactment as so construed.

SCHEDULE.

(1) *Act of the Governor General in Council.*—The Indian Ports Act, 1908 (XV of 1908), with the exception of clause (p) of sub-section (1) of section 6, section 17, section 49 and section 50.

(2) *Madras Act.*—The Madras Outports Landing and Shipping Fees Act, 1885.

Price anna 1 or 1½d.

1971

ACT NO. VII OF 1936.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
26th April, 1936.)

An Act to amend the Indian Aircraft Act, 1934, for a certain purpose.

XXII of 1934. **W**HEREAS it is expedient to amend the Indian Aircraft Act, 1934, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Aircraft (Amendment) Act, 1936. Short title.

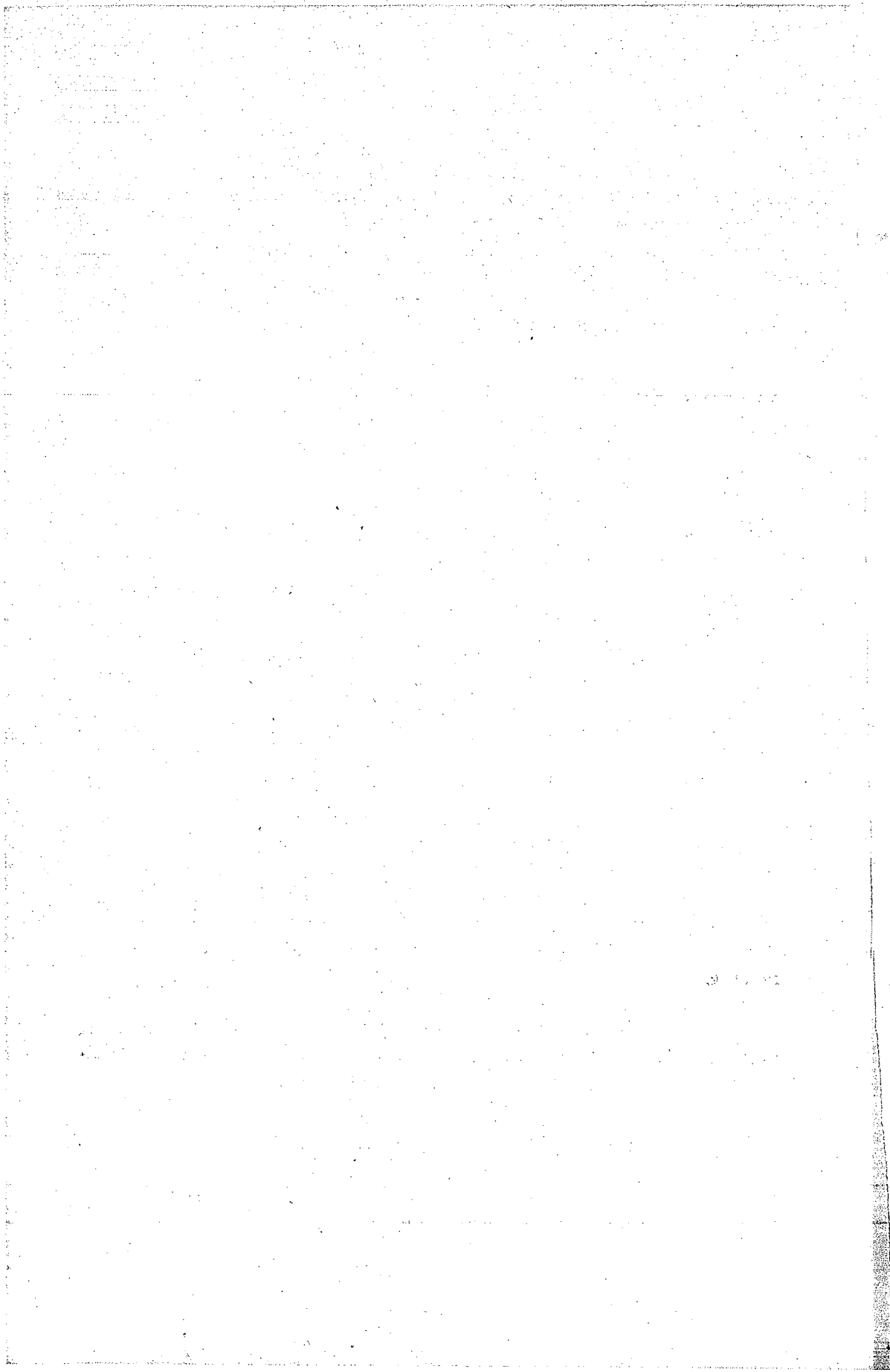
XXII of 1934. 2. After section 8 of the Indian Aircraft Act, 1934 (hereinafter referred to as the said Act), the following section shall be inserted, namely:— Insertion of new section 8A in Act XXII of 1934.

“ 8A. The Governor General in Council may, by notification in the Gazette of India, make rules for the prevention of danger arising to the public health by the introduction or spread of any infectious or contagious disease from aircraft arriving at or being at any aerodrome and for the prevention of the conveyance of infection or contagion by means of any aircraft leaving an aerodrome and in particular and without prejudice to the generality of this provision may make, with respect to aircraft and aerodromes or any specified aerodrome, rules providing for any of the matters for which rules under sub-clauses (i) to (viii) of clause (p) of sub-section (1) of section 6 of the Indian Ports Act, 1908, may be made with respect to vessels and ports. ” Power of Governor General in Council to make rules for protecting the public health.

XV of 1908.

3. In section 10 of the said Act, for the words and figure “ or section 8 ” the words, figures and letter “, section 8 or section 8A ” shall be substituted. Amendment of section 10, Act XXII of 1934.

Price anna 1 or 1½d.



ACT NO. VIII OF 1936.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
26th April, 1936.)

An Act further to amend the Factories Act, 1934, for a certain purpose.

XXV
1934.

of **W**HEREAS it is expedient further to amend the
Factories Act, 1934, for the purpose hereinafter
appearing; It is hereby enacted as follows:—

1. This Act may be called the Factories (Amendment) Short title,
Act, 1936.

XXV
1934.

of 2. In section 5 of the Factories Act, 1934,—

Amendment
of section 5,
Act XXV of
1934.

(a) in sub-section (1),—

(i) for the words "premises whereon or within
the precincts whereof" the words "place
wherein" shall be substituted; and

(ii) for the words "whereon or within the
precincts whereof", where they occur for the
second time, the word "wherein" shall be
substituted;

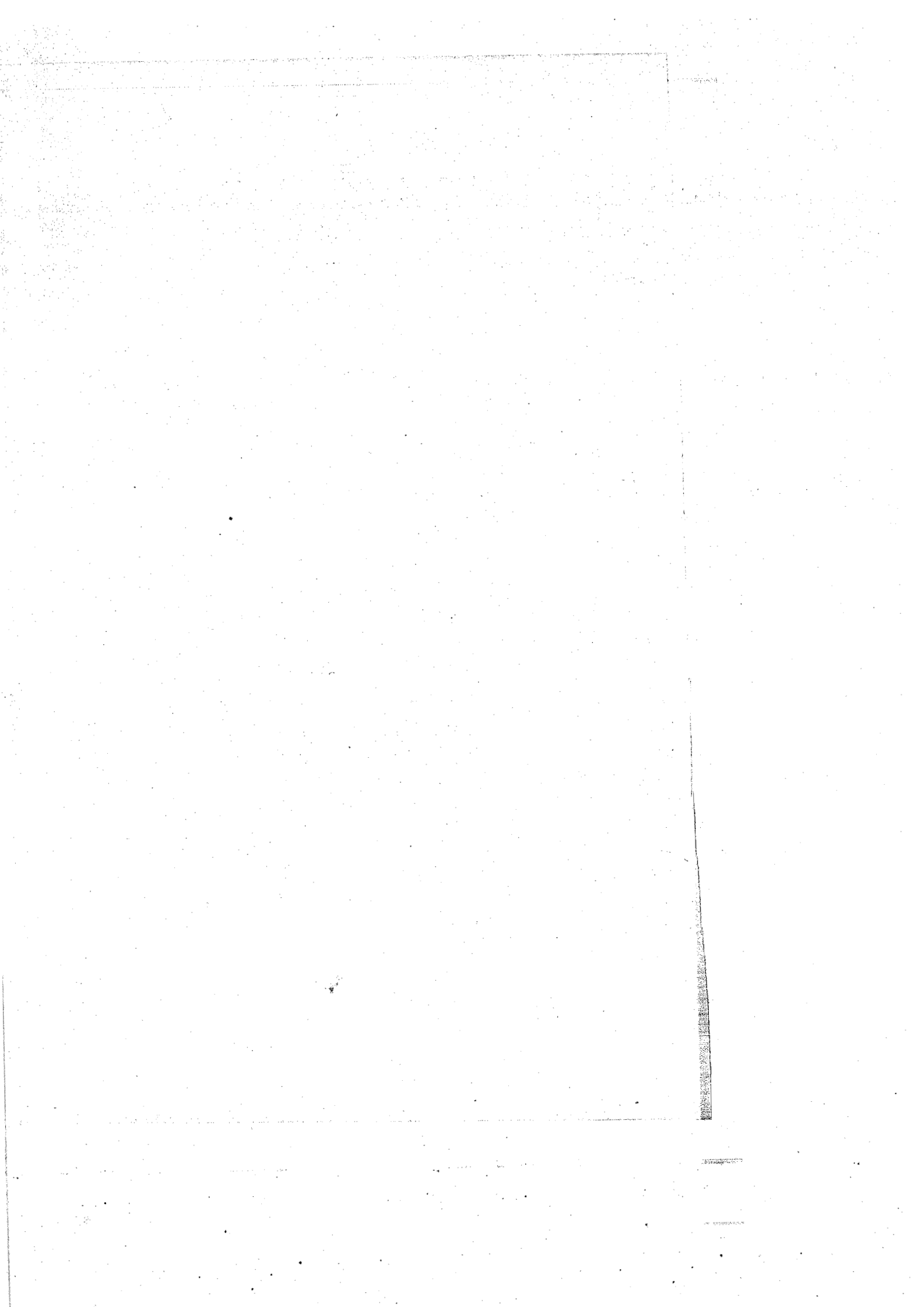
(b) in sub-section (2), for the words "premises or
class of premises" the words "place or class
of places" shall be substituted; and

(c) in sub-section (3), for the word "premises"
the word "place", and for the word "there-
on" the word "therein" shall be substituted

Price anna 1 or 1½d.

1

GIPD—L 102LD—1.6.36—15,000.



ACT NO. IX OF 1936.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
26th April, 1936.)

An Act further to amend the Indian Lac Cess Act, 1930, for certain purposes.

XXIV of 1930. **W**HEREAS it is expedient further to amend
the Indian Lac Cess Act, 1930, for the purposes
hereinafter appearing ; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Lac Cess Short title and
(Amendment) Act, 1936. commencement.

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

XXIV of 1930. 2. In section 3 of the Indian Lac Cess Act, 1930 Amendment of
(hereinafter referred to as the said Act),— section 3, Act
XXIV of 1930.

(a) for the words "four annas" the words "seven
annas" shall be substituted ; and

(b) for the words "two annas" the words "five
annas" shall be substituted.

3. For section 4 of the said Act the following section Substitution of
shall be substituted, namely :— new section
for section 4,
Act XXIV of
1930.

"4. (1) The Governor General in Council shall Constitution
constitute a Committee to receive and expend of the Indian
the proceeds of the cess. Lac Cess
Committee.

(2) The Committee shall consist of a Governing
Body and an Advisory Board, each having its
own chairman who shall be nominated by the
Governor General in Council.

(3) The

Price anna 1 or 1½d.

Indian Lac Cess (Amendment). [ACT IX

- (3) The President of the Committee shall be the person nominated by the Governor General in Council to be chairman of the Governing Body.
- (4) The Governing Body shall consist of the following members, namely :—
- (i) the chairman appointed under sub-section (2) ;
 - (ii) three members representing the shellac manufacturing industry, to be nominated one by the Bengal Chamber of Commerce, one by the Calcutta Shellac Brokers Association and one by the Shellac Traders' Association, Mirzapur ;
 - (iii) one member representing the shellac export trade, to be nominated by the Bengal Chamber of Commerce ;
 - (iv) one member representing the lac brokers and shellac brokers in Calcutta, to be nominated by the Calcutta Shellac Brokers Association ;
 - (v) six members representing the cultivators of lac, one to be nominated by the Local Government of Bengal, one by the Local Government of the United Provinces, one by the Local Government of the Central Provinces, one by the Local Government of Assam and two by the Local Government of Bihar and Orissa ;
 - (vi) one member representing indigenous shellac manufacturers, to be nominated by the Governor General in Council ; and
 - (vii) two members of whom one at least shall represent the lac consuming industries in India, to be nominated by the Governor General in Council.

(5) The

- (5) The Advisory Board shall consist of the following members, namely :—
- (i) the chairman appointed under sub-section (2) ;
 - (ii) the Conservator of Forests, Bihar and Orissa, *ex-officio* ;
 - (iii) the Forest Entomologist, Dehra Dun, *ex-officio* ;
 - (iv) the Imperial Entomologist, *ex-officio* ;
 - (v) the Director of Agriculture, Bihar and Orissa, *ex-officio* ;
 - (vi) the Director of the Lac Research Institute, Nankum, *ex-officio* ;
 - (vii) one forest officer, to be nominated by the Governor General in Council ;
 - (viii) two scientists, to be nominated by the Governor General in Council ; and
 - (ix) two experts, one representing the lac manufacturing industry and one representing the lac consuming industry, to be nominated by the Governor General in Council :

Provided that the experts referred to in clause (ix) may be persons nominated as members of the Governing Body under clause (ii), (vi) or (vii) of sub-section (4), and shall in that case be entitled to exercise the functions proper to them as members of the Governing Body or the Advisory Board, respectively.

- (6) If within the period prescribed in this behalf, or, in the case of the first nominations under this section, within a reasonable time, any authority or body fails to make any nomination which it is entitled to make under this section, the Governor General in Council may himself nominate a member to fill the vacancy.
- (7) The Secretary of the Committee, who shall also be the Secretary of the Governing Body and of the Advisory Board, shall be a person not being

Indian Lac Cess (Amendment). [Act IX

being a member of the Committee appointed by the Governor General in Council.

- (8) Where a nominated member dies, resigns, ceases to reside in British India or becomes incapable of acting, the Governor General in Council may, of his own motion if the member to be replaced was nominated by him, or in other cases on the recommendation of the authority or body entitled to make the original nomination, nominate a person to fill the vacancy :

Provided that where such authority or body fails to make a recommendation within the prescribed period, the Governor General in Council may of his own motion nominate a person to fill the vacancy.

- (9) No act done by the Committee shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Committee."

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

Insertion of
new section
5A in Act
XXIV of
1930.

Powers of
Governing
Body and Ad-
visory Board.

"5A. (1) Subject to the provisions of sub-section (2) and sub-section (3), the Governing Body alone shall manage the affairs and administer the funds of the Committee, shall make all decisions and take all action required under this Act to be made or taken by the Committee, and shall discharge on behalf of the Committee all the functions of the Committee as a body corporate.

(2) The Governing Body and the Advisory Board together shall exercise the functions assigned to the Committee by section 9.

(3) All matters of a technical or scientific nature proposed for consideration by the Committee shall be referred to the Advisory Board, and the Advisory Board shall report thereon to the Governing Body.

(4) If

of 1936.] *Indian Lac Cess (Amendment).*

(4) If a doubt arises whether any action taken by the Governing Body is or is not within its powers under sub-section (1), the matter shall be referred to the Governor General in Council whose decision shall be final."

5. To section 6 of the said Act the following sub-section shall be added, namely:—

Amendment
of section 6,
Act XXIV
of 1930.

"(3) Subject to the control of the Governor General in Council, the Committee may apply part of such proceeds and moneys to meeting expenditure hitherto or hereafter incurred in securing patents for the protection of inventions by employees of the Committee."

6. In sub-section (2) of section 8 of the said Act,—

Amendment of
section 8, Act
XXIV of 1930.

(a) in clause (d) and clause (e), after the word "Committee" the words " or the Governing Body or the Advisory Board " shall be inserted ; and

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

"(pp) provide for the periodical inspection by persons appointed in this behalf by the Governor General in Council of the Indian Lac Research Institute and other institutions maintained by the Committee ;".

7. In section 9 of the said Act, in clause (c) after the word "Committee" the words " ; the Governing Body, the Advisory Board " shall be inserted.

Amendment
of section 9,
Act XXIV of
1930.

1911

ACT NO. X OF 1936.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
26th April, 1936.)

An Act further to amend the Indian Tariff Act, 1934, for certain purposes.

XXXII of
1934.

WHEREAS it is expedient further to amend the Indian Tariff Act, 1934, for the purposes herein-after appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Tariff Short title. (Amendment) Act, 1936.

XXXII of
1934.

2. In the First Schedule to the Indian Tariff Act, 1934,—
Amendment
of First
Schedule,
Act XXXII
of 1934.

(a) for Items Nos. 10 (1) and 10 (2), the following items shall be substituted, namely:—

“ 10 (1)	WHEAT	Protective	Re. 1 per cwt.	..	..	March 31st, 1937.
10 (2)	BROKEN RICE	Protective	Twelve annas per Indian maund of 82 2/7 lbs. avoirdupois weight.	..	..	March 31st, 1937.”;

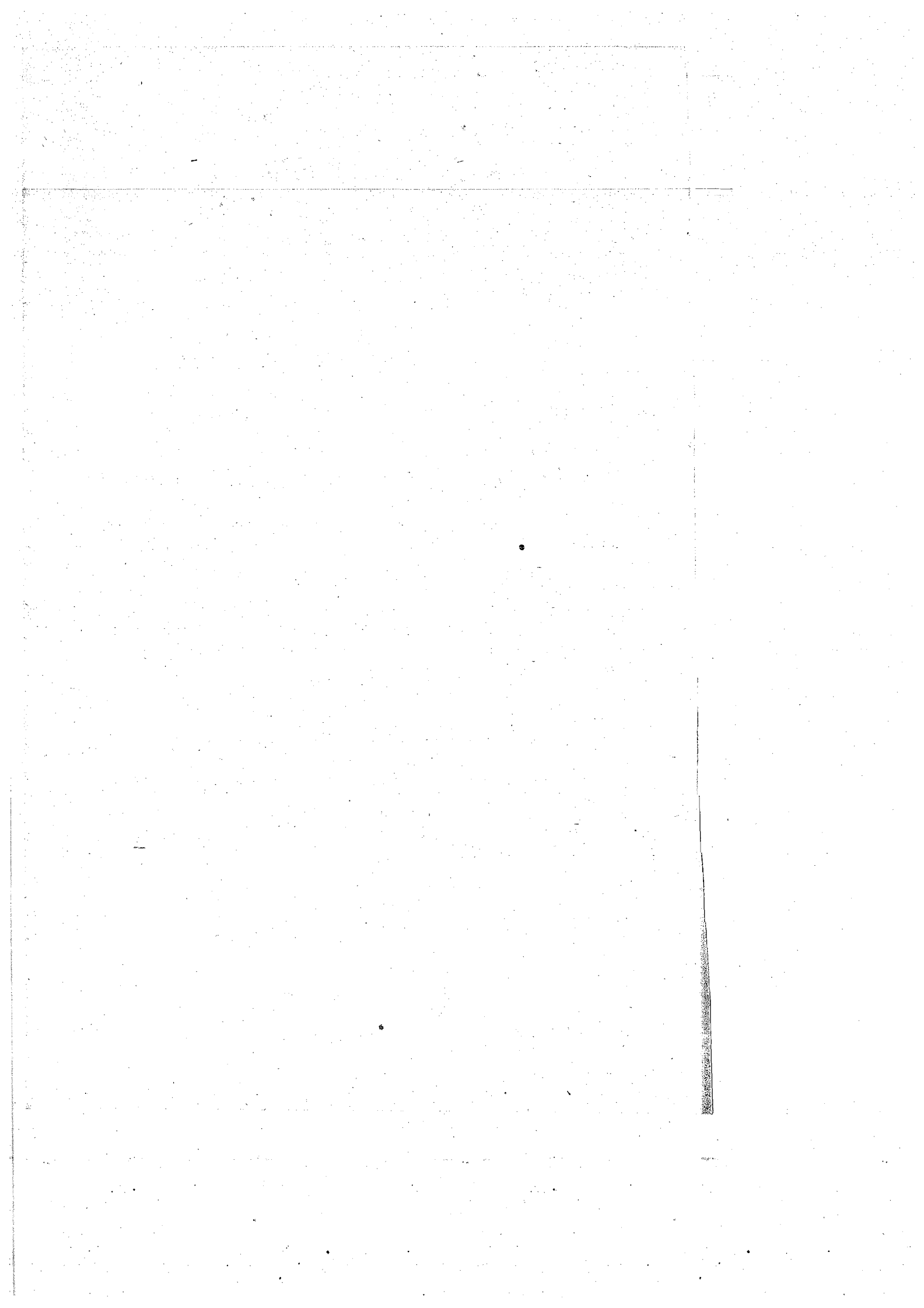
and

(b) for Item No. 11 (1) the following item shall be substituted, namely:—

“ 11 (1)	WHEAT FLOUR	Protective	Re. 1 per cwt.	March 31st, 1937.”
----------	-------------	------------	----------------	----	----	-----------------------

¹ This section came into effect on the 9th April, 1936, by virtue of a declaration inserted in the Bill under the Provisional Collection of Taxes Act, 1931 (XVI of 1931).

Price anna 1 or 1½d.



ACT NO. XI OF 1936.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
26th April, 1936.)

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

IV of 1923.

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

1. (1) This Act may be called the Indian Mines (Amendment) Act, 1936. Short title and commencement.

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

IV of 1923.

2. (1) In section 19 of the Indian Mines Act, 1923 (hereinafter referred to as the said Act), after sub-section (1) the following sub-section shall be deemed to be inserted, namely:— Amendment of section 19, Act IV of 1923.

“(1A) Without prejudice to the generality of the provisions contained in sub-section (1), the Chief Inspector or the Inspector may, in any area to which the Governor General in Council may by notification in the Gazette of India declare that this sub-section applies, by order in writing addressed to the owner, agent or manager of a mine,—

(a) prohibit the extraction or reduction of pillars in any part of the mine if, in his opinion, such operation is likely to cause the crushing of pillars or the premature collapse of any part of the workings or otherwise endanger the mine, or if, in his opinion, adequate provision

Price anna 1 or 1½d.

Indian Mines (Amendment) [Act XI

provision against the outbreak of fire has not been made by providing for the sealing off and isolation of the part of the mine in which such operation is contemplated and for restricting the area that might be affected by a fire ; or

- (b) limit to such dimensions as he considers reasonable the galleries that may be driven in the mine ;

and the provisions of sub-sections (3), (4), (5) and (6) shall apply to an order made under this sub-section as they apply to an order made under sub-section (2)."

(2) This section shall have effect for two years only from the commencement of this Act.

Amendment of section 29, Act IV of 1923.

3. In section 29 of the said Act,—

- (a) in clause (m), after the words " providing for " the words " and regulating " shall be inserted ; and

- (b) for clause (p) the following clause shall be substituted, namely :—

" (p) for providing against explosions or ignitions or irruptions of or accumulations of water in mines and against danger arising therefrom, and for prohibiting, restricting or regulating the extraction of minerals in circumstances likely to result in or to aggravate irruptions of water or ignitions in mines ; "

Amendment of section 30, Act IV of 1923.

4. In clause (c) of section 30 of the said Act, the words " the formation and training of rescue brigades " shall be omitted.

Insertion of new section 30A in Act IV of 1923.

5. After section 30 of the said Act the following section shall be inserted, namely :—

Power of the Governor General in Council to regulate rescue stations to be established.

" 30A. The Governor General in Council may, by notification in the Gazette of India, make regulations under this section—

- (a) requiring groups of specified mines to establish central rescue stations,

(b) prescribing

- (b) prescribing the position, equipment, control, maintenance and functions of such rescue stations,
- (c) providing for the allocation of the cost of the maintenance and upkeep thereof among mines served by such stations, and for the recovery from owners or agents of mines of sums payable on account of such cost, and
- (d) providing for the formation, training and duties of rescue brigades."

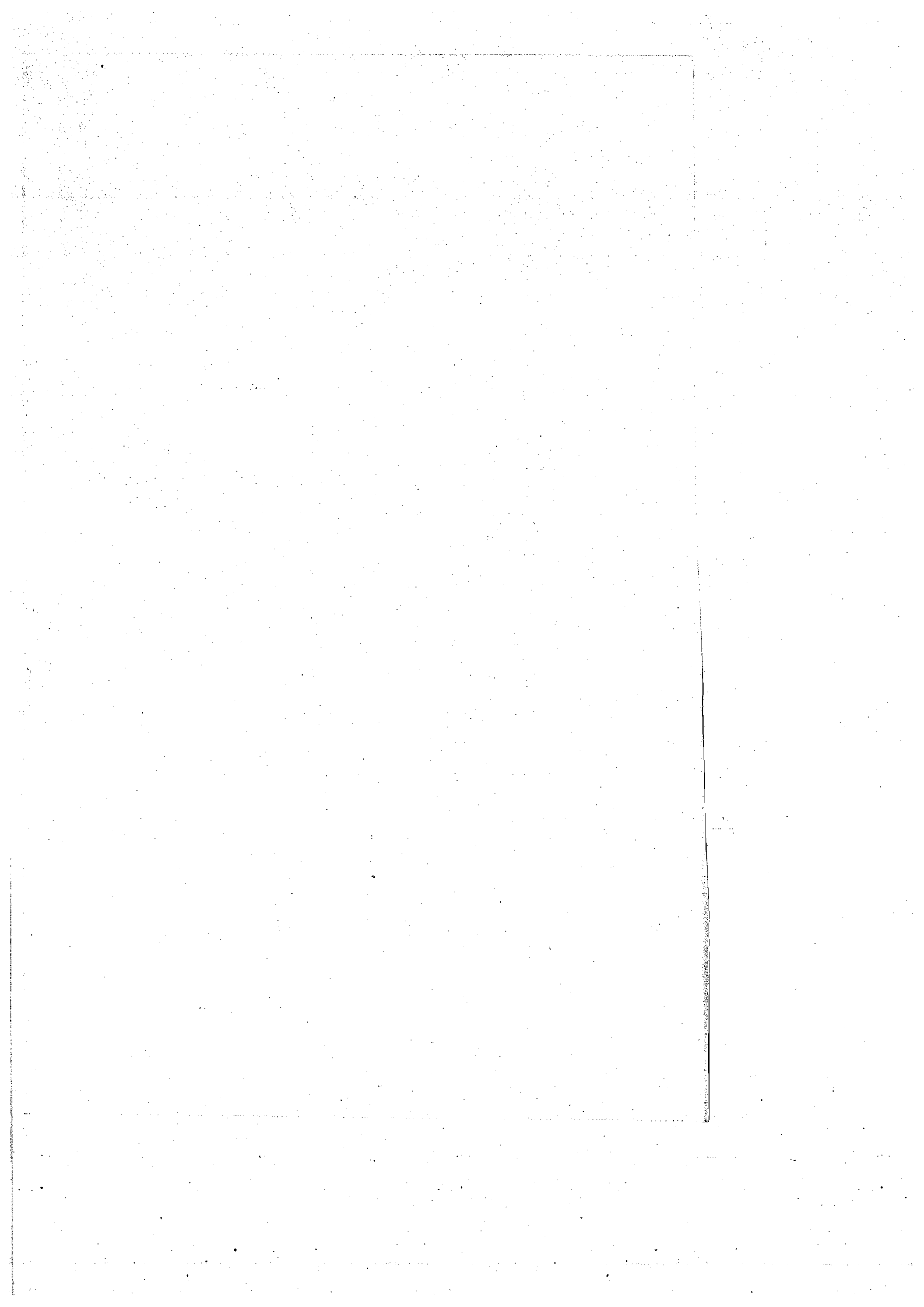
6. After section 31 of the said Act the following section shall be inserted, namely :—

Insertion of new section 31A in Act IV of 1923.

" 31A. Notwithstanding anything contained in sub-sections (1), (2) and (3) of section 31, regulations under clause (i) and clauses (k) to (s) inclusive of section 29 may be made without previous publication and without previous reference to Mining Boards, if the Governor General in Council is satisfied that for the prevention of apprehended danger or the speedy remedy of conditions likely to cause danger it is necessary in making such regulations to dispense with the delay that would result from such publication and reference :

Power to make regulations without previous publication.

Provided that any regulations so made shall not remain in force for more than two years from the making thereof."



ACT NO. XII OF 1936.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
1st May, 1936.)

An Act further to amend the Indian Tariff Act, 1934, for certain purposes.

XXXII of 1934. WHEREAS it is expedient further to amend the Indian Tariff Act, 1934, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. (I) This Act may be called the Indian Tariff ^{Short title.} (Second Amendment) Act, 1936.

XXXII of 1934. 2. In the First Schedule to the Indian Tariff ^{Amendment of First Schedule, Act XXXII of 1934.} Act, 1934,—

(a) in Item 47, for the entry in the second column the following entry shall be substituted, namely:—

“SILK YARN including thrown silk warps and yarn spun from silk waste or noils, but excluding sewing thread.”;

(b) in Item 47(1), for the entry in the second column the following entry shall be substituted, namely:—

“SILK SEWING THREAD”;

(c) for Item 49(1) the following item shall be substituted, namely:—

<p>“ 49(1) FENTS being bona fide remnants of piece-goods or other fabrics— (a) of materials liable to duty under Item 48(3), not exceeding 4 yards in length. (b) of materials liable to duty under Item 48, 48(1), 48(4) or 48(5), not exceeding 2½ yards in length. (c) of other materials, not exceeding 4 yards in length.</p>	<p>Preferential revenue.</p>	<p>35 per cent. ad valorem.</p>	<p>25 per cent. ad valorem.</p>	<p>•• ••</p>
<p>(b) of materials liable to duty under Item 48, 48(1), 48(4) or 48(5), not exceeding 2½ yards in length.</p>	<p>Preferential revenue.</p>	<p>35 per cent. ad valorem.</p>	<p>25 per cent. ad valorem.</p>	<p>•• ••</p>
<p>(c) of other materials, not exceeding 4 yards in length.</p>	<p>Preferential revenue.</p>	<p>35 per cent. ad valorem.</p>	<p>25 per cent. ad valorem.</p>	<p>••”;</p>

and
Price anna 1 or 1½d.

(d) for

Indian Tariff (Second Amendment). [ACT XII OF 1936.]

(d) for Item 51 (2) the following item shall be substituted, namely :—

"51(2)	COTTON KNITTED APPAREL, including apparel made of cotton interlocking material, cotton under-vests, knitted or woven, and cotton socks and stockings—						
	(a) of a weight not exceeding 4 lbs. per dozen.	Protective.	25 per cent. <i>ad valorem</i> or 12 annas per lb., whichever is higher.	..	..	March 1939.	31st,
	(b) of a weight exceeding 4 lbs. per dozen.	Protective.	25 per cent. <i>ad valorem</i> or 10 annas per lb., whichever is higher.	..	..	March 1939."	31st,

ACT NO. XIII OF 1936.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
27th October, 1936.)

An Act further to amend the Indian Tea Cess Act, 1903, for certain purposes.

WHEREAS it is expedient further to amend the
Indian Tea Cess Act, 1903, for the purposes
hereinafter appearing ; It is hereby enacted as follows :—

IX of 1903. 1. (1) This Act may be called the Indian Tea Cess (Amendment) Act, 1936. Short title and commencement.

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

IX of 1903. 2. In section 2 of the Indian Tea Cess Act, 1903 (hereinafter referred to as the said Act),— Amendment of section 2, Act IX of 1903.

(a) in clause (a), for the words “ the Collector of the district ” the words “ a Collector of Land Customs as defined in clause (c) of section 2 of the Land Customs Act, 1924 ” shall be substituted ;

(b) in clause (b), for the word “ by ” the words “ by or under ” shall be substituted ; and

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

“(c) ‘ the Board ’ means the Indian Tea Market Expansion Board constituted under section 4 ”.

XIX of 1924. 3. Section 3 of the said Act shall be renumbered as sub-section (1) of that section, and— Amendment of section 3, Act IX of 1903.

(a) in the said section so renumbered, for the words “ the rate of twelve annas per hundred pounds or at such lower rate as the Governor General in Council may, on the recommendation of the Tea Cess Committee ” the following words shall be substituted, namely :—

“ such rate not exceeding one rupee and eight annas per hundred pounds as the Governor General

Indian Tea Cess. [ACT XIII

General in Council may, on the recommendation of the Board”;

and

(b) to the said section so renumbered the following sub-section shall be added, namely:—

“(2) The Governor General in Council may, by notification in the Gazette of India, direct that a customs-duty at the like rate shall be levied and collected on all tea produced in India and taken by land from British India to any place beyond the limits of British India.”

Amendment of
section 4,
Act IX of
1908.

4. In section 4 of the said Act,—

(a) in sub-section (1), for the words “a Committee” the words “a body to be called the Indian Tea Market Expansion Board” shall be substituted;

(b) in sub-section (2),—

(i) for the word “twenty” the word “twenty-seven” shall be substituted; and

(ii) for clauses (a), (b) and (c) the following clauses shall be substituted, namely:—

“(a) two on the recommendation of the Bengal Chamber of Commerce, one on the recommendation of the Bengal National Chamber of Commerce, one on the recommendation of the Madras Chamber of Commerce and one on the recommendation of the Associated Chamber of Commerce and one on the recommendation of the Federation of Indian Chambers of Commerce and Industry and one on the recommendation of the South Indian Chamber of Commerce;

(b) five on the recommendation of the Indian Tea Association, Calcutta, two on the recommendation of the Assam Branch of the Indian Tea Association and two on the recommendation of the Surma Valley Branch of the Indian Tea Association;

(c) two

(c) two on the recommendation of the United Planters' Association of Southern India, two on the recommendation of the Dooars Planters' Association, one on the joint recommendation of the Darjeeling Planters' Association and the Terai Planters' Association and one on the recommendation of the Indian Tea Planters' Association, Jalpaiguri ; and

(d) two on the recommendation of the Government of Bengal of which one is to represent the Tea Planters in North Bengal and one to represent the Tea Planters of Tripura and Chittagong who are Indians, one on the recommendation of the Assam Valley Indian Tea Planters' Associations, one on the recommendation of the Surma Valley Indian Planters' Associations and one on the recommendation of the Government of Madras to represent Tea Planters in Southern India who are Indians."

5. After sub-section (2) of section 4 of the said Act, the following sub-section shall be inserted, namely :—

Amendment of section 4, Act IX of 1908.

"(2A) The Executive Committee of the Board shall consist of nine members of whom not less than three shall be Indians."

6. In section 5 of the said Act,—

Amendment of section 5, Act IX of 1908.

(a) in sub-section (2), for the words "teas produced in India" the words "tea generally and especially Indian tea" shall be substituted; and

(b) after sub-section (2) the following sub-section shall be inserted, namely :—

"(3) The Board may, subject to the provisions of any rules made under section 7, borrow on the security of the tea cess for any purpose for which it is authorised under sub-section (2) to expend its funds :

Provided that the total amount borrowed shall not at any time exceed five lakhs of rupees and that no loan shall be taken which is repayable later than six months from the date of the loan."

7. In

Indian Tea Cess. [ACT XIII OF 1936.]

Amendment of
section 7,
Act IX of
1903.

7. In sub-section (2) of section 7 of the said Act,—

(a) in clause (a)—

(i) after the word “nomination” the words
“election, recommendation” shall be
inserted ;

(ii) the word “and” before the word “ap-
pointment” shall be omitted ;

(iii) after the word “appointment” the words
“and retirement” shall be inserted ;

(b) in clause (b), the word “and”, where it occurs
for the second time, shall be omitted ; and

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

“(d) the conditions subject to which the Board
may incur expenditure outside India for the
promotion of the interests of the Indian tea
industry ; and

(e) the conditions subject to which the Board
may exercise its borrowing powers.”

Amendment of
section 9,
Act IX of
1903.

8. In section 9 of the said Act, for the figures “1908”
the figures “1938” shall be substituted.

General.

9. In the preamble and throughout the said Act,
for the word “Committee” and for the words “Tea
Cess Committee”, wherever they occur, the word “Board”
shall be substituted.

ACT NO. XIV OF 1936.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
27th October, 1936.)

An Act to implement Article 28 of the Geneva Convention
of the 27th day of July, 1929.

WHEREAS India was a signatory to the International Convention for the Amelioration of the Conditions of the Wounded and Sick in Armies in the Field, drawn up in Geneva and dated the 27th day of July, 1929;

AND WHEREAS it is necessary to provide for the discharge of the obligations imposed by Article 28 of that Convention in so far as provision has not been made by the Geneva Convention Act, 1911;

It is hereby enacted as follows:—

1. (1) This Act may be called the Geneva Convention Short title and extent.
Implementing Act, 1936.

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

2. No person shall use for the purposes of his trade or business or for any other purpose whatsoever any sign constituting a colourable imitation of the heraldic emblem of the red cross on a white ground formed by reversing the federal colours of Switzerland. Prohibition of use of imitations of emblem of Red Cross on white ground.

3. No person shall use for the purposes of his trade or business the heraldic emblem of the white cross on a red ground, being the federal colours of Switzerland, or any sign constituting a colourable imitation of that heraldic emblem. Prohibition of use of emblem of White Cross on red ground or imitations thereof.

4. Any person contravening the provisions of section 2 or section 3 shall be punishable with fine which may extend to fifty rupees, and when such contravention is committed by a company, association or body of individuals, then, without prejudice to the liability of such company, association or body, every member thereof who is knowingly a party to the contravention shall be liable to the like penalty. Penalty.

5. No

1

Price anna 1 or 1½d.

Geneva Convention. [ACT XIV OF 1936.]

Previous sanc-
tion for prose-
cution.

5. No criminal Court shall take cognizance of any offence punishable under this Act except with the previous sanction of the Governor General in Council or the Local Government.

Saving.

6. Nothing in the foregoing sections shall affect the right of any person, to continue to use for a period of two years from the commencement of this Act any sign or emblem which it was not unlawful for him to use at the commencement of this Act.

ACT NO. XV OF 1936.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
27th October, 1936.)

An Act to amend the Indian Rubber Control Act, 1934, for certain purposes.

XXVIII of 1934. WHEREAS it is expedient to amend the Indian
Rubber Control Act, 1934, for the purposes here-
inafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Rubber Control Short title.
(Amendment) Act, 1936.

XXVIII of 1934. 2. In section 2 of the Indian Rubber Control Act, 1934 Amendment of
section 2, Act
XXVIII of
1934.
(hereinafter referred to as the said Act),—

(a) in clause (c), the words “from rubber produced
in India” shall be omitted;

(b) in clause (d), for the words “excluding imported
rubber re-exported in manufactured articles
containing rubber” the words “excluding
rubber contained in imported manufactured
articles re-exported” shall be substituted and
for the words “excluding rubber in manufactur-
ed articles containing rubber” the words
“excluding rubber contained in imported
manufactured articles whether or not re-
exported” shall be substituted; and

(c) in clause (h), for the words “except where the
word is used in Chapter IV rubber produced in
India contained in any article manufactured
in India” the words “rubber contained in
any manufactured article” shall be substituted.

3. In sub-section (1) and sub-section (2) of section Amendment of
section 12,
Act XXVIII
of 1934.
12 of the said Act, for the words “the growth or
produce of” the words “grown, produced or contained
in an article manufactured in” shall be substituted.

4. For
1

Price anna 1 or 1½d.

Indian Rubber Control. [ACT XV OF 1936.]

Substitution of
new section
for section 13,
Act XXVIII
of 1934.

Export allot-
ments.

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

“ 13. A general export allotment, that is, the permissible maximum net exports of rubber from British India excluding Burma for any specified period expressed in terms of dry rubber, and a Burma export allotment, that is, the permissible maximum net exports of rubber from Burma for the same period similarly expressed, shall be declared from time to time by the Governor General in Council by notification in the Gazette of India.”

ACT NO. XVI OF 1936.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
27th October, 1936.)

An Act to validate certain marriages solemnized in the Civil and Military Station of Bangalore.

WHEREAS Mr. Walter James McDonald Redwood,
a Missionary of the Plymouth Brethren, was, in
the year 1929, granted by the Resident in Mysore a
licence, under the Indian Christian Marriage Act, 1872, as
applied to the Civil and Military Station of Bangalore,
to solemnize marriages within the territories included
in the Civil and Military Station of Bangalore between
persons one of whom was a Native Christian subject
of Mysore, and neither of whom was a Christian
subject of His Majesty ;

XV of 1872,

AND WHEREAS the said Walter James McDonald
Redwood has, in the belief that he was authorised so to
do, solemnized certain marriages in the Civil and Military
Station of Bangalore between certain Christian subjects
of His Majesty ;

AND WHEREAS the parties to the said marriages all
believed that the said Walter James McDonald Redwood
was duly authorised to solemnize the same, and that
such marriages were valid in law ;

AND WHEREAS the said parties being Christian subjects
of His Majesty, the said Walter James McDonald
Redwood had not the requisite authority under the
licence held by him to solemnize the said marriages ;

AND WHEREAS it is expedient that the said marriages,
having been solemnized in good faith, should be
validated ;

It is hereby enacted as follows :—

1. This Act may be called the Bangalore Marriages Short title.
Validating Act, 1936.

2. All marriages between Christian subjects of His Majesty which have already been solemnized in the Validation of certain irregular marriages.

Civil

1

Price anna 1 or 1½d.

Bangalore Marriages. [ACT XVI OF 1936.]

Civil and Military Station of Bangalore by Mr. Walter James McDonald Redwood, a Missionary of the Plymouth Brethren, shall be, and shall be deemed to have been with effect from the date of solemnization of each respectively, as good and valid in law as if such marriages had been solemnized under a licence authorizing solemnization of marriages between Christian subjects of His Majesty in the Civil and Military Station of Bangalore.

Validation of records of irregular marriages.

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

XV of 1872.

ACT NO. XVII OF 1936.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
27th October, 1936.)

An Act to amend the Indian Tea Control Act, 1933,
for certain purposes.

XXIV of 1933. **WHEREAS** it is expedient to amend the Indian
Tea Control Act, 1933, for the purposes hereinafter
appearing; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Tea Control Short title and
commencement. (Amendment) Act, 1936.

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

XXIV of 1933. 2. In clause (a) of section 2 of the Indian Tea Control Amendment of
section 2, Act
XXIV of 1933. Act, 1933 (hereinafter referred to as the said Act), for the
words "Committee" means the words "Committee"
and "Authority" mean, respectively, shall be substituted,
and after the words "Indian Tea Licensing Com-
mittee" the words "and the Burma Tea Licensing
Authority" shall be inserted.

3. In section 9 of the said Act,—

(a) for sub-section (1) the following sub-section Amendment of
section 9, Act
XXIV of 1933.
shall be substituted, namely:—

"(1) The Governor General in Council may, by
notification in the Gazette of India, declare
the Committee to be dissolved or the Author-
ity to be abolished, and on the date of the
publication of any such notification the
Committee shall stand dissolved or the
Authority abolished, as the case may be,
and, if both events occur, this Act shall be
deemed to be repealed."; and

(b) in sub-section (2), after the word "dissolved"
the words "or the Authority is abolished"
shall be inserted, and after the word "Com-
mittee", where it occurs for the second time,

the

1

Price anna 1 or 1½d

the words "or by the Authority, as the case may be," shall be inserted and for the word "Government" the words "Governments of India and Burma respectively" shall be substituted.

Insertion of new Chapter IA after section 10 in Act XXIV of 1933. 4. After section 10 of the said Act the following Chapter shall be inserted, namely:—

"CHAPTER IA.

THE BURMA TEA LICENSING AUTHORITY.

Constitution of Burma Tea Licensing Authority. 10A. The Governor General in Council shall after consulting the Government of Burma constitute an authority, to be called the Burma Tea Licensing Authority, to exercise and discharge in Burma the powers, functions and duties exercised and discharged before the commencement of the Indian Tea Control (Amendment) Act, 1936, by the Committee.

Application of sections 7, 8 and 10 to the Authority. 10B. The provisions of sections 7 and 8 shall, as far as they may be, apply to the Authority as they apply to the Committee, and the power conferred by section 10 shall include a power to make with respect to the Authority rules for any of the purposes for which rules may be made under that section with respect to the Committee."

Amendment of section 12, Act XXIV of 1933. 5. In section 12 of the said Act,—
(a) to sub-section (1) the following words shall be added, namely:—

"in the case of exports from British India excluding Burma, or the Authority in the case of exports from Burma"; and

(b) to sub-section (2) the words "or the Authority, as the case may be" shall be added.

Amendment of section 13, Act XXIV of 1933. 6. To section 13 of the said Act the following sub-section shall be added, namely:—

"(3) The Indian Overseas Export Allotment so declared for any financial year after the financial year ending on the 31st day of March, 1937, shall not include the overseas export allotment for the Province of Burma, but the Governor General in Council, shall, by notification in the Gazette of India, declare a separate Burma Overseas Export Allotment after consulting the Committee and the Authority and paying due regard to all interests concerned."

7. In.

7. In section 14 of the said Act,—

Amendment of
section 14, Act
XXIV of 1933.

(a) in sub-section (1), for the words “by the Committee” the words “for estates in British India excluding Burma by the Committee and for estates in Burma by the Authority” shall be substituted; and

(b) for sub-section (2) the following sub-section shall be substituted, namely:—

“(2) The total of all export quotas for any financial year prior to the financial year beginning on the 1st day of April, 1937, shall not exceed the Indian Overseas Export Allotment for that year, and the total of all export quotas for any subsequent financial year of estates in British India excluding Burma and of estates in Burma, respectively, shall not exceed the Indian Overseas Export Allotment and the Burma Overseas Export Allotment, respectively, for that year.”

8. In section 15 of the said Act,—

Amendment of
section 15, Act
XXIV of 1933.

(a) in sub-section (2), after the word “Committee” the words “or, if the estate is in Burma, of the Authority” shall be inserted; and

(b) to sub-section (2) the following proviso shall be added, namely:—

“Provided that after the 31st day of March, 1937, this sub-section shall not authorise the transfer to a tea estate in Burma of any such right accruing in respect of a tea estate situated outside Burma or *vice versa*.”

9. In section 16 of the said Act,—

Amendment of
section 16, Act
XXIV of 1933.

(a) in sub-section (1), after the word “Committee” the words “or, if such estate is in Burma, to the Authority” shall be inserted;

(b) in sub-section (2), after the word “Committee” the words “or Authority, as the case may be,” shall be inserted; and

(c) in the proviso to sub-section (3), after the word “Committee” the words “or the Authority” shall be inserted.

10. In

Indian Tea Control. [ACT XVII]

Amendment of
section 17, Act
XXIV of 1933.

10. In sub-section (1) of section 17 of the said Act,—

- (a) after the word "Committee", where it occurs for the first time, the words "or, in Burma, to the Authority" shall be inserted; and
- (b) after the word "Committee", where it occurs for the second time, the words "or Authority, as the case may be," shall be inserted.

Amendment of
section 18, Act
XXIV of 1933.

11. In sub-section (1) of section 18 of the said Act, for the words "The Committee shall" the words "The Committee and the Authority shall each" shall be substituted, and for the words "the Committee may" the words "the Committee or the Authority may" shall be substituted.

Amendment of
section 19, Act
XXIV of 1933.

12. In section 19 of the said Act,—

- (a) in sub-section (2), after the word "Committee" the following words shall be inserted, namely:—
"or, in the case of tea shipped or waterborne to be shipped for export from Burma, by the Authority,"; and
- (b) in sub-section (3), after the word "Committee" the words "or, in the case of tea produced in Burma, by the Authority" shall be inserted.

Amendment of
section 20, Act
XXIV of 1933.

13. In section 20 of the said Act,—

- (a) in sub-section (1), after the word "Committee" the words "or, in Burma, the Authority" shall be inserted; and
- (b) in sub-section (2), the words "to the Committee" shall be omitted, and for the words "the Committee", where they occur for the second time, the words "the Committee or the Authority, as the case may be," shall be substituted.

Amendment of
section 21, Act
XXIV of 1933.

14. In section 21 of the said Act,—

- (a) in sub-section (1), after the word "Committee" the words "or the Authority" shall be inserted; and
- (b) in sub-section (2), after the word "Committee" the words "and the Authority" shall be inserted, and for the word "it", in both places where it occurs, the word "them" shall be substituted.

15. In

15. In section 29 of the said Act,—

Amendment of
section 29, Act
XXIV of 1933.

- (a) in sub-section (1), after the words "The Committee" the words "or, in Burma, the Authority" shall be inserted and the words "to enable it to discharge its duties under this Chapter" shall be omitted; and
- (b) in sub-section (2), after the words "in this behalf" the words "or, in Burma, any person authorised by the Authority in this behalf" shall be inserted.

16. In section 32 of the said Act,—

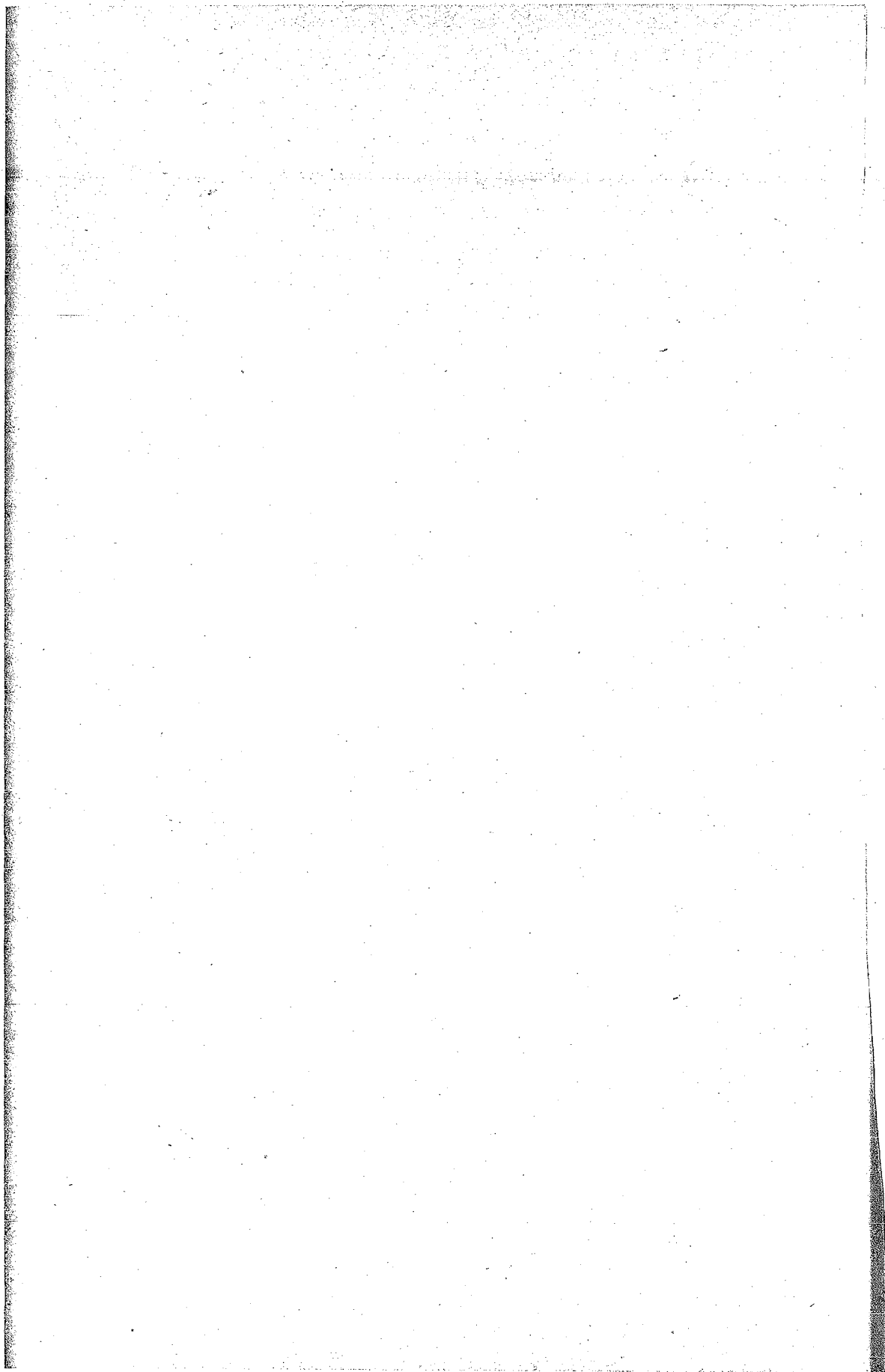
Amendment of
section 32, Act
XXIV of 1933.

- (a) after the word "Committee", where it first occurs, the words "or any person authorised by the Authority" shall be inserted;
- (b) for the words "such member or officer" the words "such member, officer or person" shall be substituted; and
- (c) after the word "Committee", where it occurs for the second time, the words "or by a person authorised by the Authority" shall be inserted.

17. In section 35 of the said Act,—

Amendment of
section 35, Act
XXIV of 1933.

- (a) in sub-section (1), after the word "Committee" the words "or, in Burma, by the Authority" shall be inserted; and
- (b) in sub-section (2), after the word "Committee" the words "or, in Burma, the Authority" shall be inserted.



ACT NO. XVIII OF 1936.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
27th October, 1936.)

An Act to provide out of the property of the Indian Red Cross Society a Fund to be administered in Burma by a Burma Red Cross Society, and to terminate in Burma the existing functions of the Indian Red Cross Society.

WHEREAS it is expedient to provide out of the property of the Indian Red Cross Society a Fund to be administered in Burma by a Burma Red Cross Society, and to terminate in Burma the existing functions of the Indian Red Cross Society; It is hereby enacted as follows:—

1. (1) This Act may be called the Red Cross Society short title and extent. (Allocation of Property) Act, 1936.

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

XV of 1920.

2. Notwithstanding anything contained in the Indian Red Cross Society Act, 1920, an amount equal to seven Apportionment of corpus of property of Indian Red Cross Society. per cent. of the corpus of the property vested by the said Act in the Indian Red Cross Society (which amount is in this Act referred to as the Fund) shall be set apart to be administered in the province of Burma as a trust by such body of trustees as the High Court of Judicature at Rangoon may appoint, and in accordance with, and for such of the purposes referred to in section 7 of the said Act as may be contained in, any scheme settled by the said High Court.

3. As soon as the High Court of Judicature at Rangoon has settled a scheme and made an order vesting the Fund in the body of trustees referred to in section 2 the Transfer of apportioned property to trustees and dissolution of Burma Branch Committee of Indian Red Cross Society. Managing Body of the Indian Red Cross Society shall transfer the Fund to the said body of trustees and thereupon the Burma Provincial Committee of the Indian Red Cross Society, known as the Indian Red Cross Society, Burma Branch, shall be dissolved and all property of or belonging to that Committee, including the unexpended balance,

1

Price anna 1 or 1½d.

Red Cross Society. [ACT XVIII OF 1936.]

balance, if any, of any moneys distributed to that Committee under section 8 of the Indian Red Cross Society Act, 1920, shall be transferred to and shall vest in the said body of trustees to be held by them in the same manner and, subject to the scheme settled by the said High Court, for the same purposes as such property was held by that Committee. XV of 1920

Cesser of provisions of Indian Red Cross Society Act, 1920.

4. On the making of the vesting order referred to in section 3 the provisions of the Indian Red Cross Society Act, 1920, and of any rules made thereunder relating to Branch Committees in the provinces, their constitution, powers or functions, their representation on the Managing Body of the Indian Red Cross Society, and their right to receive a proportion of the income of property vested in the Society, shall cease to have effect in respect of the province of Burma and of the Indian Red Cross Society, Burma Branch Committee. XV of 1920.

ACT NO. XIX OF 1936.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
27th October, 1936.)

An Act further to amend the General Clauses Act, 1897,
for a certain purpose.

X of 1897. **W**HEREAS it is expedient further to amend the
General Clauses Act, 1897, for the purpose
hereinafter appearing; It is hereby enacted as
follows:—

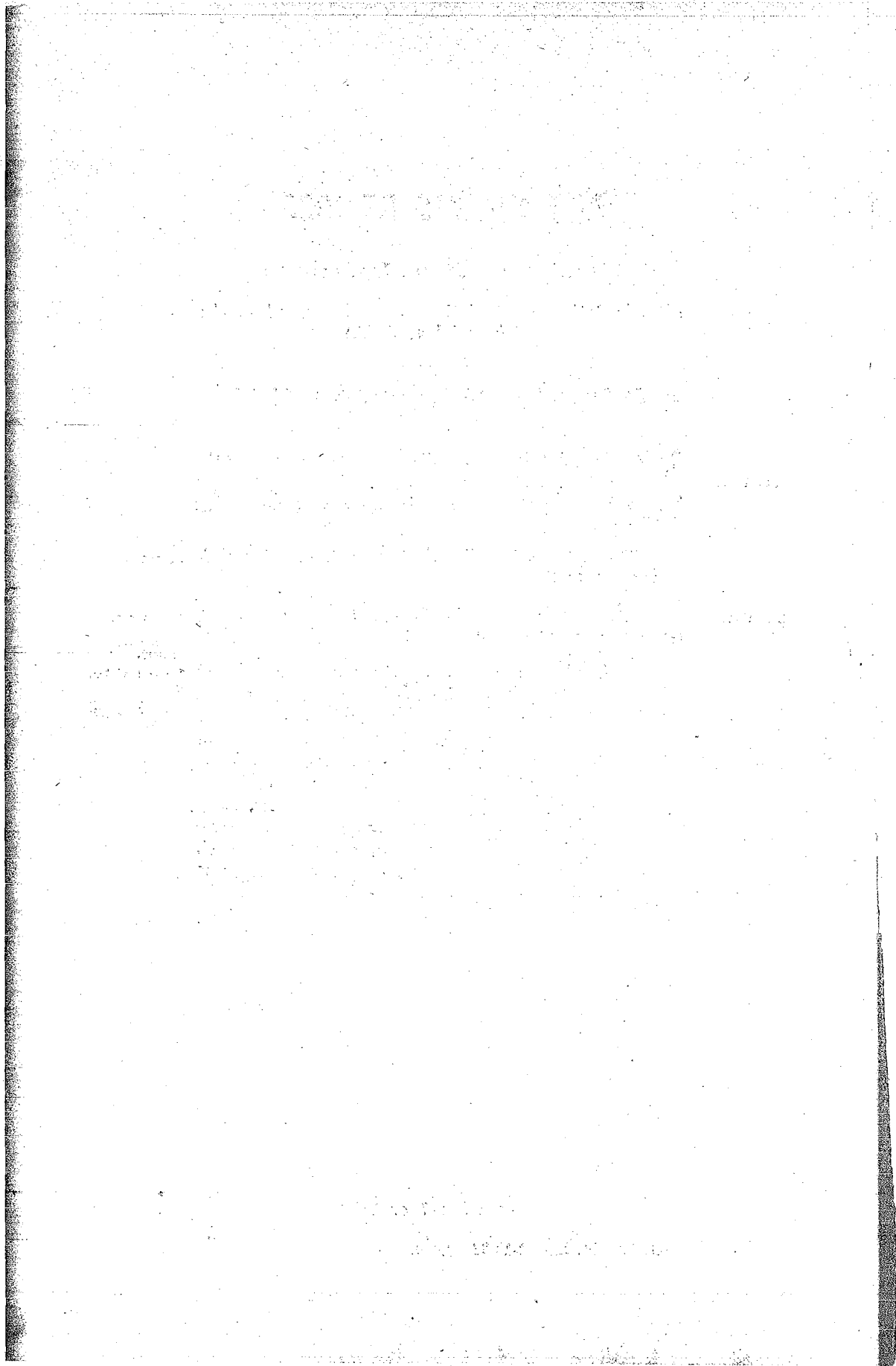
1. This Act may be called the General Clauses (Amend- Short title.
ment) Act, 1936.

X of 1897. 2. After section 6 of the General Clauses Act, 1897, Insertion of
the following section shall be inserted, namely:— new section
6A in Act X
of 1897.

“6A. Where any Act of the Governor General Repeal of Act
in Council or Regulation made after the making textual
commencement of this Act repeals any amendment in
enactment by which the text of any Act of Act or Regu-
the Governor General in Council or Regu- lation.
lation was amended by the express omission,
insertion or substitution of any matter, then,
unless a different intention appears, the repeal
shall not affect the continuance of any such
amendment made by the enactment so repealed
and in operation at the time of such repeal.”

Price anna 1 or 1½d.

GIPD--167 LD --2-12-36--6,000.



ACT NO. XX OF 1936.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
27th October, 1936.)

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

Ben. Act V
of 1914.

WHEREAS it is expedient further to amend the Chittagong Port Act, 1914, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Chittagong Port short title.
(Amendment) Act, 1936.

Ben. Act V of
1914.

2. (1) Section 27 of the Chittagong Port Act, 1914 Amendment of section 27, Ben. Act V of 1914.
(hereinafter referred to as the said Act), shall be re-numbered as sub-section (1) of section 27, and to the said section as so re-numbered the following sub-section shall be added, namely:—

“(2) The Chairman may, in the event of his illness or absence from Chittagong and for the duration thereof, delegate to the Vice-Chairman all or any of his powers or duties under this Act.”

3. (1) In clause (f) of sub-section (1) of section 35 of Amendment of section 35, Ben. Act V of 1914.
the said Act,—

(a) after the words “servants injured” the words “in the execution of their duty” shall be inserted; and

(b) for the words “killed, in the execution of their duty” the words “who die while in the service of the Commissioners” shall be substituted.

(2) After clause (g) of the said sub-section the following clause shall be inserted, namely:—

“(gg) for establishing and maintaining funds (hereinafter referred to as welfare funds) for the benefit of such officers and servants, and for regulating generally matters incidental to such welfare funds and the investment thereof:

Provided

1

Price anna 1 or 1½d.

Provided that no such welfare funds shall be established without the previous sanction of the Governor General in Council : and that the maximum amount to which any such fund may be allowed to accumulate shall be fixed from time to time by the Governor General in Council."

Amendment of section 36, Ben. Act V of 1914.

4. To section 36 of the said Act the following proviso shall be added, namely :—

"Provided that any resolution passed by the Commissioners to dismiss or to reduce a Head of a Department shall not be carried into effect without the approval of the Governor General in Council."

Amendment of section 57, Ben. Act V of 1914.

5. In sub-section (1) of section 57 of the said Act, clauses (a), (b) and (c) shall be re-lettered as clauses (b), (c) and (d), respectively, and the following shall be inserted as clause (a), namely :—

"(a) a scale of tolls, dues, rates and charges, annual or other, to be paid by the owners of vessels plying, whether for hire or not and whether regularly or occasionally, within or partly within and partly without the limits of the port in respect of such vessels and of persons whether in charge of, or on board, such vessels, and also in respect of the licensing, registration and regulation of such vessels and persons :

Provided that no such tolls, dues, rates and charges shall be chargeable in respect of vessels which are liable to port dues under the provisions of Schedule I to the Indian Ports Act, 1908." XV of 1908.

Amendment of section 59, Ben. Act V of 1914.

6. In section 59 of the said Act,—

(a) for the words " The Commissioners may levy and collect a customs duty " the words " A customs duty shall be levied and collected by the Commissioners " shall be substituted ; and

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

"Provided further that the Governor General in Council may, by notification, exempt from the levy of such duty jute shipped to any specified port in India."

7. In

OF 1936.] *Chittagong Port.*

7. In the proviso to sub-section (1) of section 82 of the said Act, the words " in Chittagong " shall be omitted. Amendment of section 82, Ben. Act V of 1914.

8. In section 83 of the said Act, the words " or in fixed deposit with the Bank of Beugal " shall be omitted. Amendment of section 83, Ben. Act V of 1914.

9. In section 84 of the said Act, in clause (7) the word " and ", where it occurs for the second time, shall be omitted, and after clause (8) the following word and clause shall be inserted, namely :—

" and

(9) contributions to any welfare funds which may be established for the benefit of the officers and servants of the Commissioners :

Provided that any contribution to a welfare fund established for the benefit of officers and servants drawing not less than two hundred and fifty rupees a month shall not exceed the amount accruing from the following sources, *viz.* :—

(i) fines realised from such officers and servants ;

(ii) unclaimed salary of such officers and servants; and

(iii) forfeitures of contributions to the provident fund in respect of such officers and servants."

10. For the Third Schedule to the said Act the following shall be substituted, namely :— Amendment of the Third Schedule, Ben. Act V of 1914.

" THE THIRD SCHEDULE.

PROPERTY VESTED IN THE COMMISSIONERS.

(See sections 70 and 71.)

PART I.—IMMOVEABLE PROPERTY TRANSFERRED BY GOVERNMENT TO THE COMMISSIONERS CONSTITUTED UNDER THE CHITTAGONG PORT COMMISSIONERS ACT, 1887.

1. All the land belonging to Government, bounded on the east by the Nimtoly creek, on the south by the Karnaphuli river, on the west by the Monoharkhali creek, and on the north by a line drawn from Nimtoly creek to Monoharkhali creek, east and west immediately to the south of the premises owned by B. R. Texeira, known at the time of the passing of the Chittagong Port Commissioners Act, 1887 (hereinafter in this Schedule called the said Act), as the Sailors' Home, covering Revisional Survey Plots Nos. 418, 416, 415, 382, 381, 383, 384, 400, 401, 403, 379, 385, 378, 387, 402, part of 394, part of 370, part of 417, part of 369 and part of 414.

2. The land held by Government at the time of the passing of the said Act, in the occupation of the Customs Department bounded on the east by the

road

road known as the Rangamati road, on the south by the land belonging to Government, the boundaries of which are set forth in Article I of this Schedule, on the west by the Monoharkhali creek and on the north by private property, *viz.*, Plot No. 7 of the cadastral survey, but excluding Plot No. 12 of the said survey, covering Revisional Survey Plots Nos. 171, 172, 170, 169, 249, 248, 197, 254, 244, 251, 252, 253, 255, 256, 257, 258, 371, 372, 405, 404, 397, 373, 406, 407, 392, 409, 408, 399, 398, 374, part of 417, part of 370, part of 394, part of 369 and part of 414.

3. The land held by Government, bounded on the east by the Monoharkhali creek, on the south by the land at the time of the passing of the said Act occupied by the Government Salt Golahs, on the west by a public road leading to the Sadar Ghat jetty, and on the north by private property, *viz.*, Plot No. 19 of the cadastral survey, covering Revisional Survey Plots Nos. 355, 396, 354, 395, 193, 192, 194, 195, 189, 266, 188, 187, 186, and part of 356.

4. The Sadar Ghat jetty and the approaches leading thereto measuring 094 acre covering Revisional Survey Plots Nos. 3399 and 3400 in mouza Madarbari, Ward D.

5. The waste land (known as Southfield) belonging to Government at the time of the passing of the said Act occupied by the Customs Department, bounded on the east by the Sadar Ghat road, on the south by the Strand road, on the west by a tank, at the time of the passing of the said Act, in the possession of Messrs. Bulloch Brothers, and on the north by a road running east and west, lying to the south of the Port Commissioners' office, measuring more or less 1.875 acres covering Revisional Survey Plot No. 3370 in mouza Madarbari, Ward D.

6. The land at the time of the passing of the said Act occupied by the Port godowns and yard (at present Workshop site), bounded on the east by the public road leading to the Sadar Ghat jetty, on the south by the Karnaphuli river, on the west by the premises at the time of the passing of the said Act in the occupation of Messrs. Bulloch Brothers, and on the north by the Strand road, measuring more or less 1.108 acres, covering Revisional Survey Plots Nos. 3398 and 3401 in mouza Madarbari, Ward D.

7. All other land the property of Government within the limits of the Port of Chittagong being within fifty yards of high-water mark on both banks of the Karnaphuli river, except the land at the time of the passing of the said Act occupied by the Government Salt Golahs, and all land, other than land with regard to which Government has the right of assessment only, within the limits of the port included in any survey plot through which a line drawn fifty yards above high-water mark passes.

(a) The foreshore land in mouza Sujakatgar (known as Chaktai in the east of Anti-Mohammad Ghat jetty) covering Revisional Survey Plots Nos. 1703, 1557, 1558, 1701, 1702, 1559, 1698, 1700, 1568, 1699, 1704, 1705, 1706, 1636, 1622, 1623, 1624, 1625, 1626, 1627, 1628, 1629, 1711, 1712, 1713, 1714, 1715, 1716, 1630, 1631, 1632, 1633, 1634, 1635, 1717, 1719, 1720, 1669, 1644, 1645, 1646,

1646, 1647, 1648, 1649, 1650, 1651, 1652, 1653, 1654, 1658, 1659, 1661, 1663, 1666, 1667, 1718, 1721, 1655, 1710, in mouza Sujakatgar and part of Revisional Survey Plot No. 1816 in mouza Patharghata.

(b) The foreshore land in mouza Sujakatgar (on the west of Anti-Mohammad Ghat jetty), covering Revisional Survey Plots Nos. 1801, 1803 and 1805.

(c) The foreshore land at Feringhibazar, covering Revisional Survey Plots Nos. 601, 500, 501, 280 and part of 246.

(d) The foreshore land at Monoharkhali covering Revisional Survey Plots Nos. 389, 365 and part of 549.

(e) The foreshore land at Ichanagar covering Revisional Survey Plots Nos. 463, 454/14085, 416/14083 and 417/14084.

(f) The foreshore land at Dangar Char, covering Revisional Survey Plots Nos. 2769, 2796, 2793, 2788, 2787, 2792, 2795, 2794, 2220, 1736, 2790, 2786, 2791, 1734, 2789, 2785, 2783, 2782, 2784, 1731, 2780, 2781, 2779, 2962, 1728, 2778, 1727, 1722, 1721, 1718, 1716, 1715, 1340, 1339, 1338, 1334, 1335, 1330, 1329, 1307, 1308, 1291, 1292, part of 1293, part of 1289, 1290, 1279, part of 1280, 1278, 1277, part of 1276, 1273, 1272, part of 1264, part of 1263, part of 1085, part of 1084, part of 1083, part of 1082, part of 1006, part of 1005, part of 1004, part of 1003, part of 1002, 677, 676, 675, part of 678, part of 679, part of 680, part of 674, part of 673, 672, 671, 666, part of 665, part of 667, 549, part of 545, part of 547, 548, 541, 542, 543, 535, 536, 537, 533, 519, 544, 520, 516, 517, 518, 524, 515, 506, 507, 504, 505, 501, 502, 670/2965, 487, 488, 489, 491, 486, 485, 484, 482, 470, 471, 472, 473, 474, 469, 468, 477, 95/2964, 96, 82, 475, 2, 91, 119, 120, 832, 109, 112, 831, 833, 113, 114, 6, 11, 12, 1, part of 67, part of 71, 72, 73, part of 31, part of 39. and part of 55.

(g) The Majher Char (Middle Island) measuring more or less 147.70 acres covering Revisional Survey Plot No. 1, Police Station, Anwara, Chittagong.

8. A plot of land measuring more or less 6.064 acres (being the site of the Port Engineer's residence), bounded on the north and east by railway land, on the south by a public road and railway land, and on the west by land belonging to Government and containing the quarters of the District Superintendent of Police, covering Revisional Survey Plots Nos. 376, 377, 378, 384, 385, 426, 456, 471, 472, 473, 474, 475, 476, 477 and 478 in mouza Enathbazar and Revisional Survey Plots Nos. 112, 113, 383 and 385 in mouza Battali, Ward B.

9. A plot of land measuring 350 feet by 240 feet more or less 1.807 acres (being the site of Port Commissioners' office and Port and Shipping office), bounded on the north by Government land containing the Sadarghat police station, on the south by a road referred to in Article 5 of this Schedule, on the east by Sadarghat road, and on the west by private land, covering Revisional Survey Plots Nos. 3362 and 3363 in mouza Madarbari, Ward D.

10. Strips of land measuring more or less 12·19 acres in mouza Bandar (being the site for Sanitorium bungalow at Juldia) covering Revisional Survey Plots Nos. 1171 and 1139.

11. A strip of land known as Sadarghat Salt Golah land, in exchange of present salt golah land at Moheshkhali, in mouza Monoharkhali covering Revisional Survey Plots Nos. 363, 364, 366, 367, 361, 359, 358, 357, 360 and part of 356.

12. A piece of land in mouza Uttar Paruapara (being the site of Norman's Point Lighthouse) measuring more or less 1·04 acres covering Revisional Survey Plots Nos. 235, 236, 237, 238 and 239.

13. A piece of land in mouza Dakshin Dhurung (being the site of the Kutubdia Lighthouse) covering Revisional Survey Plots Nos. part of 1017, part of 1018, part of 1022, 1019, 1020 and 1021.

PART II.—IMMEDIATE PROPERTY ACQUIRED OTHERWISE THAN BY DIRECT TRANSFER FROM GOVERNMENT.

(a) *Acquired for the revetment of the Karnaphuli river.*

1. A strip of land (in Revetment Section I) in the village Maidya Halishahar (formerly Moheshkhali) measuring 800 feet by 130 feet, more or less 2·95 acres bounded on the north by the Strand road and villages, on the south by the Commissioners' land, on the east by land belonging to the Assam Bengal Railway, and on the west by paddy fields, covering Revisional Survey Plots Nos. 15763, 15770, 15771, 15772, 14145, 14079, 14080, 14144, 14062/15801 and part of 15673.

2. A strip of land (in Revetment Section I), in the village Maidya Halishahar (formerly Kumerkhali) measuring 2,900 feet by 500 feet, more or less 14·56 acres situated on the right bank of the Karnaphuli river, bounded on the north by paddy fields, on the south by the Karnaphuli river, on the east by the railway land, and on the west by Kumarkhal, covering Revisional Survey Plots Nos. 15769, 15667, 15666, 15665, 15662, 15663, 15664, 15660, 15659, 15658, 15661, 15687, 15686, 15685, 15684, 15778 and part of 15673.

3. A strip of land (in Revetment Section II) in the village Dakshin Halishahar between khals Nos. 3 and 4 measuring 3,400 feet by 1,000 feet, more or less 82·36 acres situated on the right bank of the Karnaphuli river and bounded on the north by Kumarkhal, on the south by Miraparkhal, on the east by the Karnaphuli river, and on the west by paddy fields, covering Revisional Survey Plots Nos. 8106, 8108, 8105, 8107, 8104, 8103, 8102, 8440, 8439, 8101, 8099, 8100, 8109, 8110, 8111, 8112, 8113, 8114, 8117, 8118, 8119, 8346, 8344, 8343, 8342, 8340, 8392, 8341, 8436, 8345, 8391, 8352, 8351, 8349, 8348, 8347, 8353 and part of 8354.

4. A strip of land (in Revetment Section III) in the village Dakshin Halishahar between khals Nos. 4 and 5 measuring 2,200 feet by 800 feet, more or less 35·62 acres situated on the right bank of the river Karnaphuli, bounded

on

on the north by Miraparkhal, on the south by Domakhal, on the east by the Karnaphuli river, and on the west by paddy fields covering Revisional Survey Plots Nos. 8435, 8434, 8437, 8339, 8338, 8328/97013, 2432/97014, 2433/97016, 2436/97015, 9693, 9555, 9554, 9691, 9553, 9686, part of 8354 and part of 9556.

5. A strip of land (in Revetment Section III) in the Dakshin Halishahar between khals Nos. 5 and 6 measuring 2,300 feet by 800 feet, more or less 35.82 acres situated on the right bank of the river Karnaphuli, bounded on the north by the Domakhal, on the south by Wootarkata khal, on the east by the Karnaphuli river, and on the west by paddy fields covering Revisional Survey Plots Nos. 9552, 9687, 9551, 9694, 9695, 9557, 9696, 9697, 9698, 9550, 9558 and part of 9556.

6. A strip of land (in Revetment Section IV) in the village Dakshin Halishahar between khals Nos. 6 and 7 measuring 1,400 feet by 800 feet, more or less 25.99 acres situated on the right bank of the river Karnaphuli, bounded on the north by Wootarkata khal, on the south by Dakshinkata khal, on the east by the Karnaphuli river, and on the west by paddy fields covering Revisional Survey Plots Nos. 9549, 9559, 9548, 9699, 9700, 9701, 9702, 9560, 9703, 9547, 9704, 9546, 9688, 9545, 9544/97012, 9449, and part of 9556.

7. A strip of land (in Revetment Section IV) in the village Uttar Patenga (formerly Patiya) between khals Nos. 7 and 8 measuring 3,800 feet by 900 feet more or less 73.43 acres situated on the right bank of the river Karnaphuli, bounded on the north by the Karnaphuli river, on the south by paddy fields, on the east by Kawina khal, and on the west by Dakshinkata khal covering Revisional Survey Plots Nos. 4638, 4806, 4635, 4634, 4029, 4030, 4636, 4637, 4639, 4633, 4619, 4632, 4631, 4675, 4630, 4629, 4628, 4627, 4626, 4625, 4624, 4623, 4622, 4621, 4620, 4906, 4640, 4641 and 4642.

8. Strips of land (in Revetment Section V) in the village Uttar Patenga between khals Nos. 8 and 9 measuring more or less 23.70 acres covering Revisional Survey Plots Nos. 4643, 4928, 4924, 4719, 4867, 4868 and 4720.

9. Strips of land (in Revetment Section V) in mouza Purba Patenga between khals Nos. 9 and 11 measuring more or less 96.65 acres covering Revisional Survey Plots Nos. 90, 91, 527, 97, 98, 99, 101, 268, 269, 270, 495, 497, 524, 525 and 530.

10. Strips of land (in Revetment Section VI) in mouzas Purba and Dakshin Patenga between khal 11 and Patenga Point measuring more or less 171.30 acres, covering Revisional Survey Plots Nos. part of 8859, part of 8858, part of 8860, part of 8861, part of 8893, part of 8862, part of 8865, 8863, 8864, part of 9620, part of 9619, part of 9618, 9621, 9622, 9623, 9624, 9774, 9625, 9627, 9775, 9626, 9628, part of 9612, part of 9631, 9630, 9629, 9776, 9636, 9635, 9777, 9634, part of 9633, part of 9638, 9778, 9637, 9779, part of 9647, part of 9646, 9648, 9780, 9781, 9649, part of 9650, part of 9651, part of 9655, part of 9793, 9656, 9782, 9783, 9672, part of 9670, part of 9669, part of 9668, 9671, 9675, 9674, 9673, 9776, 9678, part of 9795, part of 9684, 9683, 9682, 9681, 9680, 9679,

9679, 9686, part of 9685, part of 9693, part of 9695, part of 9696, 9771, 9692, 9691, 9690, 9689, 9687, 9688, 9701, 9704, 9700, 9699, 9698, 9697, 9705, 9706, 9707, 9772, part of 9712, 9711, 9710, 9715, 9714, 9713, part of 9722, 9719, 9718, 9720, 9723, 9724, 9726, 9725, 9766, 9764, 9763, 9727, 9728, 9760, part of 9768, 9759, 9729, 9758, 9757, 9730, 9731, 9732, 9733, part of 9514, part of 9513, part of 9511, part of 9512, part of 9509, 9510, part of 9502, part of 9734, part of 9736, 9756, 9754, 9753, 9752, 9751, 9749, 9750, 9735, 9737, 9738, 9739, 9740, 9746, 9748, 9747, 9745, 9744, 9741, 9742, part of 9743, part of 3443, part of 3444, part of 3445, part of 3449, 3450, 3470, 3471, 3468, 3469, 3472, 3451, 3453, 3454, 3455, 3466, 3467, part of 3452, 3456, part of 3458, part of 3465, part of 3462, part of 3463, part of 3552, part of 1199, part of 1200, part of 1201, part of 1203, 1202, part of 1205, 1204, part of 1207, 1206, part of 1186, part of 1180, part of 1209, part of 1197, part of 1198, part of 1208, part of 1250, part of 1243, part of 1248, part of 1247, part of 1244, part of 1256, part of 1240, part of 1251, 1252, 1258, 1257, 1259, 1260, 1261, part of 1253, part of 1152, part of 1263, part of 1264, 1261, 1262, part of 1238, 1239, 1236, 1235, 1234, 1230, part of 1243, 1231, part of 1233, part of 1232, part of 1266, 1225, part of 1151, part of 1224, part of 1241, part of 1223, part of 1227, part of 1228, 1229, 1226, part of 1213, part of 1242, and part of 1156, in mouza Dakshin Patenga and the Revisional Survey Plots Nos. 503, 498, 499, 500, part of 501, 504, part of 1264, part of 1265, part of 1269, part of 1270, 1350, part of 1271, part of 1272, part of 1279, part of 1280, part of 1297, part of 1347, 1281, 1298, 1299, part of 1905, part of 1906, part of 1723, 1908, 1907, part of 1724, part of 1725, part of 1732, part of 1733, part of 1734, part of 1735, part of 1804, 1805, 1806, part of 1799, part of 1808, 1807, part of 1809, 1810, part of 1812, 1811, part of 1816, 1817, part of 1819, 1818, part of 1920, 1821, part of 1824, 1823, 1822, part of 1825, part of 1829, 1839, part of 1838, part of 1842, 1841, part of 1844, 1845, part of 1849, 1842, part of 1859, part of 1858, 1860, part of 1857, 1866, 1867, 1868, 1865, 1864, part of 1856, part of 1855, part of 1869, 1871, 1870, part of 1875, 1874, 1873, 1877, 1878, part of 1876, part of 1883, part of 1884, 1882, 1881, 1880, 1879, part of 1887, 1888, part of 1891, 1890, part of 1892, 1900, part of 1893, 1899, part of 1894, 1898, part of 1895, 1896, part of 1902, part of 1761, and part of 1651 in mouza Purba Patenga.

11. Strips of additional land (in Revetment Section VI) in mouza Dakshin Patenga from midway between khals 15 and 16 to the Patenga Point measuring more or less 16.30 acres, covering Revisional Survey Plots Nos. part of 9631, part of 9632, part of 9633, part of 9610, part of 9638, part of 9647, part of 9646, part of 9645, part of 9650, part of 9651, part of 9655, part of 9793, part of 9670, part of 9669, part of 9667, part of 9668, part of 9795, part of 9684, part of 9796, part of 9693, part of 9696, part of 9694, part of 9685, part of 9695, part of 9712, part of 9722, part of 9521, part of 9517, part of 9514, part of 9515, part of 9513, part of 9511, part of 9512, part of 9508, part of 9507, part of 9506, part of 9609, part of 9502, part of 9734, part of 9736, part of 9501, part of 3441, part of 3442, part of 3443, part of 3444, part of 3445, part of 3449, part of 3452, part of 3456, part of 3457, part of 3458, part of 3564, part of 3465, part of 3463, part of 3461,

part

part of 3552, part of 3462, part of 1199, part of 1198, part of 1197, part of 1196, part of 1195, part of 1186, part of 1180, part of 1209, part of 1208, part of 1250, part of 1249, part of 1248, part of 1247, part of 1244, part of 1246, part of 1240, part of 1243, part of 1242, part of 1213, part of 1241, part of 1222, part of 1214, part of 1228, part of 1227, part of 1223, part of 1154, part of 1153, part of 1150, part of 1152, part of 1224, part of 1151, part of 1266, and part of 1156.

12. A strip of additional land (in Revetment Section VI) in mouza Dakshin Patenga (at Patenga Point) measuring more or less 3.99 acres, covering Revisional Survey Plots Nos. part of 1223, part of 1153, part of 1154, part of 1150, part of 1149, part of 1151, part of 1146, part of 1145, part of 1266, part of 1267 and part of 1068.

13. Strips of land (By-channel land) measuring more or less 28.65 acres in the village of Chur Lakhya, police station Patiya, zilla Chittagong, bounded on the north by parts of Cadastral Survey Plots Nos. 5471, 5478, 5476, 5619, 5705, 3326, 3320, 3318, 3314 of mouza Chur Lakhya and parts of Cadastral Survey Plots Nos. 361, 363, 370, 277, of Chak Moheshkhali, on the south by parts of Cadastral Survey Plots Nos. 5502, 5494, 5492, 5489, 5484, 5621, 3306, 3325, 3366, 3365, 3338, 3339, 3340, 3343, of Chur Lakhya and parts of Cadastral Survey Plots Nos. 371, 370, 372, 373, of Chak Moheshkhali, on the east by parts of Cadastral Survey Plots Nos. 3305, 3306, 3339, 3340, 5705, 5620, 5477, 5480, 5481, 5482, 5484, 5485, of mouza Chur Lakhya and parts of Cadastral Survey Plots Nos. 371, 372, 370, 373, of Chak Moheshkhali, on the west by parts of Cadastral Survey Plots Nos. 5496, 5494, 5502, 5620, 5617, 5705, of mouza Chur Lakhya and parts of Cadastral Survey Plots Nos. 370, 372, 373, of Chak Moheshkhali, covering Revisional Survey Plots Nos. 190, 191, 194, 195, 201, 202, 203, 204, 205, 206, 207, 208, 229, 230, 231, 232, 233, 234, 235, and 239 in mouza Dangar Char and Revisional Survey Plots Nos. 7934, 5603, 5515, 5602, 5605, 5606, 7904, 5559, 6856, 6857, 6858, 6854, 6849, 6848, 6846, 6869, 6868, 6870, 6871, 6904, 6832 and 6828 in mouza Chur Lakhya.

(b) *Acquired for the Kutubdia Lighthouse.*

14. Pieces of land in village Dakshin Dhurung (known as Kutubdia) measured at the Cadastral Survey in plots Nos. 5370, 5371, 5372, 5374, 5375, 5376, and 5377, covering Revisional Survey Plots Nos. part of 1017, part of 1018 and part of 1022.

(c) *Acquired for boat registration.*

15. A piece of land at Shahamirpur (formerly Shamsheernagar) for Boat Registration Office and staff quarters (known as Kurumkhal Boat Registration Office) situated on the left bank of the Kurumkhal measuring 100 feet by 60 feet, more or less 10 acre, bounded on the north by the Kurumkhal, on the south and east by paddy fields, on the west by Karnaphuli river covering Revisional Survey Plot No. 12345.

16. A piece of land for Boat Registration Office and staff quarters at Chaktai measuring 100 feet by 80 feet, more or less .18 acre situated on the right bank of the Chaktai khal bounded on the north, west and south by private land and on the east by Chaktai khal, covering Revisional Survey Plots Nos. 1677 and 1678 in mouza Sujakatgar and Revisional Survey Plot No. 1774 in mouza Patharghata.

(d) *Acquired for Patenga Beacon.*

17. A piece of land measuring more or less 0.15 acre in mouza Dakshin Patenga covering Revisional Survey Plot No. 3555.

(e) *Acquired for the site of front Inner Bar Leading Light.*

18. A piece of land in mouza Badalpura measuring more or less 0.005 acre covering part of Revisional Survey Plot No. 165.

(f) *Acquired for approach road to Sanitorium Bungalow at Jaldia.*

19. A piece of land measuring more or less 0.468 acre covering Revisional Survey Plots Nos. part of 158A, part of 1139, 846A, part of 1140, part of 38A, part of 111A, part of 1141, 38, part of 35A, 35, 41A, 49A, 52A, part of 50, part of 608A, in mouza Bandar and Revisional Survey Plots Nos. part of 87, part of 88, part of 89, part of 91, and part of 246 in mouza Rangadia, police station Anwara, Chittagong.

(g) *Acquired for new site of Port Commissioners' Workshop and store at Gosaldanga.*

20. A piece of land (known as Turner Morrisons' land) in mouza Gosaldanga measuring more or less 3.05 acres covering Revisional Survey Plots Nos. 4957, 4956, 4955, 4947, 4973, 5011, 4958, 4972, 4960, 4970, 4971, 4961, 4962, 4963, 4949, 4950, 4953, 4951, 4959, 4952, 4954, 4948, 4964, 4965, 4945, 4946, 4944, 4941, 4942, 4940, 4997, part of 4939, part of 4969, part of 4968, and part of 4943.

21. A piece of additional land (known as Turner Morrisons' land) in mouza Gosaldanga measuring more or less 1.60 acres covering Revisional Survey Plots Nos. 5012, 4966, 4987, 4988, 4989, 4990, 4991, 4992, 4993, 4994, 4996, 4995, 4998, part of 5013, part of 4974, part of 4969, part of 4968, part of 4967 part of 4986, part of 4999, part of 5000 and part of 4943.

(h) *Acquired for coal yard and siding at Madarbari.*

22. A piece of land (known as Arracan yard land) in mouza Madarbari measuring more or less 1.95 acres covering Revisional Survey Plots Nos. 1272, 1271, 1277, 1278, 1273, 1274, 1270, 1279 and 1280.

(i) *Acquired*

of 1936.]

Chittagong Port.

(i) Acquired for site of slipway at Monoharkhali.

23. Strips of land in mouza Monoharkhali measuring more or less 3·84 acres covering Revisional Survey Plots Nos. 202, 200, 265, 201, 204, 205, 206, 410, 375, 413, 376, 377, 196 and 250.

(j) Acquired for the improvement of Port Staff quarters at Monoharkhali and Feringhibazar.

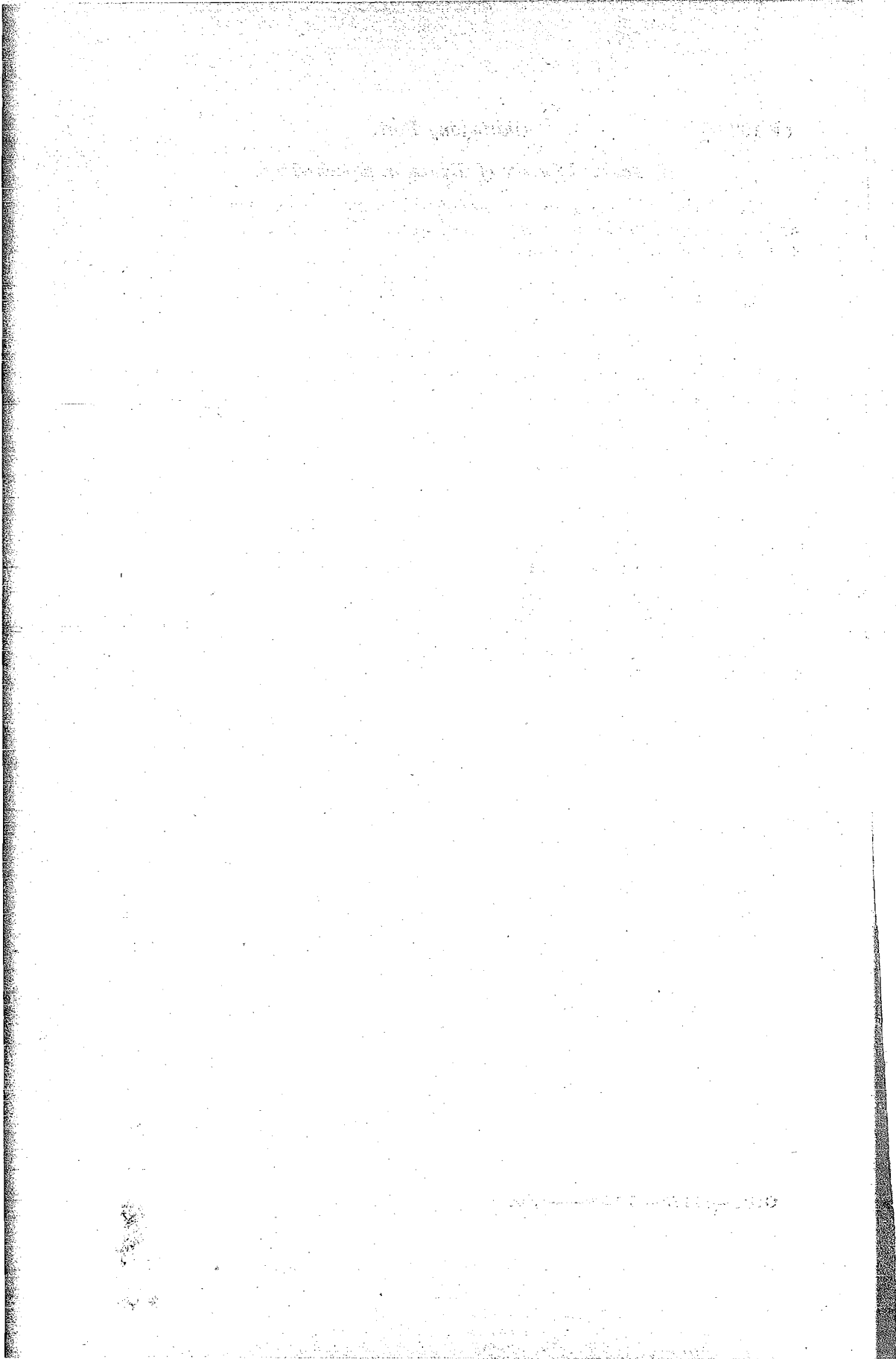
24. Strips of land measuring more or less 11·37 acres covering Revisional Survey Plots Nos. 556, 543, 555, 544, 545, and part of 549 in mouza Monoharkhali, Revisional Survey Plot No. 728 in mouza Guribazar and Revisional Survey Plots Nos. 242, 243, 244, 245, and part of 246 in mouza Feringhibazar.

(k) Acquired for the site of Nautical Surveyor and Secretary's residence at Palton.

25. Strips of land in mouza Lalkhan Bazar, Ward B, measuring more or less 6·96 acres covering Revisional Survey Plots Nos. 1845, 1858, 1859, 1860, 1861, 1872, 1862, part of 1863, 1964, 1963 and part of 1965.

PART III.—IMMOVEABLE PROPERTY HELD ON RENT.

1. A plot of land for Bench Mark Pillar in mouza Bandar measuring more or less ·19 acre covering Revisional Survey Plot No. 1145."



ACT NO. XXI OF 1936.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
27th October, 1936.)

**An Act further to amend the Code of Civil Procedure,
1908, for certain purposes.**

v of 1908.

WHEREAS it is expedient further to amend the Code of Civil Procedure, 1908, for the purposes hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Code of Civil Procedure (Amendment) Act, 1936. Short title.

v of 1908.

2. To section 51 of the Code of Civil Procedure, 1908 (hereinafter referred to as the said Code), the following proviso shall be added, namely :— Addition of proviso to section 51, Act v of 1908.

“Provided that where the decree is for the payment of money execution by detention in prison shall not be ordered unless, after giving the judgment-debtor an opportunity of showing cause why he should not be committed to prison, the Court, for reasons recorded in writing, is satisfied—

- (a) that the judgment-debtor, with the object or effect of obstructing or delaying the execution of the decree,—
- (i) is likely to abscond or leave the local limits of the jurisdiction of the Court, or
- (ii) has, after the institution of the suit in which the decree was passed, dishonestly transferred, concealed, or removed any part of his property, or committed any other act of bad faith in relation to his property; or
- (b) that the judgment-debtor has, or has had since the date of the decree, the means to pay the amount of the decree or some substantial part thereof and refuses or neglects or has refused or neglected to pay the same, or

(c) that

1

Price anna 1 or 1½d.

Code of Civil Procedure. [ACT XXI

- (c) that the decree is for a sum for which the judgment-debtor was bound in a fiduciary capacity to account.

Explanation.—In the calculation of the means of the judgment-debtor for the purposes of clause (b), there shall be left out of account any property which, by or under any law or custom having the force of law for the time being in force, is exempt from attachment in execution of the decree.”

Amendment of rule 37, Order XXI in the First Schedule, Act V of 1908.

3. In sub-rule (1) of rule 37 of Order XXI in the First Schedule to the said Code, for the word “ may ” the word “ shall ” shall be substituted, and to the sub-rule the following proviso shall be added, namely :—

“ Provided that such notice shall not be necessary if the Court is satisfied, by affidavit, or otherwise, that, with the object or effect of delaying the execution of the decree, the judgment-debtor is likely to abscond or leave the local limits of the jurisdiction of the Court.”

Repeal of rule 40, Order XXI in the First Schedule, Act V of 1908, and insertion of new rule in place thereof.

4. For rule 40 of Order XXI in the First Schedule to the said Code together with any alterations therein or additions thereto made under section 122 of the said Code the following rule shall be substituted, namely :—

Proceedings on appearance of judgment-debtor in obedience to notice or after arrest.

“ 40. (1) When a judgment-debtor appears before the Court in obedience to a notice issued under rule 37, or is brought before the Court after being arrested in execution of a decree for the payment of money, the Court shall proceed to hear the decree-holder and take all such evidence as may be produced by him in support of his application for execution, and shall then give the judgment-debtor an opportunity of showing cause why he should not be committed to the civil prison.

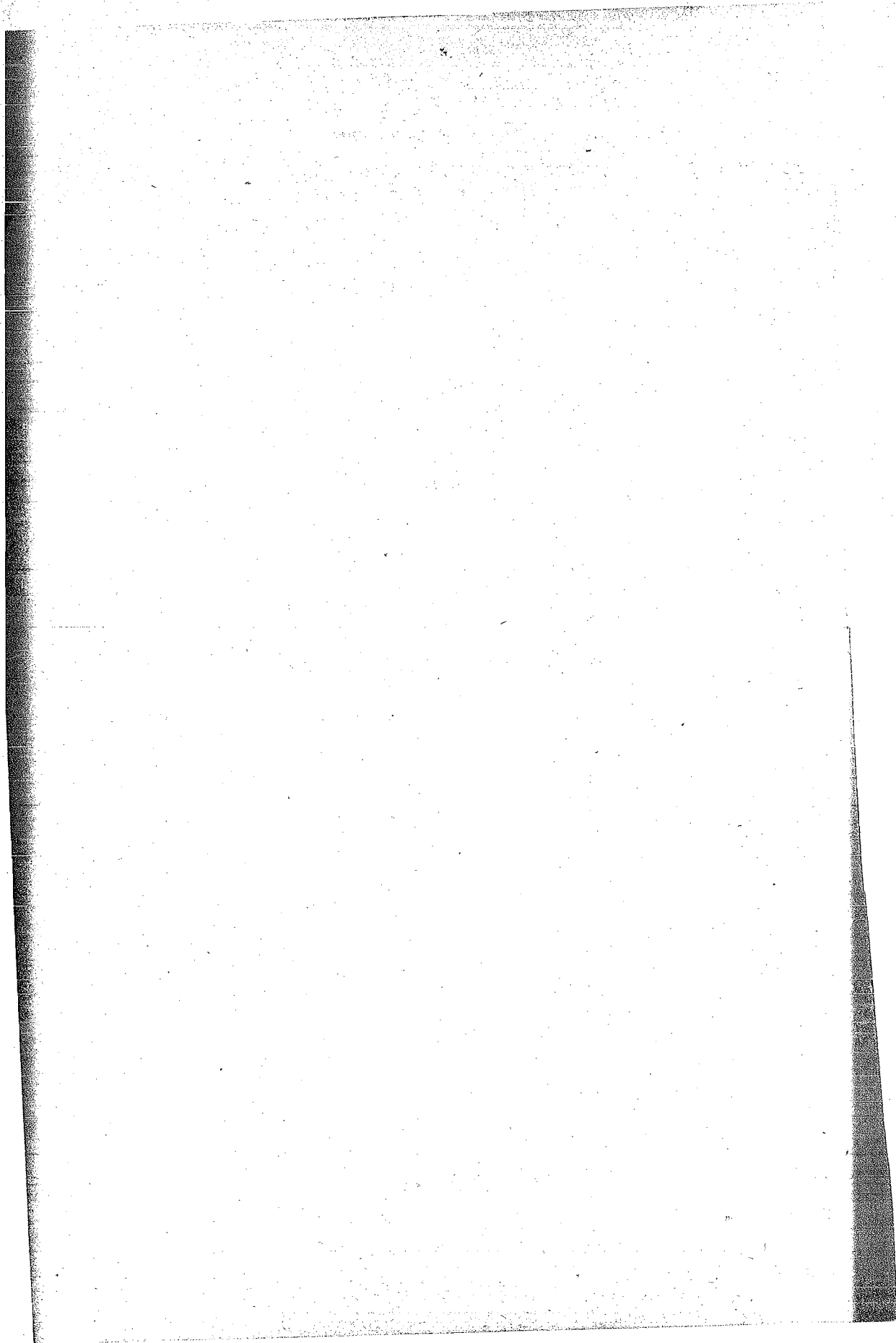
(2) Pending the conclusion of the inquiry under sub-rule (1) the Court may, in its discretion, order the judgment-debtor to be detained in the custody of an officer of the Court or release him on his furnishing security to the satisfaction of the Court for his appearance when required.

(3) Upon

- (3) Upon the conclusion of the inquiry under sub-rule (1) the Court may, subject to the provisions of section 51 and to the other provisions of this Code, make an order for the detention of the judgment-debtor in the civil prison and shall in that event cause him to be arrested if he is not already under arrest :

Provided that in order to give the judgment-debtor an opportunity of satisfying the decree, the Court may, before making the order of detention, leave the judgment-debtor in the custody of an officer of the Court for a specified period not exceeding fifteen days or release him on his furnishing security to the satisfaction of the Court for his appearance at the expiration of the specified period if the decree be not sooner satisfied.

- (4) A judgment-debtor released under this rule may be re-arrested.
- (5) When the Court does not make an order of detention under sub-rule (3), it shall disallow the application and, if the judgment-debtor is under arrest, direct his release."



ACT NO. XXII OF 1936.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
27th October, 1936.)

An Act further to amend the Indian Companies Act,
1913, for certain purposes.

VII of 1913.

WHEREAS it is expedient further to amend the
Indian Companies Act, 1913, for the purposes
hereinafter appearing; It is hereby enacted as
follows :—

1. (1) This Act may be called the Indian Companies Short title
and commence-
ment.
(Amendment) Act, 1936.

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

VII of 1913.

2. (1) Section 2 of the Indian Companies Act, 1913 Amendment of
section 2, Act
VII of 1913.
(hereinafter referred to as the said Act), shall be re-
numbered as sub-section (1) of that section and in that
section as so re-numbered—

(a) for clause (9) the following clauses shall be
substituted, namely :—

“(9) ‘ manager ’ means a person who, subject
to the control and direction of the directors
has the management of the whole affairs
of a company, and includes a director or any
other person occupying the position of a
manager by whatever name called and
whether under a contract of service or not:

(9A) ‘ managing agent ’ means a person, firm
or company entitled to the management of
the whole affairs of a company by virtue of
an agreement with the company, and under
the control and direction of the directors
except to the extent, if any, otherwise
provided for in the agreement, and includes
any person, firm or company occupying
such position by whatever name called:”;

Explanation.—

1
A

Price As. 4 or 5d.

Explanation.—If a person occupying the position of a managing agent calls himself a manager he shall nevertheless be regarded as managing agent and not as manager for the purposes of this Act.

(b) in clause (11), after the word “director” the words “managing agent” shall be inserted.

(c) for clause (13) the following clause shall be substituted, namely:—

“(13) ‘private company’ means a company which by its articles—

(a) restricts the right to transfer the shares, if any; and

(b) limits the number of its members to fifty not including persons who are in the employment of the company; and

(c) prohibits any invitation to the public to subscribe for the shares, if any, or debentures of the company:

Provided that where two or more persons hold one or more shares in a company jointly they shall, for the purposes of this definition, be treated as a single member:”;

(d) after clause (13) the following clause shall be inserted, namely:—

“(13A) ‘public company’ means a company incorporated under this Act or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby, which is not a private company:”;

and

(e) to clause (14) the following words shall be added, namely:—

“but shall not include any trade advertisement which shows on the face of it that a formal prospectus has been prepared and filed”.

(2) To section 2 as so re-numbered the following subsection shall be added, namely:—

“(2) Where the assets of a company consist in whole or in part of shares in another company, whether held directly or through a nominee

and

and whether that other company is a company within the meaning of this Act or not, and

- (a) the amount of the shares so held is at the time when the accounts of the holding company are made up more than fifty per cent. of the issued share capital of that other company or such as to entitle the company to more than fifty per cent. of the voting power in that other company, or
- (b) the company has power (not being power vested in it by virtue only of the provisions of a debenture trust deed or by virtue of shares issued to it for the purpose in pursuance of those provisions) directly or indirectly to appoint the majority of the directors of that other company,

that other company shall be deemed to be a subsidiary company within the meaning of this Act, and the expression 'subsidiary company' in this Act means a company in the case of which the conditions of this subsection are satisfied and includes a subsidiary company of such company:

Provided that where a company the ordinary business of which includes the lending of money holds shares in another company as security only, no account shall, for the purpose of determining under this section whether that other company is a subsidiary company, be taken of the shares so held."

3. To section 4 of the said Act the following subsections shall be added, namely :—

Amendment of section 4, Act VII of 1913.

- "(3) This section shall not apply to a joint family carrying on joint family trade or business and where two or more such joint families form a partnership, in computing the number of persons for the purposes of this section, minor members of such families shall be excluded.
- (4) Every member of a company, association or partnership carrying on business in contravention of this section shall be personally liable for all liabilities incurred in such business.

(5) Any

3

A 2

(5) Any person who is a member of a company, association or partnership formed in contravention of this section shall be punishable with fine not exceeding one thousand rupees."

Substitution of new section for section 9, Act VII of 1913.

Printing and signature of memorandum.

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

"9. The memorandum shall—

- (a) be printed,
- (b) be divided into paragraphs numbered consecutively, and
- (c) be signed by each subscriber (who shall add his address and description) in the presence of at least one witness who shall attest the signature."

Amendment of section 10, Act VII of 1913.

5. To section 10 of the said Act, the following proviso shall be added, namely :—

"Provided that any provision in the memorandum relating to the appointment of a manager or managing agent and other matters of a like nature incidental or subsidiary to the main objects of the company, shall not be deemed to be such condition."

Amendment of section 11, Act VII of 1913.

6. For sub-section (3) of section 11 of the said Act the following sub-section shall be substituted, namely :—

"(3) Except with the previous consent in writing of the Governor General in Council, no company shall be registered by a name which—

(a) contains any of the following words, namely, 'Crown', 'Emperor', 'Empire', 'Empress', 'Federal', 'Imperial', 'King', 'Queen', 'Royal', 'State', 'Reserve Bank', 'Bank of Bengal', 'Bank of Madras', 'Bank of Bombay', or any word which suggests or is calculated to suggest the patronage of His Majesty or of any member of the Royal Family or any connection with His Majesty's Government or any department thereof ; or

(b) contains the word 'Municipal' or 'Chartered' or any word which suggests or is calculated to suggest connection with any municipality

or

OF 1936.]

Indian Companies.

or other local authority or with any society
or body incorporated by Royal Charter :

Provided that nothing in this sub-section shall
apply to companies registered before the com-
mencement of this Act."

7. In sub-section (1) of section 12 of the said Act, Amendment of
section 12, Act
VII of 1913. after clause (e) the following word and clauses shall be
added, namely:—

“ or

(f) to sell or dispose of the whole or any part of the
undertaking of the company; or

(g) to amalgamate with any other company or
body of persons.”

8. To sub-section (2) of section 17 of the said Act the Amendment of
section 17, Act
VII of 1 following shall be added, namely:—

“ and shall in any event be deemed to contain re-
gulations identical with or to the same effect
as regulation 56, regulation 66, regulation 71,
regulations 78, 79, 80, 81 and 82, regulation 95,
regulation 97, regulation 105, regulation 107
and regulations 112, 113, 114, 115 and 116
contained in that Table :

Provided that regulation 78 shall not be deemed to
be included in the articles of any private com-
pany except a private company which is the
subsidiary company of a public company :

Provided further that regulation 107 shall be deemed
to require that a statement of the reasons
why of the whole amount of any item of
expenditure which may in fairness be
distributed over several years, only a portion
thereof is charged against the income of the
year, shall be shown in the profit and loss
account, unless the company in general meeting
shall determine otherwise.”

9. In clause (c) of section 19 of the said Act, after Amendment of
section 19, Act
VII of 1913. the word “ memorandum ” the brackets and words
“(who shall add his address and description) ” shall be
inserted.

10. After

Indian Companies. [ACT XXII

Insertion of
new section
20A in Act
VII of 1913.

Effect of al-
teration in
memorandum
or articles.

10. After section 20 of the said Act the following section shall be inserted, namely—

“20A. Notwithstanding anything in the memorandum or articles of a company, no member of the company shall be bound by an alteration made in the memorandum or articles after the date on which he became a member if and so far as the alteration requires him to take or subscribe for more shares than the number held by him at the date on which the alteration is made, or in any way increases his liability as at that date to contribute to the share capital of, or otherwise to pay money to, the company :

Provided that this section shall not apply in any case where the member agrees in writing either before or after the alteration is made to be bound thereby.”

Amendment of
section 25, Act
VII of 1913.

11. In sub-section (1) of section 25 of the said Act, for the words “at his request, and” the words “at his request and within fourteen days thereof” shall be substituted.

Insertion of
new section
25A in Act
VII of 1913.

Alteration of
memorandum
or articles
to be noted in
every copy.

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

“25A. (1) Where an alteration is made in the memorandum or articles of a company, every copy of the memorandum or articles issued after the date of the alteration shall be in accordance with the alteration.

(2) If, where any such alteration has been made, the company at any time after the date of the alteration issues any copies of the memorandum or articles which are not in accordance with the alteration, it shall be liable to a fine not exceeding ten rupees for each copy so issued and every officer of the company who is knowingly and wilfully in default shall be liable to the like penalty.”

Amendment of
section 26, Act
VII of 1913.

13. In sub-section (3) of section 26 of the said Act, for the words “and of filing lists of members and directors and managers with the registrar” the words “and of sending lists of members to the registrar” shall be substituted.

14. After

14. After section 31 of the said Act the following section shall be inserted, namely:—

Insertion of
new Section
31A in Act
VII of 1913.

- “31A. (1) Every company having more than fifty members shall, unless the register of members is in such a form as to constitute in itself an index, keep an index of the names of the members of the company and shall within fourteen days after the date on which any alteration is made in the register of members make any necessary alteration in the index.
- (2) The index, which may be in the form of a card index, shall in respect of each member contain a sufficient indication to enable the account of that member in the register to be readily found.
- (3) If default is made in complying with this section, the company and every officer of the company who is knowingly and wilfully in default shall be liable to a fine not exceeding fifty rupees.”

Index of
members of
company.

15. In section 32 of the said Act,—

Amendment of
Section 32, Act
VII of 1913.

- (a) in sub-section (1), after the word “shall” the words “within eighteen months from its incorporation and thereafter” shall be inserted;
- (b) in sub-section (2),—
- (i) in clause (f), for the words “in respect of any debentures” the words “in respect of any shares or debentures” shall be substituted, and to that clause the words “or so much thereof as has not been written off at the date of the return” shall be added; and
- (ii) in clause (l), for the words “the managers of the company” the following words shall be substituted, namely:—
- “the managers or managing agents of the company, and the changes in the personnel of the directors, managers and managing agents since the last return together with the dates on which they took place”;
- (c) in sub-section (3), for the words “seven days” the words “twenty-one days” shall be substituted; and

(d) sub-section

(d) sub-section (4) shall be re-numbered as sub-section (5) and the following sub-section shall be inserted as sub-section (4), namely :—

“(4) A private company shall send with the annual return required by sub-section (1) a certificate signed by a director or other officer of the company that the company has not, since the date of the last return or, in the case of a first return, since the date of the incorporation of the company, issued any invitation to the public to subscribe for any shares or debentures of the company, and where the annual return discloses the fact that the number of members of the company exceeds fifty, also a certificate so signed that the excess consists wholly of persons who under sub-clause (b) of clause 13 of sub-section (1) of section 2 are not to be included in reckoning the number of fifty”.

Substitution of
new section
for section 34,
Act VII of
1913.
Transfer of
shares.

16. For section 34 of the said Act the following section shall be substituted, namely :—

- “34. (1) An application for the registration of the transfer of shares in a company may be made either by the transferor or the transferee, provided that where such application is made by the transferor no registration shall in the case of partly paid shares be effected unless the company gives notice of the application to the transferee and subject to the provisions of sub-section (4) the company shall, unless objection is made by the transferee within two weeks from the date of receipt of the notice, enter in its register of members the name of the transferee in the same manner and subject to the same conditions as if the application for registration was made by the transferee.
- (2) For the purposes of sub-section (1) notice to the transferee shall be deemed to have been duly given if despatched by prepaid post to the transferee at the address given in the instrument of transfer and shall be deemed to have been delivered in the ordinary course of post.
- (3) It shall not be lawful for the company to register a transfer of shares in or debentures of the company

company unless the proper instrument of transfer duly stamped and executed by the transferor and the transferee has been delivered to the company along with the scrip:

Provided that, where it is proved to the satisfaction of the directors of the company that an instrument of transfer signed by the transferor and transferee has been lost, the company may, if the directors think fit, on an application in writing made by the transferee and bearing the stamp required by an instrument of transfer, register the transfer on such terms as to indemnity as the directors may think fit.

- (4) If a company refuses to register the transfer of any shares or debentures, the company shall, within two months from the date on which the instrument of transfer was lodged with the company, send to the transferee and the transferor notice of the refusal.
- (5) If default is made in complying with sub-section (4) of this section, the company and every director, manager, secretary or other officer of the company who is knowingly a party to the default shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.
- (6) Nothing in sub-section (3) shall prejudice any power of the company to register as share holder or debenture holder any person to whom the right to any shares in or debentures of the company has been transmitted by operation of law.
- (7) Nothing in this section shall prejudice any power of the company under its articles to refuse to register the transfer of any shares."

17. In section 36 of the said Act,—

Amendment of
section 36,
Act VII of
1913.

- (a) (i) in sub-section (1), after the word "company" where it first occurs the words "and the index of members" shall be inserted;

(ii) to

Indian Companies. [ACT XXII

(iv) to sub-section (1) the words " Any such member or other person may make extracts therefrom " shall be added at the end ;

(b) to sub-section (2) the following words shall be added, namely :—

" and the company shall cause any copy so required by any person to be sent to that person within a period of ten days, exclusive of non-working days and days on which the transfer books of the company are closed, commencing on the day next after the day on which the requirement is received by the company " ; and

(c) for sub-section (3) the following sub-section shall be substituted, namely :—

" (3) If any inspection required under this section is refused or if any copy required under this section is not sent within the proper period the company and every officer of the company who is in default shall be liable in respect of each offence to a fine not exceeding twenty rupees and to a further fine not exceeding twenty rupees for every day during which the refusal or default continues and the Court may by an order compel an immediate inspection of the register and index or direct that copies required shall be sent to the persons requiring them."

Amendment of section 37, Act VII of 1918. 18. In section 37 of the said Act,—

(a) after the word " giving " the words " seven days' previous " shall be added ;

(b) for the word " thirty " the word " forty-five " shall be substituted ; and

(c) the words " but not exceeding thirty days at a time " shall be added at the end.

Amendment of section 39, Act VII of 1918. 19. To section 39 of the said Act the following words shall be added, namely :—

" within a fortnight from the date of the completion of the order ".

Amendment of section 43, Act VII of 1918. 20. Section 43 of the said Act shall be re-numbered as sub-section (1) of that section and to the section as so re-numbered

re-numbered the following sub-section shall be added, namely :—

“(2) Nothing in this section shall apply to a private company.”

21. In section 50 of the said Act,—

Amendment of
section 50, Act
VII of 1913.

(a) in sub-section (2), the words “ with respect to sub-division of shares ” shall be omitted, and for the words “ by special resolution ” the words “ by the company in general meeting ” shall be substituted ;

(b) sub-sections (3) and (4) shall be omitted and sub-section (5) shall be re-numbered as sub-section (3) ; and

(c) after sub-section (5) as so re-numbered the following sub-section shall be added, namely :—

“(4) The company shall file with the registrar notice of the exercise of any power referred to in clause (d) or clause (e) of sub-section (1) within fifteen days from the exercise thereof.”

22. In section 53 of the said Act,—

Amendment of
section 53, Act
VII of 1913.

(a) in sub-section (1) the words “ or in the case of a special resolution the confirmation ” shall be omitted ;

(b) sub-section (2) shall be re-numbered as sub-section (3) and the following sub-section shall be inserted as sub-section (2), namely :—

“(2) The notice to be given as aforesaid shall include particulars of the classes of shares affected and the conditions (if any) subject to which the new shares are to be issued.”

23. In the proviso to sub-section (1) of section 54 of the said Act, the words “ and confirmed at a meeting of shareholders of that class in the same manner as a special resolution of the company is required to be confirmed ” shall be omitted.

Amendment to
section 54, Act
VII of 1913.

24. After

Insertion of new section 54A in Act VII of 1913.

Restrictions on purchase by company or loans by company for purchase of its own shares.

24. After the heading "*Reduction of Share Capital*" and before section 55 the following section shall be inserted, namely :—

"54A. (1) No company limited by shares shall have power to buy its own shares or the shares of a public company of which it is a subsidiary company unless the consequent reduction of capital is effected and sanctioned in the manner provided by sections 55 to 66.

(2) No company limited by shares other than a private company, not being a subsidiary company of a public company, shall give, whether directly or indirectly, and whether by means of a loan, guarantee, the provision of security or otherwise, any financial assistance for the purpose of or in connection with a purchase made or to be made by any person of any shares in the company :

Provided that nothing in this section shall be taken to prohibit, where the lending of money is part of the ordinary business of a company, the lending of money by the company in the ordinary course of its business.

(3) If a company acts in contravention of this section, the company and every officer of the company who is knowingly and wilfully in default shall be liable to a fine not exceeding one thousand rupees.

(4) Nothing in this section shall affect the right of a company to redeem any shares issued under section 105B."

Amendment of section 55, Act VII of 1913.

25. In section 55 of the said Act,—

(a) sub-section (1) shall be omitted ; and

(b) sub-sections (2) and (3) shall be re-numbered as sub-sections (1) and (2), respectively.

Amendment of section 56, Act VII of 1913.

26. In section 56 of the said Act, the words "and confirmed" shall be omitted.

Amendment of section 57, Act VII of 1913.

27. In section 57 of the said Act, for the word "confirmation", where it first occurs, the word "passing" shall be substituted and for the words "the presentation of the petition for confirming the reduction" the words "the making of the order confirming the reduction" shall be substituted.

28. After

28. After section 66 of the said Act the following heading and section shall be inserted, namely :—

Insertion of
new heading
and section
66A in Act
VII of 1913.

“ Variation of Shareholders’ Rights.

66A. (1) If in the case of a company, the share capital of which is divided into different classes of shares, provision is made by the memorandum or articles for authorising the variation of the rights attached to any class of shares in the company, subject to the consent of any specified proportion of the holders of the issued shares of that class or the sanction of a resolution passed at a separate meeting of the holders of those shares, and in pursuance of the said provision the rights attached to any such class of shares are at any time varied, the holders of not less in the aggregate than ten per cent. of the issued shares of that class, being persons who did not consent to or vote in favour of the resolution for the variation, may apply to the Court to have the variation cancelled, and where any such application is made the variation shall not have effect unless and until it is confirmed by the Court.

Rights of
holders of
special classes
of shares.

- (2) An application under this section must be made within fourteen days after the date on which the consent was given or the resolution was passed, as the case may be, and may be made on behalf of the shareholders entitled to make the application by such one or more of their number as they may appoint in writing for the purpose.
- (3) On any such application the Court, after hearing the applicant and any other persons who apply to the Court to be heard and appear to the Court to be interested in the application, may, if it is satisfied having regard to all the circumstances of the case that the variation would unfairly prejudice the shareholders of the class represented by the applicant, disallow the variation and shall, if not so satisfied, confirm the variation.
- (4) The decision of the Court on any such application shall be final.

(5) The

Indian Companies. [ACT XXII.]

- (5) The company shall within fifteen days after the service on the company of any order made on any such application forward a copy of the order to the registrar and, if default is made in complying with this provision, the company and every officer of the company who is knowingly and wilfully in default shall be liable to a fine not exceeding fifty rupees.
- (6) The expression 'variation' in this section includes 'abrogation' and the expression 'varied' shall be construed accordingly."

Amendment of section 71, Act VII of 1913.

29. In section 71 of the said Act,—

- (a) in sub-section (2) for the word "confirmation" the word "passing" shall be substituted and all the words after the word "memorandum" shall be omitted, and
- (b) sub-section (3) shall be omitted.

Substitution of new section for section 72, Act VII of 1913.
Registered office of company.

30. For section 72 of the said Act the following section shall be substituted, namely :—

- "72. (1) A company shall as from the day on which it begins to carry on business, or as from the twenty-eighth day after the date of its incorporation, whichever is the earlier, have a registered office to which all communications and notices may be addressed.
- (2) Notice of the situation of the registered office and of any change therein shall be given within twenty-eight days after the date of the incorporation of the company or of the change, as the case may be, to the registrar who shall record the same.
- (3) The inclusion in the annual return of a company of the statement as to the address of its registered office shall not be taken to satisfy the obligation imposed by this section.
- (4) If a company carries on business without complying with the requirements of this section it shall be liable to a fine not exceeding fifty rupees for every day during which it so carries on business."

31. For

31. For section 76 of the said Act the following section shall be substituted, namely:—

Substitution of new section for section 76, Act VII of 1913.

“76. (1) A general meeting of every company shall be held within eighteen months from the date of its incorporation and thereafter once at least in every calendar year and not more than fifteen months after the holding of the last preceding general meeting.

Annual general meeting.

(2) If default is made in holding a meeting in accordance with the provisions of this section, the company and every director or manager of the company who is knowingly and wilfully a party to the default shall be liable to a fine not exceeding five hundred rupees.

(3) If default is made as aforesaid, the Court may, on the application of any member of the company, call or direct the calling of a general meeting of the company.”

32. For section 77 of the said Act the following section shall be substituted, namely:—

Substitution of new section for section 77, Act VII of 1913.

“77. (1) Every company limited by shares and every company limited by guarantee and having a share capital shall, within a period of not less than one month nor more than six months from the date at which the company is entitled to commence business, hold a general meeting of the members of the company, which shall be called the statutory meeting.

Statutory meeting of company.

(2) The directors shall, at least twenty-one days before the day on which the meeting is held, forward a report (in this Act referred to as the statutory report) certified as required by this section to every member of the company.

(3) The statutory report shall be certified by not less than two directors of the company or by the chairman of the directors if authorised in this behalf by the directors and shall state—

(a) the total number of shares allotted, distinguishing shares allotted as fully or partly paid up otherwise than in cash, and stating in the case of shares partly paid up the extent to which they are so paid up, and in either case the consideration for which they have been allotted;

(b) the

- (b) the total amount of cash received by the company in respect of all the shares allotted, distinguished as aforesaid ;
 - (c) an abstract of the receipts of the company and of the payments made thereout up to a date within seven days of the date of the report, exhibiting under distinctive headings the receipts of the company from shares and debentures and other sources, the payments made thereout, and particulars concerning the balance remaining in hand, and an account or estimate of the preliminary expenses of the company showing separately any commission or discount paid on the issue or sale of shares ;
 - (d) the names, addresses and descriptions of the directors, auditors, managing agents and managers, if any, and secretary of the company and the changes, if any, which have occurred since the date of the incorporation ;
 - (e) the particulars of any contract, the modification of which is to be submitted to the meeting for its approval, together with the particulars of the modification or proposed modification ;
 - (f) the extent to which underwriting contracts, if any, have been carried out ;
 - (g) the arrears, if any, due on calls from directors, managing agents and managers ; and
 - (h) the particulars of any commission or brokerage paid or to be paid in connection with the issue or sale of shares to any director, managing agent or manager or a partner of the managing agent if the managing agent is a firm or if the managing agent is a private company a director thereof.
- (4) The statutory report shall, so far as it relates to the shares allotted by the company, and to the cash received in respect of such shares and to the receipts and payments of the company, be certified as correct by the auditors of the company.

(5) The

- (5) The directors shall cause a copy of the statutory report certified as required by this section to be delivered to the registrar for registration forthwith after the sending thereof to the members of the company.
- (6) The directors shall cause a list showing the names, descriptions and addresses of the members of the company, and the number of shares held by them respectively, to be produced at the commencement of the meeting, and to remain open and accessible to any member of the company during the continuance of the meeting.
- (7) The members of the company present at the meeting shall be at liberty to discuss any matter relating to the formation of the company or arising out of the statutory report, whether previous notice has been given or not, but no resolution of which notice has not been given in accordance with the articles may be passed.
- (8) The meeting may adjourn from time to time, and at any adjourned meeting any resolution of which notice has been given in accordance with the articles, either before or subsequently to the former meeting, may be passed, and the adjourned meeting shall have the same powers as an original meeting.
- (9) If a petition is presented to the Court in manner provided by Part V for winding up the company on the ground of default in filing the statutory report or in holding the statutory meeting, the Court may, instead of directing that the company be wound up, give directions for the statutory report to be filed or a meeting to be held, or make such other order as may be just.
- (10) In the event of any default in complying with the provisions of this section every director of the company who is guilty of or who knowingly and wilfully authorises or permits the default shall be liable to a fine not exceeding five hundred rupees.
- (11) This section shall not apply to a private company."

33. Sub-section (4) of section 78 of the said Act shall be omitted, sub-section (5) shall be re-numbered as sub-section

Amendment
of section 78,
Act VII of
1913.

sub-section (4) and after sub-section (5) as so re-numbered the following sub-section shall be added, namely :—

“(5) Any reasonable expenses incurred by the requisitionists by reason of the failure of the directors duly to convene a meeting shall be repaid to the requisitionists by the company, and any sum so repaid shall be retained by the company out of any sums due or to become due from the company by way of fees or other remuneration for their services to such of the directors as were in default.”

Substitution
of new section
for section 79,
Act VII of
1913.
Provisions as
to meetings
and votes.

34. For section 79 of the said Act the following section shall be substituted, namely :—

“79. (1) The following provisions shall have effect with respect to meetings of a company other than a private company not being a subsidiary of a public company and the procedure thereat, notwithstanding any provision made in the articles of the company in this behalf :—

- (a) a meeting of a company other than a meeting for the passing of a special resolution may be called by not less than fourteen days' notice in writing; but with the consent of all the members entitled to receive notice of some particular meeting that meeting may be convened by such shorter notice and in such manner as those members may think fit;
- (b) notice of the meeting of a company with a statement of the business to be transacted at the meeting shall be served on every member in the manner in which notices are required to be served by Table A and for the purpose of this clause the expression 'Table A' means that table as for the time being in force; but the accidental omission to give notice to, or the non-receipt of notice by, any member shall not invalidate the proceedings at any meeting;
- (c) five members present in person or by proxy, or the chairman of the meeting, or any member or members holding not less than one-tenth of the issued capital which carries voting rights shall be entitled to demand a poll: Provided that in the case of a private company

if

if not more than seven members are personally present, one member, and if more than seven members are personally present, two members shall be entitled to demand a poll ;

- (d) an instrument appointing a proxy, if in the form set out in regulation 67 of Table A, shall not be questioned on the ground that it fails to comply with any special requirements specified for such instruments by the articles ; and
 - (e) any shareholder whose name is entered in the register of shareholders of the company shall enjoy the same rights and be subject to the same liabilities as all other shareholders of the same class.
- (2) The following provisions shall have effect in so far as the articles of the company do not make other provision in that behalf :—
- (a) two or more members holding not less than one-tenth of the total share capital paid up or, if the company has not a share capital, not less than five per cent. in number of the members of the company may call a meeting ;
 - (b) in the case of a private company two members and in the case of any other company five members personally present shall be a quorum ;
 - (c) any member elected by the members present at a meeting may be chairman thereof ;
 - (d) in the case of a company originally having a share capital, every member shall have one vote in respect of each share or each hundred rupees of stock held by him, and in any other case every member shall have one vote ;
 - (e) on a poll votes may be given either personally or by proxy ;
 - (f) the instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing, or if the appointor is a corporation, either under seal or under the hand of an officer or an attorney duly authorised ; and

(g) a proxy must be a member of the company.

- (3) If for any reason it is impracticable to call a meeting of a company in any manner in which meetings of that company may be called or to conduct the meeting of the company in manner prescribed by the articles or this Act, the Court may, either of its own motion or on the application of any director of the company or of any member of the company who would be entitled to vote at the meeting, order a meeting of the company to be called, held and conducted in such manner as the Court thinks fit, and where any such order is given may give such ancillary or consequential directions as it thinks expedient, and any meeting called, held and conducted in accordance with any such order shall for all purposes be deemed to be a meeting of the company duly called, held and conducted."

Amendment
of section 81,
Act VII of
1913.

35. In section 81 of the said Act,—

- (a) for sub-section (2) the following sub-section shall be substituted, namely :—

"(2) A resolution shall be a special resolution when it has been passed by such a majority as is required for the passing of an extraordinary resolution and at a general meeting of which not less than twenty-one days' notice specifying the intention to propose the resolution as a special resolution has been duly given :

Provided that, if all the members entitled to attend and vote at any such meeting so agree, a resolution may be proposed and passed as a special resolution at a meeting of which less than twenty-one days' notice has been given."

- (b) in sub-sections (3) and (4), for the words "is submitted to be passed or a special resolution is submitted to be passed or confirmed" the words "or a special resolution is submitted to be passed" shall be substituted ;
- (c) in sub-section (4), the words following the words "a poll may be demanded" shall be omitted ; and
- (d) at the end of sub-section (6) and sub-section (7) the words "or under this Act" shall be added.

36. In

36. In sub-section (1) of section 82 of the said Act, for the words "the confirmation of the special resolution or the passing of the extraordinary resolution, as the case may be," the words "the passing thereof" shall be substituted, and after the word "typewritten" the words "and duly certified under the signature of an officer of the company" shall be inserted.

Amendment of section 82, Act VII of 1913.

37. To section 83 of the said Act the following sub-sections shall be added, namely:—

Amendment of section 83, Act VII of 1913.

- "(4) The books containing the minutes of proceedings of any general meeting of a company held after the commencement of the Indian Companies (Amendment) Act, 1936, shall be kept at the registered office of the company and shall during business hours (subject to such reasonable restrictions as the company may by its articles or in general meeting impose so that no less than two hours in each day be allowed for inspection) be open to the inspection of any member without charge.
- (5) Any member shall at any time after seven days from the meeting be entitled to be furnished within seven days after he has made a request in that behalf to the company with a copy of any minutes referred to in sub-section (4) at a charge not exceeding six annas for every hundred words.
- (6) If any inspection required under sub-section (4) of this section is refused or if any copy required under sub-section (5) of this section is not furnished within the time specified in sub-section (5) the company and every officer of the company who is knowingly and wilfully in default shall be liable in respect of each offence to a fine not exceeding twenty-five rupees and to a further fine to twenty-five rupees for every day during which the default continues.
- (7) In the case of any such refusal or default, the Court may by order compel an immediate inspection of the books in respect of all proceedings of general meetings or direct that the copies required shall be sent to the persons requiring them."

Amendment
of section 83A,
Act VII of
1918.

38. In section 83A of the said Act,—

(a) for sub-section (1) the following shall be substituted, namely:—

“(1) Every company shall have at least three directors.”; and

(b) to sub-section (2) the words “except a private company being a subsidiary company of a public company” shall be added.

Amendment
of section 83B,
Act VII of
1918.

39. Section 83B of the said Act shall be re-numbered as sub-section (1) of that section and to the section as so re-numbered the following sub-section shall be added, namely:—

“(2) Notwithstanding anything contained in the articles of a company other than a private company not less than two-thirds of the whole number of directors shall be persons whose period of office is liable to determination at any time by retirement of directors in rotation:

Provided that nothing herein contained shall apply to a company incorporated before the commencement of the Indian Companies (Amendment) Act, 1936, where by virtue of the articles of the company the number of directors whose period of office is liable to determination at any time by retirement of directors in rotation falls below the two-thirds proportion mentioned in this section.”

Amendment
of section 84,
Act VII of
1918.

40. In section 84 of the said Act,—

(a) in clause (ii) of sub-section (1), for the words “a company limited by guarantee and” the word “companies” shall be substituted; after the brackets and words “(if any)”, where they first occur, the words “or taken from the company and paid or agreed to pay for his qualification shares” shall be inserted, and after the brackets and words “(if any)”, where they occur for the second time, the following words shall be added, namely:—

“or made and filed with the registrar an affidavit to the effect that a number of shares, not less than his qualification (if any), are registered in his name”;

(b) in

- (b) in sub-section (2), after the word "articles" the words ", if any," shall be inserted; and
- (c) in sub-section (3), after the words "private company" the words "or a company which was a private company before becoming a public company" shall be inserted.

41. Sub-section (2) of section 85 of the said Act shall be omitted, and sub-section (3) of that section shall be re-numbered as sub-section (2). Amendment of section 85 Act VII of 1913.

42. After section 86 of the said Act the following sections shall be inserted, namely :— Insertion of new sections 86A to 86I in Act VII of 1913.

" 86A. (1) If any person being an undischarged insolvent acts as director or managing agent or manager of any company, he shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding one thousand rupees or to both. Ineligibility of bankrupt to act as director.

(2) In this section the expression 'company' includes a company incorporated outside British India which has an established place of business within British India.

86B. If in the case of any company provision is made by the articles or by any agreement entered into between any person and the company for empowering a director or manager of the company to assign his office as such to another person, any assignment of office made in pursuance of the said provision shall, notwithstanding anything to the contrary contained in the said provision, be of no effect unless and until it is approved by a special resolution of the company : Assignment of office by directors.

Provided that the exercise by a director of a power to appoint an alternate or substitute director to act for him during an absence of not less than three months from the district in which meetings of the directors are ordinarily held, if done with the approval of the board of directors, shall not be deemed to be an assignment of office within the meaning of this section :

Provided always that any such alternate or substitute director shall *ipso facto* vacate office

if

if and when the appointor returns to the district in which meetings of the directors are ordinarily held.

Explanation.—For the purposes of the provisoes to this section, the presidency-towns of Calcutta and Madras shall be deemed to be part of the 24-Parganas and Chingleput districts, respectively, and the presidency-town of Bombay shall be deemed to be part of the Bombay Suburban and the Thana districts.

A voidance of provisions relieving liability of directors

86C. Save as provided in this section, any provision, whether contained in the articles of a company or in any contract with a company or otherwise, for exempting any director, manager or officer of the company or any person (whether an officer of the company or not) employed by the company as auditor from or indemnifying him against any liability which by virtue of any rule of law would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the company shall be void :

Provided that—

- (a) in relation to any such provision which is in force at the date of the commencement of the Indian Companies (Amendment) Act, 1936, this section shall have effect only on the expiration of a period of six months from that date, and
- (b) nothing in this section shall operate to deprive any person of any exemption or right to be indemnified in respect of anything done or omitted to be done by him while any such provision was in force, and
- (c) notwithstanding anything in this section, a company may, in pursuance of any such provision as aforesaid, indemnify any such director, manager, officer or auditor against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted, or in connection with any application under section 281 of this Act in which relief is granted to him by the Court.

Loans of directors.

86D. (1) No company shall make any loan or guarantee any loan made to a director of the company

company or to a firm of which such director is a partner or to a private company of which such director is a director.

- (2) In the event of any contravention of sub-section (1) any director of the company who is a party to such contravention shall be punishable with fine which may extend to five hundred rupees, and if default is made in repayment of the loan or in discharging the guarantee shall be liable jointly and severally for the amount unpaid.
- (3) This section shall not apply to a private company (except a private company which is the subsidiary company of a public company) or to a banking company.

86E. No director or firm of which such director is a partner or private company of which such director is a director shall without the consent of the company in general meeting hold any office of profit under the company except that of a managing director or manager or a legal or technical adviser or a banker :

Director not to hold office of profit.

Provided that nothing herein contained shall apply to a director elected or appointed before the commencement of the Indian Companies (Amendment) Act, 1936, in respect of any office of profit under the company held by him at the commencement of the said Act.

Explanation.—For the purposes of this section the office of managing agent shall not be deemed to be an office of profit under the company.

86F. Except with the consent of the directors, a director of the company, or the firm of which he is a partner or any partner of such firm, or the private company of which he is a member or director, shall not enter into any contracts for the sale, purchase or supply of goods and materials with the company, provided that nothing herein contained shall affect any such contract or agreement for such sale, purchase or supply entered into before the commencement of the Indian Companies (Amendment) Act, 1936.

Sanction of directors necessary for certain contracts.

86G. (1) The

Removal of directors.

86G. (1) The company may by extraordinary resolution remove any director, whose period of office is liable to determination at any time by retirement of directors in rotation, before the expiration of his period of office and may by ordinary resolution appoint another person in his stead. The person so appointed shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected director. A director so removed shall not be reappointed a director by the board of directors.

(2) This section shall not apply to directors elected or appointed before the commencement of the Indian Companies (Amendment) Act, 1936.

Restrictions on powers of directors.

86H. The directors of a public company or of a subsidiary company of a public company shall not, except with the consent of the company concerned in general meeting,—

- (a) sell or dispose of the undertaking of the company ;
- (b) remit any debt due by a director.

Vacation of office of director.

86I. (1) The office of a director shall be vacated if—

- (a) he fails to obtain within the time specified in sub-section (1) of section 84, or at any time thereafter ceases to hold, the share qualification, if any, necessary for his appointment, or
- (b) he is found to be of unsound mind by a Court of competent jurisdiction, or
- (c) he is adjudged an insolvent, or
- (d) he fails to pay calls made on him in respect of shares held by him within six months from the date of such calls being made, or
- (e) he or any firm of which he is a partner or any private company of which he is a director without the sanction of the company in general meeting accepts or holds any office of profit under the company other than that of a managing director or manager or a legal or technical adviser or a banker, or

(f) he

(f) he absents himself from three consecutive meetings of the directors or from all meetings of the directors for a continuous period of three months whichever is the longer without leave of absence from the board of directors, or

(g) he or any firm of which he is a partner or any private company of which he is a director accepts a loan or guarantee from the company in contravention of section 86D, or

(h) he acts in contravention of section 86F.

(2) Nothing contained in this section shall be deemed to preclude a company from providing by its articles that the office of director shall be vacated on grounds additional to those specified in this section."

43. For section 87 of the said Act the following section shall be substituted, namely :—

Substitution of new section for section 87, Act VII of 1913.

" 87. (1) Every company shall keep at its registered office a register of its directors, managers and managing agents containing with respect to each of them the following particulars, that is to say :—

Register of directors, managers and managing agents.

(a) in the case of an individual, his present name in full, any former name or surname in full, his usual residential address, his nationality and, if that nationality is not the nationality of origin, his nationality of origin and his business occupation, if any, and if he holds any other directorship or directorships the particulars of such directorship or directorships ;

(b) in the case of a corporation, its corporate name and registered or principal office ; and the full name, address and nationality of each of its directors ; and

(c) in the case of a firm, the full name, address and nationality of each partner, and the date on which each became a partner.

(2) The

- (2) The company shall within the periods respectively mentioned in this sub-section send to the registrar a return in the prescribed form containing the particulars specified in the said register and a notification in the prescribed form of any change among its directors, managers or managing agents or in any of the particulars contained in the register.

The period within which the said return is to be sent shall be a period of fourteen days from the appointment of the first directors of the company and the period within which the said notification of a change is to be sent shall be fourteen days from the happening thereof.

- (3) The register to be kept under this section shall during business hours (subject to such reasonable restrictions as the company may by its articles or in general meeting impose, so that not less than two hours in each day be allowed for inspection) be open to the inspection of any member of the company without charge and of any other person on payment of one rupee or such less sum as the company may impose for each inspection.

- (4) If any inspection required under this section is refused or if default is made in complying with sub-section (1) or sub-section (2) of this section, the company and every officer of the company who is knowingly and wilfully in default shall be liable to a fine of fifty rupees.

- (5) In the case of any such refusal, the Court on application made by the person to whom inspection has been refused and upon notice to the company may by order direct an immediate inspection of the register."

44. After section 87 of the said Act the following heading and sections shall be inserted, namely :—

" Managing Agents.

87A. (1) No managing agent shall, after the commencement of the Indian Companies (Amendment) Act, 1936, be appointed to hold office for a term of more than twenty years at a time.

(2) Notwithstanding

Insertion of
new heading
and sections
87A to 87I in
Act VII of
1913.

Duration of
appointment
of managing
agent.

- (2) Notwithstanding anything to the contrary contained in the articles of a company or in any agreement with the company a managing agent of a company appointed before the commencement of the Indian Companies (Amendment) Act, 1936, shall not continue to hold office after the expiry of twenty years from the commencement of the said Act unless then reappointed thereto or unless he has been reappointed thereto before the expiry of the said twenty years.
- (3) A managing agent whose office is terminated by virtue of the provisions of sub-section (2) shall upon such termination be entitled to a charge upon the assets of the company by way of indemnity for all liabilities or obligations properly incurred by the managing agent on behalf of the company subject to existing charges and encumbrances, if any.
- (4) The termination of the office of a managing agent by virtue of the provisions of sub-section (2) shall not take effect until all moneys payable to the managing agent for loans made to or remuneration due up to the date of such termination from the company are paid.
- (5) Nothing in this section shall apply to a private company which is not the subsidiary company of a public company.

87B. Notwithstanding anything to the contrary contained in the articles of the company or in any agreement with the company—

Conditions applicable to managing agents.

- (a) a company may, by resolution passed at a general meeting of which notice has been given to the managing agent in the same manner as to members of the company, remove a managing agent if he is convicted of an offence in relation to the affairs of the company punishable under the Indian Penal Code, and being under the provisions of the Code of Criminal Procedure, 1898, non-bailable; and for the purposes of this clause, where the managing agent is a firm or company an offence committed by a member

Indian Companies. [ACT XXII

of such firm or a director of or an officer holding a general power of attorney from such company shall be deemed to be an offence committed by such firm or company :

Provided that a managing agent shall not be liable to be removed under the provisions hereof if the offending member, director or officer as aforesaid is expelled or dismissed by the managing agent within thirty days from the date of his conviction or if his conviction is set aside on appeal ;

- (b) the office of a managing agent shall be vacated if he is adjudged insolvent ;
- (c) a transfer of his office by a managing agent shall be void unless approved by the company in general meeting :

Provided that in the case of a managing agent's firm a change in the partners thereof shall not be deemed to operate as a transfer of the office of managing agent, so long as one of the original partners shall continue to be a partner of the managing agent's firm. For the purpose of this proviso 'original partners' shall mean, in the case of managing agents appointed before the commencement of the Indian Companies (Amendment) Act, 1936, partners who were partners at the date of the commencement of the said Act, and in the case of managing agents appointed after the commencement of the said Act, partners who were partners at the date of the appointment ;

- (d) a charge or assignment of his remuneration or any part thereof effected by a managing agent shall be void as against the company ;
- (e) if a company is wound up either by the Court or voluntarily, any contract of management made with a managing agent shall be thereupon determined without prejudice however, to the right of the managing agent to recover any moneys recoverable

by

by the managing agent from the company :

Provided that where the Court finds that the winding up is due to the negligence or default of the managing agent himself the managing agent shall not be entitled to receive any compensation for the premature termination of his contract of management ; and

(f) the appointment of a managing agent, the removal of a managing agent and any variation of a managing agent's contract of management made after the commencement of the Indian Companies (Amendment) Act, 1936, shall not be valid unless approved by the company by a resolution at a general meeting of the company notwithstanding anything to the contrary in section 86E :

Provided that nothing herein contained shall apply to the appointment of a company's first managing agent made prior to the issue of the prospectus or statement in lieu of prospectus where the terms of the appointment of such managing agent are there set forth.

87C. (1) Where any company appoints a managing agent after the commencement of the Indian Companies (Amendment) Act, 1936, the remuneration of the managing agent shall be a sum based on a fixed percentage of the net annual profits of the company, with provision for a minimum payment in the case of absence of or inadequacy of profits, together with an office allowance to be defined in the agreement of management.

Remuneration
of managing
agent.

(2) Any stipulation for remuneration additional to or in any other form than the remuneration specified in sub-section (1) shall not be binding on the company unless sanctioned by a special resolution of the company.

(3) For the purposes of this section 'net profits' means the profits of the company calculated after allowing for all the usual working charges, interest on loans and advances, repairs and outgoings, depreciation, bounties or subsidies received from Government or from a public body, profits by way of premium on shares sold, profits on sale proceeds

of forfeited shares, or profits from the sale of the whole or part of the undertaking of the company but without any deduction in respect of income-tax or super-tax, or any other tax or duty on income or revenue or for expenditure by way of interest on debentures or otherwise on capital account or on account of any sum which may be set aside in each year out of the profits for reserve or any other special fund.

- (4) This section shall not apply to a private company except a private company which is the subsidiary company of a public company or to any company whose principal business is the business of insurance.

Loans to
managing
agents.

87D. (1) No company shall make to a managing agent of the company or to any partner of the firm, if the managing agent is a firm, or to any director of the private company, if the managing agent is a private company, any loan out of moneys of the company or guarantee any loan made to a managing agent.

- (2) Nothing contained in this section shall apply to any credit held by a managing agent in a current account maintained subject to limits previously approved by the board of directors by the company with the managing agent for the purposes of the company's business.

- (3) In the event of any contravention of subsection (1) any director of the company who is a party to the making of the loan or giving of the guarantee shall be punishable with fine which may extend to five hundred rupees, and if default is made in repayment of the loan or discharging the guarantee shall be liable jointly and severally for the amount unpaid.

- (4) Nothing in this section shall apply to a private company except a private company which is the subsidiary company of a public company.

- (5) Except with the consent of three-fourths of the directors present and entitled to vote

on

on the resolution, a managing agent of [the company, or the firm of which he is a partner, or any partner of such firm, or, if the managing agent is a private company, a member or director thereof, shall not enter into any contract for the sale, purchase or supply of goods and materials with the company, provided that nothing herein contained shall affect any such contract for such sale, purchase or supply entered into before the commencement of the Indian Companies (Amendment) Act, 1936.

- §7E. (1) No company incorporated under this Act after the commencement of the Indian Companies (Amendment) Act, 1936, which is under the management of a managing agent shall make any loan to or guarantee any loan made to any company under management by the same managing agent, and no company shall after the expiry of six months from the commencement of the said Act except by way of renewal of an existing loan or guarantee given make any loan to or guarantee any loan made to any such company:

Loans to or by companies under the same management.

Provided that nothing herein contained shall apply to loans made or guarantees given by a company to or on behalf of a company under its own management or loans made by or to a company to or by a subsidiary company thereof or to guarantees given by a company on behalf of a subsidiary company thereof.

- (2) In the event of any contravention of the provisions of this section, any director or officer of the company making the loan or giving the guarantee who is knowingly and wilfully in default shall be liable to a fine not exceeding one thousand rupees and shall be jointly and severally liable for any loss incurred by the company in respect of such loan or guarantee.

- §7F. A company other than an investment company, that is to say, a company whose principal business is the acquisition and holding of shares, stocks, debentures or other securities,

Purchase by company of shares of company under same managing agent.

shall

33

o

shall not purchase shares or debentures of any company under management by the same managing agent, unless the purchase has been previously approved by a unanimous decision of the board of directors of the purchasing company.

Restriction on managing agent's powers of management.

87G. A managing agent shall not exercise in respect of any company of which he is a managing agent a power to issue debentures or, except with the authority of the directors, and within the limits fixed by them, a power to invest the funds of the company, and any delegation of any such power by a company to a managing agent shall be void.

Managing agent not to engage in business competing with the business of managed company.

87H. A managing agent shall not on his own account engage in any business which is of the same nature as and directly competes with the business carried on by a company under his management or by a subsidiary company of such company.

Limit on number of directors appointed by managing agent.

87I. Notwithstanding anything contained in the articles of a company other than a private company the directors, if any, appointed by the managing agent shall not exceed in number one-third of the whole number of directors."

Amendment of section 90, Act VII of 1913.

45. In section 90 of the said Act, for the words "not situate in British India" the words "either in or outside British India" shall be substituted.

Amendment of section 91A, Act VII of 1913.

46. In section 91A of the said Act,—

(a) in the proviso to sub-section (1), for the words "member of any specified firm or company" the words "director or a member of any specified company or is a member of any specified firm" shall be substituted; and

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

"(3) A register shall be kept by the company in which shall be entered particulars of all contracts or arrangements to which sub-section (1) applies, and which shall be open to inspection by any member of the company at the registered office of the company during business hours.

(4) Every

- (4) Every officer of the company who knowingly and wilfully acts in contravention of the provisions of sub-section (3) shall be liable to a fine not exceeding five hundred rupees."

47. In section 91B of the said Act,—

- (a) in sub-section (1), after the word "interested" the words "nor shall his presence count for the purpose of forming a quorum at the time of any such vote" shall be inserted; and

Amendment
of section
91B, Act VII
of 1913.

- (b) to sub-section (3) the following proviso shall be added, namely:—

"Provided that where a private company is a subsidiary company of a public company, this section shall apply to all contracts or arrangements made on behalf of the subsidiary company with any person other than the holding company."

48. In section 91C of the said Act, after the word "manager" the words "or managing agent" shall be inserted and after the words "the company shall" the words "within twenty-one days from the date of entering into the contract or the varying of the contract," shall be inserted.

Amendment
of section
91C, Act VII
of 1913.

49. In section 91D of the said Act,—

- (a) in sub-section (1), after the words "private company" the words "not being the subsidiary company of a public company" shall be inserted; and

Amendment
of section
91D, Act VII
of 1913.

- (b) in sub-section (2), after the words "to the company" the words "and send copies to the directors" shall be inserted.

50. In section 93 of the said Act,—

- (a) in sub-section (1),—

- (i) in clause (a), after the word "company" the words "and the number of redeemable preference shares intended to be issued with the date or, where no date is fixed, the period of notice required and the proposed method of redemption" shall be inserted;

Amendment
of section 93,
Act VII of
1913.

(ii) in

35

c 2

(ii) in clause (c), before the brackets and words “(if any)” the words “and managing agents or proposed managing agents” shall be inserted, and after the brackets and words “(if any)” the following words shall be inserted, namely :—

“and any provision in the articles or in any contract as to the appointment of managers or managing agents and the remuneration payable to them”;

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

“(ee) where any issue of shares or debentures is underwritten, the names of the underwriters, and the opinion of the directors that the resources of the underwriters are sufficient to discharge the underwriting obligations; and”;

(iii) after clause (f) the following clause shall be inserted, namely :—

“(ff) where any property referred to in clause (f) has within the two years preceding the issue of the prospectus been transferred by sale, the amount paid by the purchaser at each such transfer so far as the information is available and, where any such property is a business, the profits accruing from such business during each of the three years immediately preceding the issue of the prospectus or during each year of the existence of the business if less than three years so far as the information is available. A balance sheet of the business concerned made up to a date not more than ninety days before the date of the issue of the prospectus shall be appended to the prospectus; and”;

(iia) in clause (h), for the word “or the rate of any such commission” the words “or as discount in respect of shares issued, showing separately the amount, if any so paid to the managing agents” shall be substituted;

(iv) in

(iv) in clause (l), after the words "every material contract" the words "including contracts relating to the acquisition of property to which clause (f) applies" shall be inserted and in the proviso after the word "contract", where it occurs for the second time, the following brackets and words shall be inserted, namely:—

"(except a contract appointing or fixing the remuneration of a managing director or managing agent)";

(v) in clause (o), after the word "by" the words "and the rights in respect of capital and dividends attached to" shall be inserted;

(vi) after clause (o) the following word and clause shall be added, namely:—

"and

(p) where the articles of the company impose any restrictions upon the members of the company in respect of the right to attend, speak or vote at meetings of the company or of the right to transfer shares, or upon the directors of the company in respect of their powers of management, the nature and extent of those restrictions.";

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

"(IA) Where the prospectus is issued by a company which has been carrying on business prior to the issue thereof, the prospectus shall set out the following reports in addition to the matters referred to in sub-section (I), namely:—

(i) a report by the auditors of the company with respect to the profits of the company including its subsidiary companies, if any, so far as the information is available in each of the three financial years immediately preceding the issue of the prospectus and with respect to the rates of the dividends, if any, paid by the company on each class of shares in the
company

company for each of the said three years giving particulars of each such class of shares on which such dividends have been paid and the source from which the dividends have been paid and particulars of the cases in which no dividends have been paid on any class of shares for any of those years, and if no accounts have been made up for any part of a period of three years ending on a date three months before the issue of the prospectus, containing a statement of that fact;

- (ii) if the proceeds or any part of the proceeds of the issue of the shares or debentures are or is to be applied directly or indirectly in the purchase of any business, a report made by an accountant or accountants holding the certificate referred to in section 144 who shall be named in the prospectus upon the profits of the business in respect of each of the three financial years immediately preceding the issue of the prospectus:

Provided that if, in the case of a company which has been carrying on business for less than three years, the accounts of the company have been made up only in respect of two years or any shorter period, this subsection shall have effect as if references to two years or such shorter period were substituted for references to three years.

- (1B) The statement referred to in clause (ff) of sub-section (1) and the report referred to in sub-section (1A) with respect to the profits of a company or business shall show clearly the trading results and all charges and expenses incidental thereto excluding income or profits having no relation to the trading for the period covered and excluding also items of profit or income of a non-recurring nature but including amounts appropriated from profits to such purposes as payment of taxation or reserves.

(1C) Where

(1C) Where any part of the sums required for the matters set out in sub-section (2) of section 101 is to be provided out of sources other than share capital particulars of the amount to be so provided and the sources thereof.”; and

(e) to sub-section (4) the following proviso shall be added, namely:—

“ Provided that the said requirements, except the requirement as to the amount or estimated amount of preliminary expenses, shall apply to a prospectus filed in pursuance of section 154.”

51. Section 96 of the said Act shall be re-numbered Amendment of section 96, Act VII of 1913. as sub-section (1) of that section and after the sub-section as so re-numbered, the following sub-section shall be added, namely:—

“(2) It shall not be lawful to issue any form of application for the shares in or debentures of a company unless the form is issued with a prospectus which complies with the requirements of section 93 :

Provided that this sub-section shall not apply if it is shown that the form of application was issued either—

(a) in connection with a *bona fide* invitation to a person to enter into an underwriting agreement with respect to the shares or debentures; or

(b) in relation to shares or debentures which were not offered to the public.

If any person acts in contravention of the provisions of this sub-section, he shall be liable to a fine not exceeding five hundred rupees.”

52. (1) Section 97 of the said Act shall be re-numbered Amendment of section 97, Act VII of 1913. as sub-section (2) of that section and the following sub-section shall be inserted as sub-section (1), namely:—

“(1) If a prospectus is issued which does not comply with the provisions of section 93, every person who is knowingly responsible for the issue of such prospectus shall be liable to a fine not exceeding fifty rupees for every day from the day of the issue of the prospectus until a copy complying with the requirements of section 93 is filed.”

(2) In

(2) In the said section as so re-numbered—

- (a) after the words “ non-compliance with ”, in both places where they occur, the words “ or contravention of ” shall be inserted;
- (b) after the word “ non-compliance ”, in the three places where it occurs, the words “ or contravention ” shall be inserted; and
- (c) after clause (b) the following word and clause shall be inserted, namely :—

“ or

- (c) the non-compliance or contravention was in respect of matters which in the opinion of the Court were immaterial, or was otherwise such as ought in the opinion of the Court having regard to all the circumstances of the case reasonably to be excused : ”.

Amendment of
Section 98, Act
VII of 1913.

53. In sub-section (1) of section 98 of the said Act, for the words “ set out in the Second Schedule ” the words “ set out in the form marked I in the Second Schedule ” shall be substituted.

Insertion of
new section
98A in Act
VII of 1913.

54. After section 98 of the said Act the following section shall be inserted, namely :—

Document
offering shares
or debentures
for sale to be
deemed a
prospectus.

“ 98A. (1) Where a company allots or agrees to allot any shares in or debentures of the company with a view to all or any of those shares or debentures being offered for sale to the public, any document by which the offer for sale to the public is made shall for all purposes be deemed to be a prospectus issued by the company and all enactments and rules of law as to the contents of prospectuses and to liability in respect of statements in and omissions from prospectuses or otherwise relating to prospectuses shall apply and have effect accordingly as if the shares or debentures had been offered to the public for subscription and as if persons accepting the offer in respect of any shares or debentures were subscribers for those shares or debentures but without prejudice to the liability, if any, of the persons by whom the offer is made in respect of mis-statements contained in the document or otherwise in respect thereof.

(2) For

- (2) For the purposes of this Act it shall, unless the contrary is proved, be evidence that an allotment of or an agreement to allot shares or debentures was made with a view to the shares or debentures being offered for sale to the public, if it is shown—
- (a) that an offer of the shares or debentures or of any of them for sale to the public was made within six months after the allotment or agreement to allot ; or
- (b) that at the date when the offer was made the whole of the consideration to be received by the company in respect of the shares or debentures had not been so received.
- (3) Section 97 shall apply to the person or persons making the offer as though they were persons named in a prospectus as directors of a company, and the provisions of section 93 shall have effect as if it required a prospectus to state, in addition to the matters required by that section to be stated in a prospectus,—
- (a) the net amount of the consideration received or to be received by the company in respect of the shares or debentures to which the offer relates, and
- (b) the place and time at which the contract under which the said shares or debentures have been or are to be allotted may be inspected.
- (4) Where a person making an offer to which this section relates is a company or a firm, it shall be sufficient if the document aforesaid is signed on behalf of the company or firm by all directors of the company or not less than half of the partners, as the case may be, and any such director or partner may sign by his agent authorised in writing.”

55. In section 101 of the said Act,—

- (a) for sub-sections (1) and (2) the following sub-sections shall be substituted, namely :—

Amendment of
section 101,
Act VII of
1913.

“(1) No allotment shall be made of any share capital of a company offered to the public for subscription unless the amount stated in the prospectus as the minimum amount which in the

opinion

opinion of the directors must be raised by the issue of share capital in order to provide the sums or, if any part thereof is to be defrayed in any other manner, the balance of the sum required to be provided in respect of the matters specified in sub-section (2) has been subscribed, and the sum of at least five per cent. thereof has been paid to or received in cash by the company.

(2) The matters for which provision for the raising of a minimum amount of share capital must be made by the directors are the following, namely :—

- (a) the purchase price of any property purchased or to be purchased which is to be defrayed in whole or in part out of the proceeds of the issue,
- (b) any preliminary expenses payable by the company and any commission so payable to any person in consideration of his agreeing to subscribe for or of his procuring or agreeing to procure subscriptions for any shares in the company,
- (c) the repayment of any moneys borrowed by the company in respect of any of the foregoing matters, and
- (d) working capital.

(2A) The amount referred to in sub-section (1) as the amount stated in the prospectus shall be reckoned exclusively of any amount payable otherwise than in cash and is in this Act referred to as the minimum subscription.

(2B) All moneys received from applicants for shares shall be deposited and kept in a scheduled bank as defined in the Reserve Bank of India Act, 1934, until returned in accordance with the provisions of sub-section (4) or until the certificate to commence business is obtained under section 103. II of 1934;

(2C) In the event of any contravention of the provisions of sub-section (2B) every promoter, director or other person knowingly responsible for such contravention shall be liable to a fine not exceeding five hundred rupees.”: and

(b) in

(b) in sub-section (4), for the word "twenty" the word "eighty", for the word "thirty" the word "ninety" and for the word "thirtieth" the word "ninetieth" respectively shall be substituted.

56. In sub-section (1) of section 102, after the words "and not later" the words "or in any case where the company is not required to hold a statutory meeting or where the allotment is made after the holding of the statutory meeting within one month after the date of the allotment and not later" shall be added.

Amendment of section 102, Act VII of 1913.

57. To section 104 of the said Act the following sub-section shall be added, namely :—

Amendment of section 104, Act VII of 1913.

"(4) Nothing in this section shall apply to the issue and allotment by a company of shares which under the provisions of its articles were forfeited for non-payment of calls."

58. In sub-section (2) of section 105 of the said Act, after the words "as aforesaid" the words "and save as provided in section 105A" shall be inserted.

Amendment of section 105, Act VII of 1913.

59. After section 105 of the said Act the following sections shall be inserted, namely :—

Insertion of new sections 105A and 105B in Act VII of 1913.

"105A. (1) Subject to the provisions of this section, it shall be lawful for a company to issue at a discount shares in the company of a class already issued :

Power to issue shares at a discount.

Provided that—

- (a) the issue of the shares at a discount must be authorised by resolution passed in general meeting of the company and must be sanctioned by the Court ;
- (b) the resolution must specify the maximum rate of discount (not exceeding ten per cent. in any case) at which shares are to be issued ;
- (c) not less than one year must at the date of issue have elapsed since the date on which the company was entitled to commence business ;
- (d) the shares to be issued at a discount must be issued within six months after the date on which the issue is sanctioned by the Court or within such extended time as the Court may allow.

(2) Every

Indian Companies. [ACT XXII

- (2) Every prospectus relating to the issue of the shares and every balance-sheet issued by the company subsequently to the issue of the shares must contain particulars of the discount allowed on the issue of the shares or of so much of that discount as has not been written off at the date of the issue of the document in question.
- (3) If default is made in complying with subsection (2), the company and every officer of the company who is in default shall be liable to a fine not exceeding fifty rupees.

Issue of
redeemable
preference
shares.

105B. (1) Subject to the provisions of this section, a company limited by shares may, if so authorised by its articles, issue preference shares which are, or at the option of the company are to be, liable to be redeemed :

Provided that—

- (a) no such shares shall be redeemed except out of profits of the company which would otherwise be available for dividend or out of the proceeds of a fresh issue of shares made for the purposes of the redemption or out of sale proceeds of any property of the company ;
- (b) no such shares shall be redeemed unless they are fully paid ;
- (c) where any such shares are redeemed otherwise than out of the proceeds of a fresh issue, there shall out of profits which would otherwise have been available for dividend be transferred to a reserve fund, to be called "the capital redemption reserve fund", a sum equal to the amount applied in redeeming the shares, and the provisions of this Act relating to the reduction of the share capital of a company shall, except as provided in this section, apply as if the capital redemption reserve fund were paid-up share capital of the company ;
- (d) where any such shares are redeemed out of the proceeds of a fresh issue, the premium, if any, payable on redemption must have been provided for out of the profits of the company before the shares are redeemed.
- (2) There shall be included in every balance-sheet of a company which has issued redeemable preference shares a statement specifying what

part

part of the issued capital of the company consists of such shares and the date on or before which those shares are, or are to be, liable to be redeemed or, where no definite date is fixed for redemption, the period of notice to be given for redemption.

If a company fails to comply with the provisions of this sub-section, the company and every officer of the company who is in default shall be liable to a fine not exceeding one thousand rupees.

(3) Subject to the provisions of this section, the redemption of preference shares thereunder may be effected on such terms and in such manner as may be provided by the articles of the company.

(4) Where in pursuance of this section a company has redeemed or is about to redeem any preference shares, it shall have power to issue shares up to the nominal amount of the shares redeemed or to be redeemed as if those shares had never been issued, and accordingly the share capital of the company shall not for the purpose of calculating the fees payable under section 249 be deemed to be increased by the issue of shares in pursuance of this sub-section:

Provided that, where new shares are issued before the redemption of the old shares, the new shares shall not, so far as relates to stamp duty, be deemed to have been issued in pursuance of this sub-section unless the old shares are redeemed within one month after the issue of the new shares.

(5) Where new shares have been issued in pursuance of the last foregoing sub-section, the capital redemption reserve fund may, notwithstanding anything in this section, be applied by the company, up to an amount equal to the nominal amount of the shares so issued, in paying up unissued shares of the company to be issued to members of the company as fully paid bonus shares.

105C. Where the directors decide to increase the capital of the company by the issue of further shares such shares shall be offered to the members in proportion to the existing shares held by each member (irrespective of class) and such offer shall be made by notice specifying the number of shares to which the member is entitled, and

limiting

limiting a time within which the offer, if not accepted, will be deemed to be declined ; and after the expiration of such time, or on receipt of an intimation from the member to whom such notice is given that he declines to accept the shares offered, the directors may dispose of the same in such manner as they think most beneficial to the company."

Amendment of section 109, Act VII of 1913.

60. Section 109 of the said Act shall be re-numbered as sub-section (I) of that section, and

(a) in the section as so re-numbered, clause (e) shall be re-lettered as clause (f) and the following shall be inserted as clause (e), namely,—

"(e) a mortgage or a charge, not being a pledge on any moveable property of the company except stock-in-trade ; or", and

(b) to the section as so re-numbered the following sub-section shall be added, namely :—

"(2) Where any mortgage or charge on any property of a company required to be registered under this section has been so registered, any person acquiring such property or any part thereof, or any share or interest therein, shall be deemed to have notice of the said mortgage or charge as from the date of such registration."

Insertion of new section 109A in Act VII of 1913.

Registration of charges on properties acquired subject to charge.

61. After section 109 of the said Act the following section shall be inserted, namely :—

"109A. (1) Where after the commencement of the Indian Companies (Amendment) Act, 1936, a company registered in British India acquires any property which is subject to a charge of any such kind as would, if it had been created by the company after the acquisition of the property, have been required to be registered under this Part, the company shall cause the prescribed particulars of the charge, together with a copy (certified in the prescribed manner to be a correct copy) of the instrument, if any, by which the charge was created or is evidenced, to be delivered to the registrar for registration in manner required by this Act within twenty-one days after the date on which the acquisition is completed :

Provided that, if the property is situate and the charge was created outside British India,

twenty-one

twenty-one days after the date on which the copy of the instrument could in due course of post, and if despatched with due diligence, have been received in British India shall be substituted for twenty-one days after the completion of the acquisition as the time within which the particulars and the copy of the instrument are to be delivered to the registrar.

- (2) If default is made in complying with this section, the company and every officer of the company who is knowingly and wilfully in default shall be liable to a fine of five hundred rupees."

62. To section 116 of the said Act the following sub-section shall be added, namely:—

Amendment of section 116, Act VII of 1913.

- "(3) Whenever the terms or conditions or extent or operation of any mortgage or charge registered under this section are modified, it shall be the duty of the company to send to the registrar the particulars of such modification, and the provisions of this section as to registration of mortgage or a charge shall apply to such modification of the mortgage or charge as aforesaid."

63. For sub-section (2) of section 119 of the said Act the following sub-sections shall be substituted, namely:—

Amendment of section 119, Act VII of 1913.

- "(2) Where a receiver of the property of a company has been appointed, every invoice, order for goods, or business letter issued by or on behalf of the company, or the receiver of the company, being a document on or in which the name of the company appears, shall contain a statement that a receiver has been appointed.

- (3) If default is made in complying with the requirements of this section, the company and every director, manager, managing agent, secretary or other officer of the company and every receiver who knowingly and wilfully authorises or permits the default, shall be liable to a fine not exceeding two hundred rupees."

64. Section 120 of the said Act shall be re-numbered as sub-section (1) of that section, and—

Amendment of section 120, Act VII of 1913.

- (a) in that section as so re-numbered, after the words "mortgage or charge", where they occur

for

47

for the second time, the following words shall be inserted, namely :—

“, or the omission to give intimation to the registrar of the payment or satisfaction of a debt for which a charge or mortgage was created ” ;

and

(b) to that section as so re-numbered the following sub-section shall be added, namely :—

“(2) Where the Court extends the time for the registration of a mortgage or charge, the order shall not prejudice any rights acquired in respect of the property concerned prior to the time when the mortgage or charge is actually registered.”

Substitution
of new section
for section
121, Act VII
of 1918.
Registration
of satisfaction
of mortgages
and charges.

65. For section 121 of the said Act the following section shall be substituted, namely :—

“121. (1) It shall be the duty of the company to give intimation to the registrar of the payment or satisfaction of any charge or mortgage created by the company and requiring registration under section 109 within twenty-one days from the date of the payment or satisfaction thereof.

(2) The registrar shall on receipt of such intimation cause a notice to be sent to the mortgagee calling upon him to show cause, within a time (not exceeding fourteen days) to be fixed by such notice, why the payment or satisfaction of the charge or mortgage should not be recorded.

(3) The registrar shall, if no cause is shown, order that a memorandum of satisfaction be entered on the register and shall if required furnish the company with a copy thereof.

(4) Where cause is shown, the registrar shall record a note to that effect in the register, and shall inform the company that he has done so.”

66. In sub-section (1) of section 122 of the said Act, clause (b) shall be re-lettered as clause (c) and the following clause shall be inserted as clause (b), namely :—

Amendment
of section
122, Act VII
of 1918.

“(b) of the payment or satisfaction of a debt in respect of which a mortgage or charge has been registered under section 109 or section 109A ; or ”.

67. In

67. In sub-section (1) of section 123 of the said Act, the word "limited" shall be omitted and after the words "property of the company" the words "and all floating charges on the undertaking or on any property of the company" shall be inserted.

Amendment
of section 123,
Act VII of
1918.

68. For section 130 of the said Act the following section shall be substituted, namely:—

Substitution
of new section
for section
130, Act VII
of 1918.

"130. (1) Every company shall cause to be kept proper books of account with respect to—

Books to be
kept by
company and
penalty for
not keeping
proper books.

(a) all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place;

(b) all sales and purchases of goods by the company;

(c) the assets and liabilities of the company.

(2) The books of account shall be kept at the registered office of the company or at such other place as the directors think fit, and shall be open to inspection by the directors during business hours.

(3) In the case of a company managed by a managing agent the managing agent, or where the managing agent is a firm or company, the partner or director of such firm or company and in any other case the director or directors who have knowingly by their act or omission been the cause of any default by the company in complying with the requirements of this section, shall in respect of such offence be liable to a fine not exceeding one thousand rupees."

69. In section 131 of the said Act,—

Amendment
of section 131,
Act VII of
1918.

(a) for sub-section (1) the following sub-section shall be substituted, namely:—

"(1) The directors of every company shall at some date not later than eighteen months after the incorporation of the company and subsequently once at least in every calendar year lay before the company in general meeting a balance-sheet and profit and

loss

40

D

Indian Companies. [ACT XXII

loss account or in the case of a company not trading for profit an income and expenditure account for the period, in the case of the first account since the incorporation of the company and in any other case since the preceding account, made up to a date not earlier than the date of the meeting by more than nine months or in the case of a company carrying on business or having interests outside British India by more than twelve months :

Provided that the registrar may for any special reason extend the period by a period not exceeding three months." ;

- (b) in sub-section (2), after the words " The balance-sheet " the words " and the profit and loss account or income and expenditure account " shall be inserted ;
- (c) in sub-section (3), for the words " such balance-sheet so audited " the words " such balance-sheet and profit and loss account or income and expenditure account so audited together with a copy of the auditors' report " shall be substituted and for the words " seven days " wherever they occur the words " fourteen days " shall be substituted ; and
- (d) sub-section (4) shall be omitted.

Insertion of
new section
131A in Act
VII of 1913.

Directors'
Report.

70. After section 131 of the said Act the following section shall be inserted, namely :—

" 131A. (1) The directors shall make out and attach to every balance-sheet a report with respect to the state of the company's affairs, the amount, if any, which they recommend should be paid by way of dividend and the amount, if any, which they propose to carry to the Reserve Fund, General Reserve or Reserve Account shown specifically on the balance-sheet or to a Reserve Fund, General Reserve or Reserve Account to be shown specifically in a subsequent balance-sheet.

(2) The

- (2) The report referred to in sub-section (1) may be signed by the chairman of the directors on behalf of the directors if authorised in that behalf by the directors.
- (3) The provisions of sub-section (3) of section 130 shall apply to any person being a director who is knowingly and wilfully guilty of a default in complying with this section."

71. To section 132 of the said Act the following sub-section shall be added, namely :—

Amendment of section 132, Act VII of 1913.

- "(3) The profit and loss account shall include particulars showing the total of the amount paid whether as fees, percentages or otherwise to the managing agent, if any, and the directors respectively as remuneration for their services and, where a special resolution passed by the members of the company so requires, to the manager, and the total of the amount written off for depreciation. If any director of the company is by virtue of the nomination, whether direct or indirect, of the company, a director of any other company, any remuneration or other emoluments received by him for his own use, whether as a director of, or otherwise in connection with the management of, that other company, shall be shown in a note at the foot of the account or in a statement attached thereto."

72. After section 132 of the said Act the following section shall be inserted, namely :—

Insertion of new section 132A in Act VII of 1913.

- "132A. (1) Where a company, in this Act referred to as the holding company, holds shares, either directly or through a nominee, in a subsidiary company or in two or more subsidiary companies, there shall be annexed to the balance-sheet of the holding company the last audited balance-sheet, profit and loss account and auditors' report of the subsidiary company or companies, and a statement signed by the persons by whom, in pursuance of section 133, the balance-sheet of the holding company is signed stating how the profits and losses of the subsidiary

Balance-sheet to include particulars as to subsidiary companies.

subsidiary company, or, where there are two or more subsidiary companies, the aggregate profits and losses of those companies, have been dealt with in or for the purposes of the accounts of the holding company, and in particular how and to what extent—

- (a) provision has been made for the losses of a subsidiary company either in the accounts of that company or of the holding company or of both, and
- (b) losses of a subsidiary company have been taken into account by the directors of the holding company in arriving at the profits and losses of the company as disclosed in its accounts :

Provided that it shall not be necessary to specify in any such statement the actual amount of the profits or losses of any subsidiary company or the actual amount of any part of any such profits or losses which has been dealt with in any particular manner :

Provided further that for the purposes of this section an investment company, that is to say, a company whose principal business is the acquisition and holding of shares, stocks, debentures or other securities, shall not be deemed to be a holding company by reason only that part of its assets consists in 51 per cent. or more of the shares of another company.

- (2) If, in the case of a subsidiary company, the auditors' report on the balance-sheet of the company does not state without qualification that the auditors have obtained all the information and explanations they have required and that the balance-sheet is properly drawn up so as to exhibit a true and correct view of the state of the company's affairs according to the best of their information and the explanations given to them and as shown by the books of the company, the statement, which is to be annexed as aforesaid to the balance-sheet of the holding company, shall contain particulars of the manner in which the report is qualified.

(3) For

- (3) For the purposes of this section the profits or losses of a subsidiary company mean the profits or losses shown in any accounts of the subsidiary company made up to a date within the period to which the accounts of the holding company relate, or, if there are no such accounts of the subsidiary company available at the time when the accounts of the holding company are made up, the profits or losses shown in the last previous accounts of the subsidiary company which became available within that period.
- (4) If for any reason the directors of the holding company are unable to obtain such information as is necessary for the preparation of the statement aforesaid, the directors who sign the balance-sheet shall so report in writing and their report shall be annexed to the balance-sheet in lieu of the statement.
- (5) The holding company may by a resolution authorise representatives named in the resolution to inspect the books of account kept in accordance with section 130 by any subsidiary company, and on such resolution being passed those books of account shall be open to inspection by those representatives at any time during business hours.
- (6) The rights conferred by section 138 upon members of a company may be exercised in respect of any subsidiary company by members of the holding company as if they were members of that subsidiary company."

73. In section 133 of the said Act,—

Amendment
of section 133,
Act VII of
1913.

- (a) after the word "balance-sheet" wherever it occurs the words "and profit and loss account or income and expenditure account" shall be inserted;
- (b) after the word "manager" wherever it occurs the words "or managing agent" shall be inserted; and
- (c) for sub-section (3) the following sub-section shall be substituted, namely:—

"(3) If any default is made in laying before the company or in issuing a balance-sheet and profit and loss account or income and expenditure

Indian Companies. [ACT XXII

expenditure account as required by section 131 or if any balance-sheet and profit and loss account or income and expenditure account is issued, circulated or published which does not comply with the requirements laid down by and under section 131, section 132, section 132A and this section, the company and every officer of the company who is knowingly and wilfully a party to the default shall be punishable with fine which may extend to five hundred rupees."

Amendment of section 134, Act VII of 1913.

74. In sub-section (1) of section 134 of the said Act, for the words "after the balance-sheet has" the words "after the balance-sheet and profit and loss account have" shall be substituted, and for the word "thereof" the words "of the balance-sheet" shall be substituted.

Amendment of section 135, Act VII of 1913.

75. In section 135 of the said Act, after the words "the balance-sheet" the words "and the profit and loss account or the income and expenditure account" shall be added.

Amendment of section 136, Act VII of 1913.

76. In sub-section (2) of section 136 of the said Act, after the words "A copy of the statement" the words "together with a copy of the last audited balance-sheet laid before the members of the company" shall be inserted.

Amendment of section 137, Act VII of 1913.

77. In section 137 of the said Act,—

(a) to sub-section (3) the following words shall be added, namely :—

"and the Court may on the application of the registrar and upon notice to the company make an order on the company for production of such documents as in its opinion may reasonably be required by the registrar for his investigation and allow the registrar inspection thereof on such terms and conditions as it thinks fit";

and

(b) after sub-section (5) the following sub-sections shall be added, namely :—

"(6) If it is represented to the registrar in materials placed before him by any contributory or creditor that the business of a

company

company is carried on in fraud of its creditors or in fraud of persons dealing with the company or for a fraudulent purpose, he may after giving the company an opportunity of being heard by written order call on the company for information or explanation on matters specified in the order within such time as he may specify in the order and the provisions of sub-sections (2), (3) and (5) of this section shall apply to such order. If upon investigation the registrar is satisfied that any representation on which he has taken action under this sub-section is frivolous or vexatious, he shall disclose the identity of the informant to the company.

(7) The provisions of this section shall apply *mutatis mutandis* to documents which a liquidator is required to file under this Act."

78. In section 141 of the said Act,—

(a) in sub-section (1), after the words "by the Local Government" the words "to the registrar and another copy" shall be inserted;

Amendment
of section 141,
Act VII of
1918.

(b) to sub-section (3) the following proviso shall be added, namely:—

"Provided that the expenses of and incidental to an investigation held in pursuance of clause (iv) of section 138 shall be paid out of the assets of the company and shall be recoverable as an arrear of land-revenue." ; and

(c) after sub-section (3) the following sub-section shall be added, namely:—

"(4) The registrar shall keep the copy of the report sent to him with the records of the company in his custody."

79. After section 141 of the said Act the following section shall be inserted, namely:—

"141A. (1) If from any report made under section 138 it appears to the Local Government that any person has been guilty of any offence in relation to the company for

Insertion of
new section
141A in Act
VII of 1918.
Institution of
prosecutions.

which

which he is criminally liable, the Local Government shall refer the matter to the Advocate General or the Public Prosecutor.

- (2) If the officer to whom the matter is referred considers that the case is one in which a prosecution ought to be instituted, he shall cause proceedings to be instituted, and it shall be the duty of all officers and agents of the company, past and present (other than the accused in the proceedings), to give to him all assistance in connection with the prosecution which they are reasonably able to give.
- (3) For the purposes of sub-section (2), the expression "agents" in relation to a company shall be deemed to include the bankers and legal advisers of the company and any persons employed by the company as auditors, whether those persons are or are not officers of the company.
- (4) Any director, manager or other officer of the company convicted as the result of a prosecution initiated under this section shall not without the leave of the Court be a director of or in any way whether directly or indirectly be concerned in or take part in the management of a company for a period of five years from the date of such conviction.

Amendment of section 144, Act VII of 1913.

80. In section 144 of the said Act,—

- (a) in sub-section (1), after the words "private company" the words "not being the subsidiary company of a public company" shall be inserted;
- (b) in sub-section (5),—
 - (i) in clause (iii), after the words "private company" the words "not being the subsidiary company of a public company" shall be inserted; and
 - (ii) after clause (iii) the following word and clause shall be inserted, namely:—

"and

(iv) any person indebted to the company";

and

(iii) to

(iii) to that sub-section the following words shall be added, namely:—

“and if any person after being appointed auditor becomes indebted to the company his appointment shall thereupon be terminated.”

81. In section 145 of the said Act,—

Amendment
of section 145,
Act VII of
1913.

(a) in sub-section (2),—

(i) after the words “on every balance-sheet” the words “and profit and loss account” shall be inserted;

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

“(b) whether or not in their opinion the balance-sheet and the profit and loss account referred to in the report are drawn up in conformity with the law; and”;

(iii) in clause (c) after the word “whether” the words “or not” shall be inserted; and

(iv) after clause (c) the following word and clause shall be added, namely:—

“and

(d) whether in their opinion books of account have been kept by the company as required by section 130.”;

(b) after sub-section (2) the following sub-section shall be inserted, namely:—

“(2A) Where any of the matters referred to in clauses (a), (b), (c) and (d) of sub-section (2) is answered in the negative or with a qualification, the report shall state the reason for such answer.”;

and

(c) after sub-section (3) the following sub-sections shall be added, namely:—

“(4) The auditors of a company shall be entitled to receive notice of and to attend any general meeting of the company at which any accounts which have been examined or reported on by them are to be laid before the company and may make any statement or explanation they desire with respect to the accounts.

(5) If

Indian Companies. [ACT XXII]

- (5) If any auditors' report is made which does not comply with the requirements of this section, every auditor who is knowingly and wilfully a party to the default shall be punishable with fine which may extend to one hundred rupees."

Amendment
of section 146,
Act VII of
1918.

82. In section 146 of the said Act, --

- (a) in sub-section (1), after the word "balance-sheets" the words "and profit and loss accounts" shall be inserted; and
- (b) to sub-section (2) the following proviso shall be added, namely:--

" Provided that in the case of any public company whether registered before or after the commencement of this Act the trustees for holders of debentures shall have the right conferred by sub-section (1) on holders of preference shares and debentures of a company. "

Amendment
of section 153,
Act VII of
1918.

83. In section 153 of the said Act, --

- (a) sub-section (3) shall be re-numbered as sub-section (6) and the following sub-sections shall be inserted, namely:--

" (3) An order made under sub-section (2) shall have no effect until a certified copy of the order has been filed with the registrar, and a copy of every such order shall be annexed to every copy of the memorandum of the company issued after the order has been made, or in the case of a company not having a memorandum, of every copy so issued of the instrument constituting or defining the constitution of the company.

- (4) If a company makes default in complying with sub-section (3) the company and every officer of the company who is knowingly and wilfully in default shall be liable to a fine not exceeding ten rupees for each copy in respect of which default is made.

(5) The Court may, at any time after an application has been made to it under this section, stay the commencement or continuation of any suit or proceeding against a company on such terms as it thinks fit and proper until the application is finally disposed of."

(b) to

(b) to sub-section (3) as now re-numbered the following words shall be added, namely:—

“and for the purposes of this section unsecured creditors who may have filed suits or obtained decrees shall be deemed to be of the same class as other unsecured creditors”; and

(c) after sub-section (3) as now re-numbered the following sub-section shall be added, namely:—

“(7) An appeal shall lie from any order made by the Court exercising original jurisdiction under this section to the authority authorised to hear appeals from the decisions of the Court.”

84. After section 153 of the said Act the following sections shall be inserted, namely:—

Insertion of new sections 153A and 153B in Act VII of 1918.

Provisions for facilitating arrangements and compromises.

“153A. (1) Where an application is made to the Court under section 153 for the sanctioning of a compromise or arrangement proposed between a company and any such persons as are mentioned in that section, and it is shown to the Court that the compromise or arrangement has been proposed for the purposes of or in connection with a scheme for the reconstruction of any company or companies or the amalgamation of any two or more companies, and that under the scheme the whole or any part of the undertaking or the property of any company concerned in the scheme (in this section referred to as a ‘transferor company’) is to be transferred to another company (in this section referred to as ‘the transferee company’), the Court may, either by the order sanctioning the compromise or arrangement or by any subsequent order, make provision for all or any of the following matters:—

(a) the transfer to the transferee company of the whole or any part of the undertaking and of the property or liabilities of any transferor company;

(b) the allotting or appropriation by the transferee company of any shares, debentures, policies, or other like interests in that company which under the compromise or arrangement are to be allotted or appropriated by that company to or for any person;

(c) the

Indian Companies: [ACT XXII

- (c) the continuation by or against the transferee company of any legal proceedings pending by or against any transferor company ;
 - (d) the dissolution, without winding up, of any transferor company ;
 - (e) the provision to be made for any persons who, within such time and in such manner as the Court directs, dissent from the compromise or arrangement ;
 - (f) such incidental, consequential and supplemental matters as are necessary to secure that the reconstruction or amalgamation shall be fully and effectively carried out.
- (2) Where an order under this section provides for the transfer of property or liabilities, that property shall, by virtue of the order, be transferred to and vest in, and those liabilities shall, by virtue of the order, be transferred to and become the liabilities of, the transferee company, and in the case of any property, if the order so directs, freed from any charge which is by virtue of the compromise or arrangement to cease to have effect.
- (3) Where an order is made under this section, every company in relation to which the order is made shall cause a certified copy thereof to be delivered to the registrar for registration within fourteen days after the completion of the order, and if default is made in complying with this sub-section, the company and every officer of the company who is knowingly and wilfully in default shall be liable to a fine not exceeding fifty rupees.
- (4) In this section the expression 'property' includes property, rights and powers of every description, and the expression 'liabilities' includes duties.
- (j) Notwithstanding the provisions of sub-section (4) of section 153, the expression 'company' in this section does not include any company other than a company within the meaning of this Act.

153B. (1) Where a scheme or contract involving the transfer of shares or any class of shares in a company (in this section referred to as 'the transferor company') to another company, whether a company within the meaning of this Act or not (in this section referred to as the 'transferee company'), has within four months after

Power to acquire shares of shareholders dissenting from schemes or contract approved by majority.

after the making of the offer in that behalf by the transferee company been approved by the holders of not less than three-fourths in value of the shares affected, the transferee company may, at any time within two months after the expiration of the said four months, give notice in the prescribed manner to any dissenting shareholder that it desires to acquire his shares, and where such a notice is given the transferee company shall, unless on an application made by the dissenting shareholder within one month from the date on which the notice was given the Court thinks fit to order otherwise, be entitled and bound to acquire those shares on the terms on which under the scheme or contract the shares of the approving shareholders are to be transferred to the transferee company :

Provided that, where any such scheme or contract has been so approved at any time before the commencement of the Indian Companies (Amendment) Act, 1936, the Court may by order, on an application made to it by the transferee company within two months after the commencement of that Act, authorise notice to be given under this section at any time within fourteen days after the making of the order, and this section shall apply accordingly, except that the terms on which the shares of the dissenting shareholder are to be acquired shall be such terms as the Court may by the order direct instead of the terms provided by the scheme or contract.

- (2) Where a notice has been given by the transferee company under this section and the Court has not, on an application made by the dissenting shareholder, ordered to the contrary, the transferee company shall, on the expiration of one month from the date on which the notice has been given, or, if an application to the Court by the dissenting shareholder is then pending, after that application has been disposed of, transmit a copy of the notice to the transferor company and pay or transfer to the transferor company the amount or other consideration representing the price payable by the transferee company for the shares which by virtue of this section that

company

Indian Companies. [ACT XXII

company is entitled to acquire, and the transferor company shall thereupon register the transferee company as the holder of those shares.

- (3) Any sums received by the transferor company under this section shall be paid into a separate bank account, and any such sums and any other consideration so received shall be held by that company on trust for the several persons entitled to the shares in respect of which the said sums or other consideration were respectively received.
- (4) In this section the expression 'dissenting shareholder' includes a shareholder who has not assented to the scheme or contract and any shareholder who has failed or refused to transfer his shares to the transferee company in accordance with the scheme or contract."

85. For section 154 of the said Act the following section shall be substituted, namely:—

Substitution
of new section
for section
154, Act VII
of 1918.

Conversion of
private
company into
public
company.

- " 154. (1) If a company, being a private company, alters its articles in such manner that they no longer include the provisions which, under the provisions of clause (13) of sub-section (1) of section 2, are required to be included in the articles of a company in order to constitute it a private company, the company shall, as on the date of the alteration, cease to be a private company and shall, within a period of fourteen days after the said date, file with the registrar a prospectus or a statement in lieu of prospectus in the form and containing the particulars set out in the form marked II in the Second Schedule.
- (2) If default is made in complying with sub-section (1) of this section, the company and every officer of the company who is knowingly and wilfully in default shall be liable to a fine not exceeding five hundred rupees.
 - (3) Where the articles of a company include the provisions aforesaid but default is made in complying with any of those provisions, the company shall cease to be entitled to the privileges and exemptions conferred on private companies under the provisions contained in this Act, and thereupon the provisions of this Act shall apply to the company as if it were not a private company:

Provided

Provided that the Court, on being satisfied that the failure to comply with the conditions was accidental or due to inadvertence or to some other sufficient cause, or that on other grounds it is just and equitable to grant relief, may, on the application of the company or any other person interested and on such terms and conditions as seem to the Court just and expedient, order that the company be relieved from such consequences as aforesaid."

86. For sub-section (1) of section 159 of the said Act the following sub-section shall be substituted, namely:—

Amendment of
section 159,
Act VII of
1913.

"(1) The liability of a contributory shall create a debt payable at the time specified in the calls made on him by the liquidator."

87. To section 160 of the said Act the following sub-section shall be added, namely:—

Amendment of
section 160,
Act VII of
1913.

"(3) For the purposes of this section the surviving coparceners of a contributory who is a member of a Hindu joint family governed by the Mitakshara School of Hindu Law shall be deemed to be his legal representatives and heirs."

88. Section 163 of the said Act shall be re-numbered as sub-section (1) of that section and in the section as so re-numbered,—

Amendment of
section 163,
Act VII of
1913.

(a) in clause (i), for the words "by leaving the same" the words "by causing the same to be delivered by registered post or otherwise" shall be substituted; and

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

"(2) The demand referred to in clause (i) of sub-section (1) shall be deemed to have been duly given under the hand of the creditor if it is signed by an agent or legal adviser duly authorised on his behalf, or in the case of a firm if it is signed by such agent or by a legal adviser or any one member of the firm on behalf of the firm."

89. In

Indian Companies. [ACT XXII

Amendment
of section 166,
Act VII of
1913.

89. In section 166 of the said Act,—

- (a) after the words "together or separately" the words ", or by the registrar" shall be inserted, and
- (b) after clause (a) of the proviso the following clause shall be inserted, namely :—
 - "(aa) the registrar shall not be entitled to present a petition for winding up a company—
 - (i) except on the ground that from the financial condition of the company as disclosed in its balance-sheet or from the report of an inspector appointed under section 138 it appears that the company is unable to pay its debts, and
 - (ii) unless the previous sanction of the Local Government has been obtained to the presentation of the petition :

Provided that no such sanction shall be given unless the company has first been afforded an opportunity of being heard."

Amendment
of section 170,
Act VII of
1913.

90. To section 170 of the said Act the following sub-section shall be added, namely :—

- "(3) Where the Court makes an order for the winding up of a company it shall, except where a liquidator is appointed simultaneously, forthwith cause intimation thereof to be sent to the official receiver."

Amendment
of section 171,
Act VII of
1913.

91. In section 171 of the said Act, after the words "has been made" the words "or a provisional liquidator has been appointed" shall be inserted.

Insertion of
new section
171A in Act
VII of 1913.

92. After section 171 of the said Act the following section shall be inserted, namely :—

"171A. (1) For the purposes of this Act, so far as it relates to the winding up of companies by the Court, the term 'official receiver' means the official receiver attached to the Court, or, if there is no such official receiver, then such person as the Local Government may, by notification in the local official Gazette, appoint for the purpose.

- (2) On the making of a winding up order, the official receiver shall become the official liquidator of the company and shall continue to act as such until his further continuance is terminated by an order of the Court.

(3) The

Vacancy in
the office of
liquidator.

(3) The official receiver shall as such official liquidator forthwith take into his custody and control all the books, documents and the assets of the company.

(4) The official receiver shall be entitled to such remuneration as the Court shall fix."

93. For sub-section (1) of section 172 of the said Act the following sub-section shall be substituted, namely :—

Amendment
of section 172,
Act VII of
1913.

"(1) On the making of a winding up order it shall be the duty of the petitioner in the winding up proceedings and of the company to file with the registrar a copy of the order within a month from the date of the making of the order."

94. In section 175 of the said Act,—

Amendment
of section 175,
Act VII of
1913.

(a) in sub-section (1), after the words "a person or persons" the words "other than the official receiver" shall be inserted; and

(b) to sub-section (2), the following words shall be added, namely :—

"but shall before making any such appointment give notice to the company, unless for reasons to be recorded it thinks fit to dispense with notice."

95. To sub-section (2) of section 176 of the said Act the following words shall be added, namely :—

Amendment
of section 176,
Act VII of
1913.

"and until the vacancy is so filled up the official receiver shall be and act as the official liquidator".

96. After section 177 of the said Act the following sections shall be inserted, namely :—

Insertion of
new sections
177A and 177B
in Act VII
of 1913.

"177A. (1) Where the Court has made a winding up order or appointed an official liquidator provisionally, there shall, unless the Court thinks fit to order otherwise and so orders, be made out and submitted to the official liquidator a statement as to the affairs of the company verified by an affidavit and containing the following particulars, namely :—

Statement of
affairs to be
made to the
liquidator.

(a) the assets of the company, stating separately the cash balance in hand and at the bank, if any;

(b) the

Indian Companies. [ACT XXII

- (b) the debts and liabilities;
 - (c) the names, residences and occupations of the creditors stating separately the amount of secured debts and unsecured debts, and in the case of secured debts particulars of the securities, their value and the dates when they were given ;
 - (d) the debts due to the company and the names, residences and occupations of the persons from whom they are due and the amount likely to be realised therefrom.
- (2) The statement shall be submitted and verified by one or more of the persons who are at the relevant date the directors and by the person who is at that date the secretary, manager or other chief officer of the company, or by such of the persons hereinafter in this subsection mentioned as the official liquidator, subject to the direction of the Court, may require to submit and verify the statement, that is to say, persons—
- (a) who are or have been directors or officers of the company ;
 - (b) who have taken part in the formation of the company at any time within one year before the relevant date ;
 - (c) who are in the employment of the company, or have been in the employment of the company within the said year, and are in the opinion of the official liquidator capable of giving the information required ;
 - (d) who are or have been within the said year officers of or in the employment of a company, which is, or within the said year was, an officer of the company to which the statement relates.
- (3) The statement shall be submitted within twenty-one days from the relevant date, or within such extended time as the official liquidator or the Court may for special reasons appoint.
- (4) Any person making or concurring in making the statement and affidavit required by this section shall be allowed, and shall be paid by the official liquidator or provisional liquidator, as the case may be, out of the assets of the company, such costs

costs and expenses incurred in and about the preparation and making of the statement and affidavit as the official liquidator may consider reasonable, subject to an appeal to the Court.

- (5) If any person, without reasonable excuse, knowingly and wilfully makes default in complying with the requirements of this section, he shall be liable to a fine not exceeding one hundred rupees for every day during which the default continues.
- (6) Any person stating himself in writing to be a creditor or contributory of the company shall be entitled by himself or by his agent at all reasonable times, on payment of the prescribed fee, to inspect the statement submitted in pursuance of this section, and to a copy thereof or extract therefrom.
- (7) Any person untruthfully so stating himself to be a creditor or contributory shall be guilty of an offence under section 182 of the Indian Penal Code and shall, on the application of the liquidator or of the official receiver, be punishable accordingly.
- (8) In this section the expression "the relevant date" means, in a case where a provisional liquidator is appointed, the date of his appointment, and, in a case where no such appointment is made, the date of the winding up order.

177B. (1) In a case where a winding up order is made, the official liquidator shall, as soon as practicable after receipt of the statement to be submitted under section 177A, and not later than four, or with the leave of the Court, six months from the date of the order, or in a case where the Court orders that no statement shall be submitted, as soon as practicable after the date of the order, submit a preliminary report to the Court—

(a) as to the amount of capital issued, subscribed, and paid up, and the estimated amount of assets and liabilities, giving separately under the heading of assets particulars of—

- (i) cash and negotiable securities ;
 (ii) debts due from contributories ;

(iii) debts

Indian Companies. [ACT XXII

- (iii) debts due to and securities, if any, available to the company ;
 - (iv) moveable and immoveable properties belonging to the company ;
 - (v) unpaid calls ; and
- (b) if the company has failed, as to the causes of the failure ; and
- (c) whether in his opinion further inquiry is desirable as to any matter relating to the promotion, formation, or failure of the company, or the conduct of the business thereof.
- (2) The official liquidator may also, if he thinks fit, make a further report, or further reports, stating the manner in which the company was formed and whether in his opinion any fraud has been committed by any person in its promotion or formation, or by any director or other officer of the company in relation to the company since the formation thereof, and any other matters which in his opinion it is desirable to bring to the notice of the Court. ”

Amendment of section 178, Act VII of 1918.

97. In section 178 of the said Act,—

- (a) in sub-section (1), after the word “ liquidator ” the words “ whether appointed provisionally or not ” shall be inserted ; and
- (b) for sub-section (2) the following sub-section shall be substituted, namely :—

“ (2) All the property and effects of the company shall be deemed to be in the custody of the Court as from the date of the order for the winding up of the company. ”

98. After section 178 of the said Act the following section shall be inserted, namely :—

“ 178A. (1) The official liquidator shall within a month from the date of the order for the winding up of a company convene a meeting of the creditors of the company (as ascertained from the books and documents of the company) for the purpose of determining whether or not a committee of inspection shall be appointed to act with the liquidator, and who are to be members of the committee, if appointed.

- (2) The official liquidator shall within a week from the date of the creditors' meeting convene a meeting of the contributories to consider the decision of the creditors and to accept the same with or without modifications.

(3) If

Insertion of new section 178A in Act VII of 1918. Committee of inspection in compulsory winding up.

- (3) If the contributories do not accept the decision of the creditors in its entirety, it shall be the duty of the official liquidator to apply to the Court for directions as to whether there shall be a committee of inspection and, if so, what shall be the composition of the committee, and who shall be members thereof.
- (4) A committee of inspection appointed under this section shall consist of not more than twelve members being creditors and contributories of the company or persons holding general or special powers of attorney from creditors or contributories in such proportions as may be agreed on by the meetings of creditors and contributories, or as, in case of difference, may be determined by the Court.
- (5) The committee of inspection shall have the right to inspect the accounts of the official liquidator at all reasonable times.
- (6) The committee shall meet at such times as they may from time to time appoint, and, failing such appointment, at least once a month, and the liquidator or any member of the committee may also call a meeting of the committee as and when he thinks necessary.
- (7) The committee may act by a majority of their members present at a meeting, but shall not act unless a majority of the committee are present.
- (8) A member of the committee may resign by notice in writing signed by him and delivered to the liquidator.
- (9) If a member of the committee becomes bankrupt, or compounds or arranges with his creditors, or is absent from five consecutive meetings of the committee without the leave of those members who together with himself represent the creditors or contributories, as the case may be, his office shall thereupon become vacant.
- (10) A member of the committee may be removed by an ordinary resolution at a meeting of creditors if he represents creditors, or of contributories if he represents contributories, of which seven days' notice has been given, stating the object of the meeting.

(11) On

(11) On a vacancy occurring in the committee the liquidator shall forthwith summon a meeting of creditors or of contributories, as the case may require, to fill the vacancy, and the meeting may, by resolution, re-appoint the same or appoint another creditor or contributory to fill the vacancy.

(12) The continuing members of the committee, if not less than two, may act notwithstanding any vacancy in the committee."

Amendment of section 182 Act VII of 1913.

99. Section 182 of the said Act shall be re-numbered as sub-section (1) of that section and to the section as so re-numbered the following sub-sections shall be added, namely :—

- "(2) Every official liquidator shall, at such times as may be prescribed but not less than twice in each year during his tenure of office, present to the Court an account of his receipts and payments as such liquidator.
- (3) The account shall be in the prescribed form, shall be made in duplicate, and shall be verified by a declaration in the prescribed form.
- (4) The Court shall cause the account to be audited in such manner as it thinks fit and for the purpose of the audit the liquidator shall furnish the Court with such vouchers and information as the Court may require, and the Court may at any time require the production of and inspect any books or accounts kept by the liquidator.
- (5) When the account has been audited, one copy thereof shall be filed and kept by the Court, and the other copy shall be delivered to the registrar for filing, and each copy shall be open to the inspection of any creditor, or of any person interested."

Amendment of section 183, Act VII of 1913.

100. To sub-section (1) of section 183 of the said Act, the words "or by the committee of inspection, and any directions given by the creditors or contributories at any general meeting shall in case of conflict be deemed to override any directions given by the committee of inspection" shall be added at the end.

Amendment of section 188, Act VII of 1913.

101. In section 188 of the said Act, the words "the Bank of Bengal, the Bank of Madras or the Bank of Bombay, as the case may be, or any branch thereof respectively to" shall be omitted and after the words "official liquidator" where they first occur the words

"in

II of 1934.

“in any scheduled bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934” shall be inserted.

102. In section 189 of the said Act, for the words “the Bank of Bengal, the Bank of Madras or the Bank of Bombay or any branch thereof respectively” the words “the Bank where the liquidator of the Company may have his account” shall be substituted. Amendment of section 189, Act VII of 1913.

103. To section 203 of the said Act after clause (3) the following words shall be added, namely :— Amendment of section 203, Act VII of 1913.

“and the expression ‘resolution for voluntarily winding up’ when used hereafter in this Part means a resolution passed under clause (1), clause (2) or clause (3) of this section”.

104. In section 204 of the said Act, for the words “authorising the winding up” the words “for voluntarily winding up” shall be substituted. Amendment of section 204, Act VII of 1913.

105. For sections 207 to 219 of the said Act, both included, the following sections and headings shall be substituted, namely :— Substitution of new sections for sections 207 to 219, Act VII of 1913.

“207. (1) Where it is proposed to wind up a company voluntarily, the directors of the company or, in the case of a company having more than two directors, the majority of the directors may, at a meeting of the directors held before the date on which the notices of the meeting at which the resolution for the winding up of the company is to be proposed are sent out, to make a declaration verified by an affidavit to the effect that they have made a full inquiry into the affairs of the company, and that, having so done, they have formed the opinion that the company will be able to pay its debts in full within a period, not exceeding three years, from the commencement of the winding up. Declaration of solvency.

(2) Such declaration shall be supported by a report of the company’s auditors on the company’s affairs and shall have no effect for the purposes of this Act unless it is delivered to the registrar for registration before the date mentioned in sub-section (1) of this section.

(3) A winding up in the case of which a declaration has been made and delivered in accordance with this section is in this Act referred to as a ‘members’ voluntary winding up’, and a winding up in the case of which a declaration has not been made and delivered as aforesaid is in this Act referred to as ‘a creditors’ voluntary winding up’.

Members’

Members' voluntary winding up.

Provisions applicable to a members' voluntary winding up.

Power of company to appoint and fix remuneration of liquidators.

208. The provisions contained in sections 208A to 208E, both inclusive, shall apply in relation to a members' voluntary winding up.

208A. (1) The company in general meeting shall appoint one or more liquidators for the purpose of winding up the affairs and distributing the assets of the company, and may fix the remuneration to be paid to him or them.

(2) On the appointment of a liquidator all the powers of the directors shall cease, except so far as the company in general meeting, or the liquidator, sanctions the continuance thereof.

Power to fill vacancy in office of liquidator.

208B. (1) If a vacancy occurs by death, resignation or otherwise in the office of liquidator appointed by the company, the company in general meeting may, subject to any arrangement with its creditors, fill the vacancy.

(2) For that purpose a general meeting may be convened by any contributory or, if there were more liquidators than one, by the continuing liquidators.

(3) The meeting shall be held in manner provided by this Act or by the articles, or in such manner as may, on application by any contributory or by the continuing liquidators, be determined by the Court.

Power of liquidator to accept shares, etc., as consideration for sale of property of company.

208C. (1) Where a company is proposed to be, or is in course of being, wound up altogether voluntarily, and the whole or part of its business or property is proposed to be transferred or sold to another company, whether a company within the meaning of this Act or not (in this section called 'the transferee company'), the liquidator of the first-mentioned company (in this section called 'the transferor company') may, with the sanction of a special resolution of that company conferring either a general authority on the liquidator or an authority in respect of any particular arrangement, receive, in compensation or part compensation for the transfer or sale, shares, policies, or other like interests in the transferee company, for distribution among the members of the transferor company, or may enter into any other arrangement whereby the members of the transferor company may, in lieu of receiving cash, shares, policies, or other like interests or in addition thereto, participate in the profits of or receive any other benefit from the transferee company:

(2) Any

(2) Any sale or arrangement in pursuance of this section shall be binding on the members of the transferor company.

(3) If any member of the transferor company who did not vote in favour of the special resolution expresses his dissent therefrom in writing addressed to the liquidator and left at the registered office of the company within seven days after the passing of the special resolution, he may require the liquidator either to abstain from carrying the resolution into effect or to purchase his interest at a price to be determined by agreement or by arbitration in manner hereafter provided.

(4) If the liquidator elects to purchase the member's interest, the purchase money must be paid before the company is dissolved, and be raised by the liquidator in such manner as may be determined by special resolution.

(5) A special resolution shall not be invalid for the purposes of this section by reason that it is passed before or concurrently with a resolution for voluntary winding up or for appointing liquidators, but if an order is made within a year for winding up the company by or subject to the supervision of the Court, the special resolution shall not be valid unless sanctioned by the Court.

IX of 1899.

(6) The provisions of the Indian Arbitration Act, 1899, other than those restricting the application of the Act in respect of the subject-matter of the arbitration, shall apply to all arbitrations in pursuance of this section.

208D. (1) In the event of the winding up continuing for more than one year, the liquidator shall summon a general meeting of the company at the end of the first year from the commencement of the winding up and of each succeeding year, or as soon thereafter as may be convenient within ninety days of the close of the year, and shall lay before the meeting an account of his acts and dealings and of the conduct of the winding up during the preceding year and a statement in the prescribed form containing the prescribed particulars with respect to the position of the liquidation.

Duty of liquidator to call general meeting at end of each year.

(2) If the liquidator fails to comply with this section, he shall be liable to a fine not exceeding one hundred rupees.

208E. (1) As

Final meeting
and dissolu-
tion.

208E. (1) As soon as the affairs of the company are fully wound up, the liquidator shall make up an account of the winding up, showing how the winding up has been conducted and the property of the company has been disposed of, and thereupon shall call a general meeting of the company for the purpose of laying before it the account, and giving any explanation thereof.

(2) The meeting shall be called by advertisement specifying the time, place and object thereof, and published one month at least before the meeting in the manner specified in sub-section (1) of section 206 for publication of a notice under that sub-section.

(3) Within one week after the meeting, the liquidator shall send to the registrar a copy of the account, and shall make a return to him of the holding of the meeting and of its date, and if the copy is not sent or the return is not made in accordance with this sub-section the liquidator shall be liable to a fine not exceeding fifty rupees for every day during which the default continues :

Provided that, if a quorum is not present at the meeting, the liquidator shall, in lieu of the said return, make a return that the meeting was duly summoned and that no quorum was present thereat, and upon such a return being made the provisions of this sub-section as to the making of the return shall be deemed to have been complied with.

(4) The registrar on receiving the account and either of the returns mentioned in sub-section (3) shall forthwith register them and on the expiration of three months from the registration of the return the company shall be deemed to be dissolved :

Provided that the Court may, on the application of the liquidator or of any other person who appears to the Court to be interested, make an order deferring the date at which the dissolution of the company is to take effect for such time as the Court thinks fit.

(5) It shall be the duty of the person on whose application an order of the Court under this section is made, within twenty-one days after the making of the order, to deliver to the registrar a certified copy of the order for registration, and if that person fails so to do he shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

Creditors' voluntary winding up.

Provisions
applicable to
a creditors'
voluntary
winding up.

209. The provisions contained in sections 209A to 209H, both inclusive, shall apply in relation to a creditors' voluntary winding up.

209A. (1) The

209A. (1) The company shall cause a meeting of ^{Meeting of} the creditors of the company to be summoned for the ^{creditors.} day, or the day next following the day, on which there is to be held the meeting at which the resolution for voluntary winding up is to be proposed, and shall cause the notices of the said meeting of creditors to be sent by post to the creditors simultaneously with the sending of the notices of the said meeting of the company.

(2) The company shall cause notice of the meeting of the creditors to be advertised in the manner specified in sub-section (1) of section 206 for the publication of a notice under that sub-section.

(3) The directors of the company shall—

(a) cause a full statement of the position of the company's affairs together with a list of the creditors of the company and the estimated amount of their claims to be laid before the meeting of creditors to be held as aforesaid; and

(b) appoint one of their number to preside at the said meeting.

(4) It shall be the duty of the director appointed to preside at the meeting of creditors to attend the meeting and preside thereat.

(5) If the meeting of the company at which the resolution for voluntary winding up is to be proposed is adjourned and the resolution is passed at an adjourned meeting, any resolution passed at the meeting of the creditors, held in pursuance of sub-section (1) of this section, shall have effect as if it had been passed immediately after the passing of the resolution for winding up the company.

(6) If default is made—

(a) by the company in complying with sub-sections (1) and (2),

(b) by the directors of the company in complying with sub-section (3),

(c) by any director of the company in complying with sub-section (4),

the company, directors or director, as the case may be, shall be liable to a fine not exceeding one thousand rupees and, in the case of default by the company, every officer of the company who is in default shall be liable to the like penalty.

209B. The

Indian Companies. [ACT XXII

Appointment
of liquidator.

209B. The creditors and the company at their respective meetings mentioned in section 209A may nominate a person to be liquidator for the purpose of winding up the affairs and distributing the assets of the company, and if the creditors and the company nominate different persons, the person nominated by the creditors shall be liquidator, and if no person is nominated by the creditors the person, if any, nominated by the company shall be liquidator :

Provided that in the case of different persons being nominated, any director, member or creditor of the company may, within seven days after the date on which the nomination was made by the creditors, apply to the Court for an order either directing that the person nominated as liquidator by the company shall be liquidator instead of or jointly with the person nominated by the creditors, or appointing some other person to be liquidator instead of the person appointed by the creditors.

Appointment
of committee
of inspection.

209C. The creditors at the meeting to be held in pursuance of section 209A or at any subsequent meeting may, if they think fit, appoint a committee of inspection consisting of not more than five persons, and if such a committee is appointed the company may, either at the meeting at which the resolution for voluntary winding up is passed or at any time subsequently in general meeting, appoint such number of persons as they think fit to act as members of the committee not exceeding five in number :

Provided that the creditors may, if they think fit, resolve that all or any of the persons so appointed by the company ought not to be members of the committee of inspection, and, if the creditors so resolve, the persons mentioned in the resolution shall not, unless the Court otherwise directs, be qualified to act as members of the committee, and on any application to the Court under this provision the Court may, if it thinks fit, appoint other persons to act as such members in place of the persons mentioned in the resolution.

Fixing of
liquidators'
remuneration
and cesser
of directors'
powers.

209D. (1) The committee of inspection, or if there is no such committee, the creditors, may fix the remuneration to be paid to the liquidator or liquidators, and where the remuneration is not so fixed, it shall be determined by the Court.

(2) On the appointment of a liquidator, all the powers of the directors shall cease, except so far as the committee of inspection, or if there is no such committee, the creditors, sanction the continuance thereof.

209E. If

OF 1936.] *Indian Companies.*

209E. If a vacancy occurs, by death, resignation or otherwise, in the office of a liquidator, other than a liquidator appointed by, or by the direction of, the Court, the creditors may fill the vacancy.

Power to fill vacancy in office of liquidator.

209F. The provisions of section 208C shall apply in the case of a creditors' voluntary winding up as in the case of a members' voluntary winding up with the modification that the powers of the liquidator under the said section shall not be exercised except with the sanction either of the Court or of the committee of inspection.

Application of section 208C to a creditors' voluntary winding up.

209G. (1) In the event of the winding up continuing for more than one year, the liquidator shall summon a general meeting of the company and a meeting of creditors at the end of the first year from the commencement of the winding up, and of each succeeding year, or as soon thereafter as may be convenient, and shall lay before the meetings an account of his acts and dealings and of the conduct of the winding up during the preceding year and a statement in the prescribed form containing the prescribed particulars with respect to the position of the winding up.

Duty of liquidator to call meetings of company and of creditors at end of each year.

(2) If the liquidator fails to comply with this section, he shall be liable to a fine not exceeding one hundred rupees.

209H. (1) As soon as the affairs of the company are fully wound up, the liquidator shall make up an account of the winding up showing how the winding up has been conducted and the property of the company has been disposed of, and thereupon shall call a general meeting of the company and a meeting of the creditors for the purpose of laying the account before the meetings and giving any explanation thereof.

Final meeting and dissolution.

(2) Each such meeting shall be called by advertisement specifying the time, place and object thereof and published one month at least before the meeting in the manner specified in sub-section (1) of section 206 for the publication of a notice under that sub-section.

(3) Within one week after the date of the meetings, or, if the meetings are not held on the same date, after the date of the later meeting, the liquidator shall send to the registrar a copy of the account, and shall make a return to him of the holding of the meetings and of their dates, and if the copy is not sent or the return is not made in accordance with this sub-section the

liquidator

liquidator shall be liable to a fine not exceeding fifty rupees for every day during which the default continues :

Provided that, if a quorum (which for the purposes of this section shall be two persons) is not present at either such meeting, the liquidator shall, in lieu of such return, make a return that the meeting was duly summoned and that no quorum was present thereat, and upon such a return being made the provisions of this sub-section as to the making of the return shall, in respect of that meeting, be deemed to have been complied with.

(4) The registrar on receiving the account and in respect of each such meeting either of the returns mentioned in sub-section (3) shall forthwith register them, and on the expiration of three months from the registration thereof the company shall be deemed to be dissolved :

Provided that the Court may, on the application of the liquidator or of any other person who appears to the Court to be interested, make an order deferring the date at which the dissolution of the company is to take effect for such time as the Court thinks fit.

(5) It shall be the duty of the person on whose application an order of the Court under this section is made, within ten days after the making of the order, to deliver to the registrar a certified copy of the order for registration, and if that person fails to do so he shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

Members' or creditors' voluntary winding up.

Provisions applicable to every voluntary winding up.

210. The provisions contained in sections 211 to 218, both inclusive, shall apply to every voluntary winding up whether a members' or a creditors' winding up.

Distribution of property of company.

211. Subject to the provisions of this Act as to preferential payments, the property of a company shall, on its winding up, be applied in satisfaction of its liabilities *pari passu* and, subject to such application, shall, unless the articles otherwise provide, be distributed among the members according to their rights and interests in the company.

Powers and duties of liquidator in voluntary winding up.

212. (1) The liquidator may—

- (a) in the case of a members' voluntary winding up, with the sanction of an extraordinary resolution of the company, and in the case of a creditors' voluntary winding up, with the sanction of either the Court or the committee

committee of inspection, exercise any of the powers given by clauses (d), (e), (f) and (h) of section 179 to a liquidator in a winding up. The exercise by the liquidator of the powers given by this clause shall be subject to the control of the Court and any creditor or contributory may apply to the Court with respect to any exercise or proposed exercise of any of these powers ;

- (b) without the sanction referred to in clause (a), exercise any of the other powers by this Act given to the liquidator in a winding up by the Court ;
- (c) exercise the power of the Court under this Act of settling a list of contributories, and the list of contributories shall be *prima facie* evidence of the liability of the persons named therein to be contributories ;
- (d) exercise the power of the Court of making calls ;
- (e) summon general meetings of the company for the purpose of obtaining the sanction of the company by special or extraordinary resolution or for any other purpose he may think fit.

(2) The liquidator shall pay the debts of the company and shall adjust the rights of the contributories among themselves.

(3) When several liquidators are appointed, any power given by this Act may be exercised by such one or more of them as may be determined at the time of their appointment, or, in default of such determination, by any number not less than two.

213. (1) If from any cause whatever there is no liquidator acting, the Court may appoint a liquidator.

Power of Court to appoint and remove liquidator in voluntary winding up.

(2) The Court may, on cause shown, remove a liquidator and appoint another liquidator.

214. (1) The liquidator shall, within twenty-one days after his appointment, deliver to the registrar for registration a notice of his appointment in the form prescribed.

Notice by liquidator of his appointment.

(2) If the liquidator fails to comply with the requirements of this section, he shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.

215. (1) Any

Indian Companies. [ACT XXII

Arrangement
when binding
on creditors.

215. (1) Any arrangement entered into between a company about to be, or in the course of being, wound up and its creditors shall, subject to the right of appeal under this section, be binding on the company if sanctioned by an extraordinary resolution, and on the creditors if acceded to by three-fourths in number and value of the creditors.

(2) Any creditor or contributory may, within three weeks from the completion of the arrangement, appeal to the Court against it, and the Court may thereupon, as it thinks just, amend, vary or confirm the arrangement.

Power to
apply to
Court to
have
questions
determined
of powers
exercised.

216. (1) The liquidator or any contributory or creditor may apply to the Court to determine any question arising in the winding up of a company, or to exercise, as respects the enforcing of calls, staying of proceedings or any other matter, all or any of the powers which the Court might exercise if the company were being wound up by the Court.

(2) The liquidator or any creditor or contributory may apply for an order setting aside any attachment, distress or execution put into force against the estate or effects of the company after the commencement of the winding up.

Such application shall be made—

(a) if the attachment, distress or execution is levied or put into force by a High Court, to such High Court, and

(b) if the attachment, distress or execution is levied or put into force in any other Court, to the Court having jurisdiction to wind up the company.

(3) The Court, if satisfied that the determination of the question or the required exercise of power or the order applied for will be just and beneficial, may accede wholly or partially to the application on such terms and conditions as it thinks fit, or may make such other order on the application as it thinks just.

Cost of
voluntary
winding up.

217. All costs, charges and expenses properly incurred in the winding up, including the remuneration of the liquidator, shall, subject to the rights of secured creditors, if any, be payable out of the assets of the company in priority to all other claims.

Saving for
rights of
creditors and
contributo-
ries.

218. The winding up of a company shall not bar the right of any creditor or contributory to have it wound up by the Court, but in the case of an application by a contributory, the Court must be satisfied that

OF 1936.] *Indian Companies.*

that the rights of the contributories will be prejudiced by a voluntary winding up."

106. In sub-section (I) of section 230 of the said Act,— Amendment of section 230, Act VII of 1913.

(a) in clause (b) the word " and " shall be omitted; and

(b) after clause (c) the following clauses shall be added, namely :—

" (d) compensation payable under the Workmen's Compensation Act, 1923, in respect of the death or disablement of any officer or employee of the company ;

(e) all sums due to any employee from a provident fund, a pension fund, a gratuity fund or any other fund for the welfare of the employees maintained by the company ; and

(f) the expenses of any investigation held in pursuance of clause (iv) of section 138 of this Act."

VI of 1923.

107. After section 230 of the said Act the following section shall be inserted, namely :— Insertion of new section 230A in Act VII of 1913.

" 230A. (1) Where any part of the property of a company which is being wound up consists of land of any tenure burdened with onerous covenants, of shares or stock in companies, of unprofitable contracts or of any other property that is unsaleable, or not readily saleable, by reason of its binding the possessor thereof to the performance of any onerous act, or to the payment of any sum of money, the liquidator of the company, notwithstanding that he had endeavoured to sell or has taken possession of the property, or exercised any act of ownership in relation thereto, may, with the leave of the Court and subject to the provisions of this section, by writing signed by him, at any time within twelve months after the commencement of the winding up or such extended period as may be allowed by the Court, disclaim the property : Disclaim of property.

Provided that, where any such property has not come to the knowledge of the liquidator within one month after the commencement of the winding up, the power under this section of disclaiming the property may be exercised at any time within twelve months after he has become aware thereof or such extended period as may be allowed by the Court.

(2) The disclaimer shall operate to determine, as from the date of disclaimer, the rights, interest and liabilities of the company, and the property of the company,

company, in or in respect of the property disclaimed, but shall not, except so far as is necessary for the purpose of releasing the company and the property of the company from liability, affect the rights or liabilities of any other person.

(3) The Court, before or on granting leave to disclaim, may require such notices to be given to persons interested, and impose such terms as a condition of granting leave, and make such other order in the matter as the Court thinks just.

(4) The liquidator shall not be entitled to disclaim any property under this section in any case where an application in writing has been made to him by any persons interested in the property requiring him to decide whether he will or will not disclaim, and the liquidator has not, within a period of twenty-eight days after the receipt of the application or such further period as may be allowed by the Court, given notice to the applicant that he intends to apply to the Court for leave to disclaim, and in the case of a contract; if the liquidator, after such an application as aforesaid, does not within the said period or further period disclaim the contract, the company shall be deemed to have adopted it.

(5) The Court may, on the application of any person who is, as against the liquidator, entitled to the benefit or subject to the burden of a contract made with the company, make an order rescinding the contract on such terms as to payment by or to either party of damages for the non-performance of the contract, or otherwise as the Court thinks just, and any damages payable under the order to any such person may be proved by him as a debt in the winding up.

(6) The Court may, on an application by any person who either claims any interest in any disclaimed property or is under any liability not discharged by this Act in respect of any disclaimed property and on hearing any such persons as it thinks fit, make an order for the vesting of the property in or the delivery of the property to any persons entitled thereto, or to whom it may seem just that the property should be delivered by way of compensation for such liability as aforesaid, or a trustee for him, and on such terms as the Court thinks just, and on any such vesting order being made, the property comprised therein shall vest accordingly in
the

the person therein named in that behalf without any conveyance or assignment for the purpose :

Provided that, where the property disclaimed is of a leasehold nature, the Court shall not make a vesting order in favour of any person claiming under the company whether as under-lessee or as mortgagee except upon the terms of making that person—

- (a) subject to the same liabilities and obligations as those to which the company was subject under the lease in respect of the property at the commencement of the winding up ; or
- (b) if the Court thinks fit, subject only to the same liabilities and obligations as if the lease had been assigned to that person at that date ;

and in either event (if the case so requires) as if the lease had comprised only the property comprised in the vesting order, and any mortgagee or under-lessee declining to accept a vesting order upon such terms shall be excluded from all interest in and security upon the property, and, if there is no person claiming under the company who is willing to accept an order upon such terms, the Court shall have power to vest the estate and interest of the company in the property in any person liable, either personally or in a representative character, and either alone or jointly with the company, to perform the lessee's covenants in the lease, freed and discharged from all estates, incumbrances and interests created therein by the company.

(7) Any person injured by the operation of a disclaimer under this section shall be deemed to be a creditor of the company to the amount of the injury, and may accordingly prove the amount as a debt in the winding up."

108. In sub-section (1) of section 232 of the said Act, after the words "estate or effects" the words "or any sale held without leave of the Court of any of the properties" shall be inserted. Amendment of section 232, Act VII of 1918.

109. In section 235 of the said Act,—

- (a) in sub-section (1), after the words "or of any creditor or contributory" the words "made within three years from the date of the first appointment of a liquidator in the winding up or of the misapplication, retainer, misfeasance or breach of trust, as the case may be, whichever is longer," shall be inserted; and

(b) sub-section (3) shall be omitted.

Amendment of section 235, Act VII of 1918.

110. For

83

F 2

Substitution
of new section
for section
237 in Act
VII of 1913.
Prosecution
of delinquent
directors.

110. For section 237 of the said Act the following section shall be substituted, namely :—

“ 237. (1) If it appears to the Court in the course of a winding up by, or subject to the supervision of, the Court that any past or present director, manager or other officer, or any member, of the company has been guilty of any offence in relation to the company for which he is criminally liable, the Court may, either on the application of any person interested in the winding up or of its own motion, direct the liquidator either himself to prosecute the offender or to refer the matter to the registrar.

(2) If it appears to the liquidator in the course of a voluntary winding up that any past or present director, manager or other officer, or any member of the company has been guilty of any offence in relation to the company for which he is criminally liable, he shall forthwith report the matter to the registrar and shall furnish to him such information and give to him such access to and facilities for inspecting and taking copies of any documents, being information or documents in the possession or under the control of the liquidator relating to the matter in question, as he may require.

(3) Where any report is made under subsection (2) to the registrar, he may, if he thinks fit, refer the matter to the Local Government for further inquiry, and the Local Government shall thereupon investigate the matter and may, if they think it expedient, apply to the Court for an order conferring on any person designated by the Local Government for the purpose with respect to the company concerned all such powers of investigating the affairs of the company as are provided by this Act in the case of a winding up by the Court.

(4) If on any report to the registrar under subsection (2) it appears to him that the case is not one in which proceedings ought to be taken by him, he shall inform the liquidator accordingly, and thereupon, subject to the previous sanction of the Court, the liquidator may himself take proceedings against the offender.

(5) If it appears to the Court in the course of a voluntary winding up that any past or present director, manager or other officer, or any member, of the company has been guilty as aforesaid, and that no report with respect to the matter has been made by the liquidator to the registrar, the Court may, on the application

application of any person interested in the winding up or of its own motion, direct the liquidator to make such a report, and on a report being made accordingly, the provisions of this section shall have effect as though the report has been made in pursuance of the provisions of sub-section (2).

(6) If, where any matter is reported or referred to the registrar under this section, he considers that the case is one in which a prosecution ought to be instituted, he shall place the papers before the Advocate General or the public prosecutor and if advised to do so institute proceedings, and it shall be the duty of the liquidator and of every officer and agent of the company past and present (other than the defendant in the proceedings) to give him all assistance in connection with the prosecution which he is reasonably able to give :

Provided that no prosecution shall be undertaken without first giving the accused person an opportunity of making a statement in writing to the registrar and of being heard thereon.

For the purposes of this sub-section, the expression 'agent' in relation to a company shall be deemed to include any banker or legal adviser of the company and any person employed by the company as auditor, whether that person is or is not an officer of the company.

(7) If any person fails or neglects to give assistance in manner required by sub-section (6), the Court may, on the application of the registrar, direct that person to comply with the requirements of the said sub-section, and where any such application is made with respect to a liquidator, the Court may, unless it appears that the failure or neglect to comply was due to the liquidator not having in his hands sufficient assets of the company to enable him so to do, direct that the costs of the application shall be borne by the liquidator personally."

111. After section 238 of the said Act the following section shall be inserted, namely :—

Insertion
of new section
238A in Act
VII of 1913.

" 238A. (1) If any person, being a past or present director, managing agent, manager or other officer of a company which at the time of the commission of the alleged offence is being wound up, whether by or under the supervision of the Court or voluntarily, or is subsequently ordered to be wound up by the Court or

Penal
provisions.

subsequently

subsequently passes a resolution for voluntary winding-up—

- (a) does not to the best of his knowledge and belief fully and truly discover to the liquidator all the property, real and personal, of the company, and how and to whom and for what consideration and when the company disposed of any part thereof, except such part as has been disposed of in the ordinary way of the business of the company ; or
- (b) does not deliver up to the liquidator, or as he directs, all such part of the real and personal property of the company as is in his custody or under his control, and which he is required by law to deliver up ; or
- (c) does not deliver up to the liquidator, or as he directs, all books and papers in his custody or under his control belonging to the company and which he is required by law to deliver up ; or
- (d) within twelve months next before the commencement of the winding up or at any time thereafter conceals any part of the property of the company to the value of one hundred rupees or upwards or conceals any debt due to or from the company ; or
- (e) within twelve months next before the commencement of the winding up or at any time thereafter fraudulently removes any part of the property of the company to the value of one hundred rupees or upwards ; or
- (f) makes any material omission in any statement relating to the affairs of the company ; or
- (g) knowing or believing that a false debt has been proved by any person under the winding up, fails for the period of a month to inform the liquidator thereof ; or
- (h) after the commencement of the winding up prevents the production of any book or paper affecting or relating to the property or affairs of the company ; or
- (i) within twelve months next before the commencement of the winding up or at any time thereafter, conceals, destroys, mutilates

or

or falsifies, or is privy to the concealment, destruction, mutilation or falsification of any book or paper affecting or relating to the property or affairs of the company ; or

- (j) within twelve months next before the commencement of the winding up or at any time thereafter makes or is privy to the making of any false entry in any book or paper affecting or relating to the property or affairs of the company ; or
- (k) within twelve months next before the commencement of the winding up or at any time thereafter fraudulently parts with, alters or makes any omission in, or is privy to the fraudulent parting with, altering or making any omission in, any document affecting or relating to the property or affairs of the company ; or
- (l) after the commencement of the winding up or at any meeting of the creditors of the company within twelve months next before the commencement of the winding up, attempts to account for any part of the property of the company by fictitious losses or expenses ; or
- (m) has within twelve months next before the commencement of the winding up or at any time thereafter, by any false representation or other fraud, obtained any property for or on behalf of the company on credit which the company does not subsequently pay for ; or
- (n) within twelve months next before the commencement of the winding up or at any time thereafter, under the false pretence that the company is carrying on its business, obtains on credit, for or on behalf of the company, any property which the company does not subsequently pay for ; or
- (o) within twelve months next before the commencement of the winding up or at any time thereafter pawns, pledges or disposes of any property of the company which has been obtained on credit and has not been paid for, unless such pawning, pledging or disposing is in the ordinary way of the business of the company ; or

(p) is

(p) is guilty of any false representation or other fraud for the purpose of obtaining the consent of the creditors of the company or any of them to an agreement with reference to the affairs of the company or to the winding up :

he shall be punishable, in the case of the offences mentioned respectively in clauses (m), (n) and (o) of this sub-section, with imprisonment for a term not exceeding five years, and, in the case of any other offence, with imprisonment for a term not exceeding two years :

Provided that it shall be a good defence to a charge under any of clauses (b), (c), (d), (f), (n) and (o), if the accused proves that he had no intent to defraud, and to a charge under any of clauses (a), (h), (i) and (j), if he proves that he had no intent to conceal the state of affairs of the company or to defeat the law.

(2) Where any person pawns, pledges or disposes of any property in circumstances which amount to an offence under clause (o) of sub-section (1) every person who takes in pawn or pledge or otherwise receives the property knowing it to be pawned, pledged or disposed of in such circumstances as aforesaid shall be punishable with imprisonment for a term not exceeding three years."

Amendment
of section
244, Act VII
of 1913.

112. In section 244 of the said Act,—

(a) in sub-section (1),—

(i) for the words " at such intervals as may be prescribed " the words " once in each year and at intervals of not more than twelve months " shall be substituted, and

(ii) for the words " file with the registrar " the words " file in Court or with the registrar, as the case may be " shall be substituted :

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

" (4) When the statement is filed in Court a copy shall simultaneously be filed with the registrar and shall be kept by him along with the other records of the company."

Insertion of
new section
244A in Act
VII of 1913.
Payment of
liquidator into
bank.

113. After section 244 of the said Act the following section shall be inserted, namely :—

" 244A. (1) Every liquidator of a company which is being wound up by the Court shall, in such manner and at such times as may be prescribed,

prescribed, pay the money received by him into a scheduled bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934 :

¶I of 1984.

Provided that if the Court is satisfied that for the purpose of carrying on the business of the company or of obtaining advances or for any other reason it is for the advantage of the creditors or contributories that the liquidator should have an account with any other bank, the Court may authorise the liquidator to make his payments into or out of such other bank as the Court may select and thereupon those payments shall be made in the prescribed manner.

- (2) If any such liquidator at any time retains for more than ten days a sum exceeding five hundred rupees or such other amount as the Court may in any particular case authorise him to retain, then, unless he explains the retention to the satisfaction of the Court, he shall pay interest on the amount so retained in excess at the rate of twenty per cent. per annum and shall be liable to disallowance of all or such part of his remuneration as the Court may think just and to be removed from his office by the Court and shall be liable to pay any expenses occasioned by reason of his default.
- (3) A liquidator of a company which is being wound up shall open a special banking account and pay all sums received by him as liquidator into such account."

114. In sub-section (1) of section 246 of the said Act, Amendment of section 246, Act VII of 1913 after the words "Courts subordinate thereto," the words "and for voluntary winding up (both members and creditors), for the holding of meetings of creditors and members in connection with proceedings under section 153 of this Act," shall be inserted, and after the words "shares of a company" the following words shall be inserted, namely :—

"and generally for all applications to be made to the Court under the provisions of this Act".

115. Afte

Insertion of
new section
249A in Act
VII of 1913.

115. After section 249 of the said Act the following section shall be inserted, namely :—

Enforcing
submission
of returns
and docu-
ments to
Registrar.

“ 249A. (1) If a company, having made default in complying with any provision of this Act which requires it to file with, deliver or send to the registrar any return, account or other document, or to give notice to him of any matter, fails to make good the default within fourteen days after the service of a notice on the company requiring it to do so, the Court may, on an application made to the Court by any member or creditor of the company or by the registrar, make an order directing the company and any officer thereof to make good the default within such time as may be specified in the order.

(2) Any such order may provide that all costs of and incidental to the application shall be borne by the company or by any officers of the company responsible for the default.

(3) Nothing in this section shall be taken to pre-
judice the operation of any enactment im-
posing penalties on a company or its officers
in respect of any such default as aforesaid.”

Amendment
of section
271, Act VII
of 1913.

116. To section 271 of the said Act the following sub-
section shall be added, namely :—

“(3) Where a company incorporated outside British India which has been carrying on business in British India ceases to carry on business in British India it may be wound up as an unregistered company under this Part, notwithstanding that it has been dissolved or otherwise ceased to exist as a company under or by virtue of the laws of the country under which it was incorporated.”

Amendment of
Section 277,
Act VII of
1913.

117. In section 277 of the said Act,—

(a) in sub-section (3),—

(i) after the words “ a copy of that balance-sheet ”
the following words shall be inserted,
namely :—

“ and if the balance-sheet does not contain all
the information provided for in the form
marked H in the Third Schedule, such
supplementary statements as shall fur-
nish such information ” ;

(ii) the

(ii) the proviso shall be omitted;

(b) sub-sections (5), (6) and (7) shall be re-numbered as sub-sections (6), (7) and (8) and after sub-section (4) the following sub-section shall be inserted as sub-section (5), namely:—

“(5) Every company to which this section applies shall if the liability of the members of the company is limited cause notice of that fact to be stated in legible characters in every prospectus inviting subscriptions for its shares, and in all bill-heads and letter paper notices, advertisements and other official publications of the company in British India, and to be affixed on every place where it carries on business.”

118. In Part X of the said Act, after section 277 the following sections shall be inserted, namely:—

Insertion of new sections 277A to 277E in Act VII of 1913.

“ 277A. (1) It shall not be lawful for any person—

Restriction on sale and offer for sale of shares.

(a) to issue, circulate or distribute in British India any prospectus offering for subscription shares in or debentures of a company incorporated or to be incorporated outside British India whether the company has or has not established, or when formed will or will not establish, a place of business in British India, unless—

(i) before the issue, circulation or distribution of the prospectus in British India a copy thereof, certified by the chairman and two other directors of the company as having been approved by resolution of the managing body, has been delivered for registration to the registrar;

(ii) the prospectus states on the face of it that the copy has been so delivered;

(iii) the prospectus is dated; and

(iv) the prospectus otherwise complies with this Part; or

(b) to issue to any person in British India a form of application for shares in or debentures of such a company or intended company as aforesaid,

aforesaid, unless the form is issued with a prospectus which complies with this Part :

Provided that this provision shall not apply if it is shown that the form of application was issued in connection with a *bona fide* invitation to a person to enter into an underwriting agreement with respect to the shares or debentures.

(2) This section shall not apply to the issue to existing members or debenture holders of a company of a prospectus or form of application relating to shares in or debentures of the company, whether an applicant for shares or debentures will or will not have the right to renounce in favour of other persons, but, subject as aforesaid, this section shall apply to a prospectus or form of application whether issued on or with reference to the formation of a company or subsequently.

(3) Where any document by which any shares in or debentures of a company incorporated outside British India are offered for sale to the public would, if the company concerned had been a company within the meaning of this Act, have been deemed by virtue of section 98A to be a prospectus issued by the company, that document shall be deemed to be, for the purposes of this section, a prospectus issued by the company.

(4) An offer of shares or debentures for subscription or sale to any person whose ordinary business or part of whose ordinary business it is to buy or sell shares or debentures, whether as principal or agent, shall not be deemed an offer to the public for the purposes of this section.

(5) Any person who is knowingly responsible for the issue, circulation or distribution of any prospectus, or for the issue of a form of application for shares or debentures, in contravention of the provisions of this section shall be liable to a fine not exceeding five thousand rupees.

(6) In this section and in section 277B, the expressions 'prospectus', 'shares' and 'debentures' have the same meanings as when used in relation to a company incorporated under this Act.

Requirements
as to
prospectus.

277B. (1) In order to comply with this Part a prospectus, in addition to complying with the provisions of sub-clauses (ii) and (iii) of clause (a) of sub-section (1) of section 277A, must—

(a) contain particulars with respect to the following matters :—

(i) the objects of the company ;

(ii) the

- (ii) the instrument constituting or defining the constitution of the company ;
- (iii) the enactments, or provisions having the force of an enactment, by or under which the incorporation of the company was effected ;
- (iv) an address in British India where the said instrument, enactments or provisions, or copies thereof, and if the same are in a foreign language a translation thereof in the English language certified in the prescribed manner, can be inspected ;
- (v) the date on which and the country in which the company was incorporated ;
- (vi) whether the company has established a place of business in British India and, if so, the address of its principal office in British India :

Provided that the provisions of sub-clauses (i), (ii) and (iii) of this clause shall not apply in the case of a prospectus issued more than two years after the date at which the company is entitled to commence business ;

- (b) subject to the provisions of this section, state the matters specified in sub-section (1A) of section 93 and set out the reports specified in that section :

Provided that—

- (i) where any prospectus is published as a newspaper advertisement, it shall be a sufficient compliance with the requirement that the prospectus must specify the objects of the company if the advertisement specifies the primary object with which the company was formed, and
- (ii) in section 93 of this Act a reference to the articles of the company shall be deemed to be a reference to the constitution of the company.

(2) Any condition requiring or binding any applicant for shares or debentures to waive compliance with any requirement of this section, or purporting to affect him with notice of any contract, document, or matter not specifically referred to in the prospectus, shall be void.

(3) In the event of non-compliance with or contravention of any of the requirements of this section, a director or other person responsible for the prospectus shall not incur any liability by reason of the non-compliance or contravention, if—

- (a) as regards any matter not disclosed, he proves that he was not cognisant thereof; or
- (b) he proves that the non-compliance or contravention arose from an honest mistake of fact on his part, or
- (c) the non-compliance or contravention was in respect of matters which, in the opinion of the Court dealing with the case, were immaterial or were otherwise such as ought, in the opinion of that Court, having regard to all the circumstances of the case, reasonably to be excused :

Provided that in the event of failure to include in a prospectus a statement with respect to the matters specified in clause (n) of sub-section (1) of section 93, no director or other person shall incur any liability in respect of the failure unless it be proved that he had knowledge of the matters not disclosed.

(4) Nothing in this section shall limit or diminish any liability which any person may incur under the general law or this Act, apart from this section.

Restriction on canvassing for sale of shares.

277C. (1) It shall not be lawful for any person to go from house to house offering shares of a company incorporated outside India for subscription or purchase to the public or any member of the public.

(2) In this sub-section the expression 'house' shall not include an office used for business purposes.

(3) Any person acting in contravention of this section shall be liable to a fine not exceeding rupees one hundred.

Registration of charges.

277D. The provisions of sections 109 to 117, both inclusive, and 120 to 125, both inclusive, shall extend to charges on properties in British India which are created and to charges on property in British India which is acquired after the commencement of the Indian Companies (Amendment) Act, 1936, by a company incorporated outside British India which has an established place of business in British India.

277E. The

277E. The provisions of sections 118 and 119 shall *mutatis mutandis* apply to the case of all companies incorporated outside British India but having an established place of business in British India and the provisions of section 130 shall apply to such companies to the extent of requiring them to keep at their principal place of business in British India the books of account required by that section with respect to money received and expended, sales and purchases made, and assets and liabilities in relation to its business in British India.”

Notice of appointment of receiver.

119 After Part X of the said Act as amended by this Act the following shall be inserted, namely :—

Insertion of new sections 277F, 277G, 277H, 277I, 277J, 277K, 277L, 277M and 277N as Part XA of Act VII of 1913.

“ PART XA.

Banking Companies.

277F. A ‘banking company’ means a company which carries on as its principal business the accepting of deposits of money on current account or otherwise, subject to withdrawal by cheque, draft or order, notwithstanding that it engages in addition in any one or more of the following forms of business, namely :—

Definition of banking company.

- (1) the borrowing, raising or taking up of money ; the lending or advancing of money either upon or without security ; the drawing, making, accepting, discounting, buying, selling, collecting and dealing in bills of exchange, hoondees, promissory notes, coupons, drafts, bills of lading, railway receipts, warrants, debentures, certificates, scrips and other instruments, and securities whether transferable or negotiable or not ; the granting and issuing of letters of credit, travellers cheques and circular notes ; the buying, selling and dealing in bullion and specie ; the buying and selling of foreign exchange including foreign bank notes ; the acquiring, holding, issuing on commission, underwriting and dealing in stock, funds, shares, debentures, debenture stock, bonds, obligations, securities and investments of all kinds ; the purchasing and selling of bonds, scrips or other forms of securities on behalf of constituents or others ; the negotiating of loans and advances ; the receiving of all

kind,

Indian Companies. [ACT XXII]

kinds of bonds, scrips or valuables on deposit, or for safe custody or otherwise ; the collecting and transmitting of money and securities ;

- (2) acting as agents for Governments or local authorities or for any other person or persons ; the carrying on of agency business of any description other than the business of a managing agent, including the power to act as attorneys and to give discharges and receipts ;
- (3) contracting for public and private loans and negotiating and issuing the same ;
- (4) the promoting, effecting, insuring, guaranteeing, underwriting, participating in managing and carrying out of any issue, public or private, of State, Municipal or other loans or of shares, stock, debentures, or debenture stock of any company, corporation or association and the lending of money for the purpose of any such issue ;
- (5) carrying on and transacting every kind of guarantee and indemnity business ;
- (6) promoting or financing or assisting in promoting or financing any business undertaking or industry, either existing or new, and developing or forming the same either through the instrumentality of syndicates or otherwise ;
- (7) acquisition by purchase, lease, exchange, hire or otherwise of any property immoveable or moveable and any rights or privileges which the company may think necessary or convenient to acquire or the acquisition or which in the opinion of the company is likely to facilitate the realisation of any securities held by the company or to prevent or diminish any apprehended loss or liability ;
- (8) managing, selling and realising all property moveable and immoveable which may come into the possession of the company in satisfaction or part satisfaction of any of its claims ;
- (9) acquiring and holding and generally dealing with any property and any right, title or interest in any property moveable or immoveable
which

which may form part of the security for any loans or advance or which may be connected with any such security ;

- (10) undertaking and executing trusts ;
- (11) undertaking the administration of estates as executor, trustee or otherwise ;
- (12) taking or otherwise acquiring and holding shares in any other company having objects similar to those of the company ;
- (13) establishing and supporting or aiding in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit employees or *ex-employees* of the company or the dependents or connections of such persons ; granting pensions and allowances and making payments towards insurance ; subscribing to or guaranteeing moneys for charitable or benevolent objects or for any exhibition or for any public, general or useful object ;
- (14) the acquisition, construction, maintenance and alteration of any building or works necessary or convenient for the purposes of the company ;
- (15) selling, improving, managing, developing, exchanging, leasing, mortgaging, disposing of or turning into account or otherwise dealing with all or any part of the property and rights of the company ;
- (16) acquiring and undertaking the whole or any part of the business of any person or company, when such business is of a nature enumerated or described in this section ;
- (17) doing all such other things as are incidental or conducive to the promotion or advancement of the business of the company.

277G. (1) No company formed after the commencement of the Indian Companies (Amendment) Act, 1936, for the purpose of carrying on business as a banking company or which uses as part of the name under which it proposes to carry on business the word 'bank', 'banker' or 'banking' shall be registered under this Act, unless the memorandum limits the objects of the company to the carrying on of the business of accepting deposits

Limitation of activities of banking company.

Indian Companies. [ACT XXII

deposits of money on current account or otherwise subject to withdrawal by cheque, draft or otherwise along with some or all of the forms of business specified in section 277F.

(2) No banking company whether incorporated in or outside British India shall after the expiry of two years from the commencement of the said Act carry on any form of business other than those specified in section 277F :

Provided that the Governor General in Council may, by notification in the Gazette of India, specify in addition to the businesses set forth in clauses (1) to (17) of section 277F other forms of business which it may be lawful under this section for a banking company to engage in.

Banking company not to employ managing agent.

277H. No banking company shall after the expiry of two years from the commencement of the Indian Companies (Amendment) Act, 1936, employ or be managed by a managing agent other than a banking company for the management of the company.

Restriction on commencement of business by banking company.

277I. Notwithstanding anything contained in section 103, no banking company incorporated under this Act after the commencement of the Indian Companies (Amendment) Act, 1936, shall commence business, unless shares have been allotted to an amount sufficient to yield a sum of at least fifty thousand rupees as working capital and unless a declaration duly verified by an affidavit signed by the directors and the manager that such a sum has been received by way of paid up capital has been filed with the registrar.

Prohibition of charge on unpaid capital.

277J. No banking company shall create any charge upon any unpaid capital of the company, and any such charge shall be invalid.

Reserve fund.

277K. (1) Every banking company shall, after the commencement of the Indian Companies (Amendment) Act, 1936, maintain a reserve fund.

(2) Every banking company shall out of the declared profits of each year and before any dividend is declared transfer a sum equivalent to not less than twenty per cent. of such profits to the reserve fund until the amount of the said fund is equal to the paid up capital.

(3) A banking company shall invest the amount standing to the credit of its reserve fund in Government securities or in securities mentioned or referred to in section 20 of the Indian Trusts Act, 1882, or keep deposited in a special account to be opened by

the

OF 1936.] *Indian Companies.*

the company for the purpose in a scheduled bank as defined in clause (e) of section (2) of the Reserve Bank of India Act, 1934 :

II of 1934.

Provided that the provision of the sub-section shall not apply to a banking company incorporated before the commencement of the Indian Companies (Amendment) Act, 1936, till after the expiry of two years from the commencement of the said Act.

277L. (1) Every banking company shall maintain Cash reserve. by way of cash reserve in cash a sum equivalent to at least one and a half per cent. of the time liabilities and five per cent. of the demand liabilities of such company and shall file with the registrar before the tenth day of every month a statement of the amount so held on the Friday of each week of the preceding month with particulars of the time and demand liabilities of each such day.

(2) For the purposes of sub-section (1) 'demand liabilities' means liabilities which must be met on demand, and 'time liabilities' means liabilities which are not demand liabilities.

(3) Nothing in this section or in section 277K shall apply to a scheduled bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934.

II of 1934.

(4) If default is made in complying with the requirements of section 277G, section 277H, section 277J, section 277K or section 277M or with the requirements of this section as to the maintenance of a cash reserve, every director or other officer of the company who is knowingly and wilfully a party to the default shall be liable to a fine not exceeding five hundred rupees for every day during which the default continues, and if default is made in complying with the requirements of this section as to the filing of the statement referred to in sub-section (1), to a fine not exceeding one hundred rupees for every day during which the default continues.

277M. A banking company shall not form or hold shares in any subsidiary company except a subsidiary company of its own formed for the purpose of undertaking and executing trusts, undertaking the administration of estates as executor trustee or otherwise and such other purposes set forth in section 277F as are incidental to the business of accepting deposits of money on current account or otherwise.

Restriction on nature of subsidiary companies.

277N. (1) The

99

G 2

Indian Companies. [ACT XXII

Power of Court to stay proceedings.

277N. (1) The Court may on the application of a banking company which is temporarily unable to meet its obligations make an order staying the commencement or continuance of all actions and proceedings against the company for a fixed period of time on such terms and conditions as it shall think fit and proper and may from time to time extend the period.

(2) No such application shall be maintainable unless accompanied by a report of the registrar :

Provided, however, the Court may, for sufficient reasons, grant interim relief, even if the application is not accompanied by such report.

(3) The registrar shall for the purposes of his report be entitled at the cost of the company to investigate the financial condition of the company and for such purpose to have the books and documents of the company examined by an accountant holding a certificate issued under section 144."

Substitution of new section 281 in Act VII of 1913.

Power of Court to grant relief in certain cases.

120. For section 281 of the said Act the following section shall be substituted, namely :—

" 281. (1) If in any proceeding for negligence, default, breach of duty or breach of trust against a person to whom this section applies, it appears to the Court hearing the case that that person is or may be liable in respect of the negligence, default, breach of duty or breach of trust, but that he has acted honestly and reasonably, and that having regard to all the circumstances of the case, including those connected with his appointment, he ought fairly to be excused for the negligence, default, breach of duty or breach of trust, that Court may relieve him, either wholly or partly, from his liability on such terms as the Court may think fit.

(2) Where any person to whom this section applies has reason to apprehend that any claim will or might be made against him in respect of any negligence, default, breach of duty or breach of trust, he may apply to the Court for relief, and the Court on any such application shall have the same power to relieve him as under this section it would have had if it had been a Court before which proceedings against that person for negligence, default, breach of duty or breach of trust had been brought.

(3) The

of 1936.] *Indian Companies.*

(3) The persons to whom this section applies are the following:—

- (a) directors of a company ;
- (b) managers and managing agents of a company ;
- (c) officers of a company ;
- (d) persons employed by a company as auditors, whether they are or are not officers of the company.”

121. After section 282 of the said Act the following sections shall be inserted, namely:—

“282A. Any director, managing agent, manager or other officer or employee of a company who wrongfully obtains possession of any property of a company, or having any such property in his possession wrongfully withholds it or wilfully applies it to purposes other than those expressed or directed in the articles and authorised by this Act, shall, on the complaint of the company or any creditor or contributory thereof, be punishable with fine not exceeding one thousand rupees and may be ordered by the Court trying the offence to deliver up or refund within a time to be fixed by the Court any such property improperly obtained or wrongfully withheld or wilfully misapplied or in default to suffer imprisonment for a period not exceeding two years.

Insertion of new sections 282A and 282B in Act VII of 1913.

Penalty for wrongful withholding of property.

282B. (1) All moneys or securities deposited with a company by its employees in pursuance of their contracts of service with the company shall be kept or deposited by the company in a special account to be opened by the company for the purpose in a scheduled bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934, and no portion thereof shall be utilised by the company except for the purposes agreed to in the contract of service.

Penalty for misapplication of securities by employers.

II of 1934.

(2) Where a provident fund has been constituted by a company for its employees or any class of its employees, all moneys contributed to such fund (whether by the company or by the employees) or accruing by way of interest or otherwise to such fund after the commencement of the Indian Companies (Amendment) Act, 1936, shall be invested, and shall be invested only in securities mentioned or referred to in clauses (a) to (e) of section 20 of the Indian Trusts Act, 1882, and all moneys belonging to such fund at the commencement of

II of 1882.

the said Act which are not so invested shall be invested in such securities by annual instalments not exceeding ten in number and not less in amount in any year than one-tenth of the whole amount of such moneys.

(3) Notwithstanding anything to the contrary in the rules of any fund to which sub-section (2) applies or in any contract between a company and its employees, no employee shall be entitled to receive in respect of such portion of the amount to his credit in such fund as is invested in accordance with the provisions of sub-section (2) interest at a rate exceeding the rate of interest yielded by such investment.

(4) An employee shall be entitled on request made in this behalf to the company to see the bank's receipt for any money or security such as is referred to in sub-section (1) and sub-section (2).

(5) Any director, managing agent, manager or other officer of the company who knowingly contravenes or permits or authorises the contravention of the provisions of this section shall be liable on conviction to a fine not exceeding five hundred rupees."

Amendment
of First
Schedule,
Act VII of
1913.

122. In the First Schedule to the said Act, in Table A,—

- (a) to regulation 3 the words "and any preference share may with the sanction of a special resolution be issued on the terms that it is or at the option of the company is liable to be redeemed" shall be added;
- (b) in regulation 4, after the word "may" the words "subject to the provisions of section 66A of the Indian Companies Act, 1913" shall be inserted;
- (c) in regulation 8, the following words shall be inserted at the beginning, namely:—
"Except to the extent allowed by section 54A of the Indian Companies Act, 1913,";
- (d) to regulation 20 the following words shall be added, namely:—
"If the directors refuse to register a transfer of any shares, they shall within two months after the date on which the transfer was lodged with the company send to the transferee and the transferor notice of the refusal.";

(e) in

OF 1936.] *Indian Companies.*

- (e) in regulation 41, for the words "an extraordinary resolution of the company" the words "the company in general meeting" shall be substituted ;
- (f) in regulation 44,—
 - (i) for the words "special resolution" the word "ordinary resolution" shall be substituted, and
 - (ii) clause (d) shall be omitted ;
- (g) after regulation 44, the following new regulation shall be inserted, namely :—

"44A. The company may, by special resolution, reduce its share capital in any manner and with, and subject to any incident authorised and consent required, by law."
- (h) in regulation 46, for the words "once in every year" the words "within eighteen months from the date of its incorporation and thereafter once at least in every year" shall be substituted ;
- (i) in regulation 49,—
 - (i) the words "subject to the provisions of subsection (2) of section 81 of the Indian Companies Act, 1913, relating to special resolutions" shall be inserted at the beginning,
 - (ii) between the word "under" and the words "the regulations of the company" the words "the Indian Companies Act, 1913, or" shall be inserted, and
 - (iii) for the words "non-receipt of the notice" the words "the accidental omission to give notice to or the non-receipt of notice" shall be substituted ;
- (j) in regulation 51, for the words "three members" the words "two members in the case of a private company and five members in the case of any other company" shall be substituted ;

(k) in

(k) in regulation 60, for the second sentence the following sentence shall be substituted, namely:—

“ On a poll every member shall have one vote in respect of each share or each hundred rupees of stock held by him. ” ;

(l) in regulation 65, for the words following the word “ unless ” the words “ he is a member of the company ” shall be substituted :

(m) in regulation 77, clauses (e) and (f) shall be re-lettered as clauses (h) and (i) and the following clauses shall be substituted for clauses (a) to (d), namely:—

“ (a) fails to obtain within the time specified in sub-section (1) of section 84 of the Indian Companies Act, 1913, or at any time thereafter ceases to hold, the share qualification, if any, necessary for his appointment; or

(b) is found to be of unsound mind by a Court of competent jurisdiction ; or

(c) is adjudged insolvent ; or

(d) fails to pay calls made on him in respect of shares held by him within six months from the date of such calls being made ; or

(e) without the sanction of the company in general meeting accepts or holds any office of profit under the company other than that of a managing director or manager or a legal or technical adviser or a banker ; or

(f) absents himself from three consecutive meetings of the directors or from all meetings of the directors for a continuous period of three months, whichever is longer, without leave of absence from the board of directors ; or

(g) accepts a loan from the company ; or ” ;

(n) in

- (n) in regulation 83, at the beginning, the words
“ Subject to the provisions of sections 83A and
83B of the Indian Companies Act, 1913 ”
shall be inserted ;
- (o) in regulation 97 the words “ of the year or any
other undistributed profits ” shall be added
at the end ;
- (p) for regulation 103 the following regulation shall
be substituted, namely :—
“ 103. The directors shall cause to be kept
proper books of account with respect to—
(a) all sums of money received and expended
by the company and the matters in respect
of which the receipts and expenditure take
place ;
(b) all sales and purchases of goods by the
company ;
(c) the assets and liabilities of the company.” ;
- (q) for regulation 104 the following regulation shall
be substituted, namely :—
“ 104. The books of account shall be kept at the
registered office of the company or at such
other place as the directors shall think fit
and shall be open to inspection by the directors
during business hours.” ;
- (r) for regulation 106 the following regulation
shall be substituted, namely :—
“ The directors shall as required by sections 131
and 131A of the Indian Companies Act,
1913, cause to be prepared and to be laid
before the company in general meeting
such profit and loss accounts, balance
sheets, and reports as are referred to in those
sections.” ;
- (s) in regulation 107, after the word “ shall ” the
following words shall be inserted, namely :—
“ in addition to the matters referred to in sub-
section (3) of section 132 of the Indian
Companies Act, 1913.”.

Indian Companies. [ACT XXII]

123. For the Second Schedule to the said Act the substitution of new Schedule for the Second Schedule, Act VII of 1913. following shall be substituted, namely :—

“THE SECOND SCHEDULE.

(See sections 98 and 154.)

FORM I.

THE INDIAN COMPANIES ACT, 1913.

STATEMENT IN LIEU OF PROSPECTUS

filed by

..... LIMITED,

pursuant to section 98 of the Indian Companies Act, 1913.

Presented for filing by

The nominal share capital of the company.	Rs.
Divided into.....	shares of Rs..... each. shares of Rs..... each. shares of Rs..... each.
Amount (if any) of above capital which consists of redeemable preference shares.	shares of Rs..... each.
The date on or before which these shares are, or are liable, to be redeemed.	

Names,

OF 1936.]

Indian Companies.

Names, descriptions and addresses of directors or proposed directors and managers or proposed managers, and any provision in the articles, or in any contract, as to appointment of and remuneration payable to directors or managers.	
If the share capital of the company is divided into different classes of shares, the right of voting at meetings of the company conferred by, and the rights in respect of capital and dividends attached to, the several classes of shares respectively.	
Number and amount of shares and debentures agreed to be issued as fully or partly paid up otherwise than in cash.	<ol style="list-style-type: none">1. —shares of Rs..... fully paid.2. —shares upon which Rs..... per share credited as paid.3. Debenture Rs.....4. Consideration.
Names and addresses of vendors of property purchased or acquired, or proposed to be purchased or acquired by the company. Amount (in cash, shares or debentures) payable to each separate vendor.	

Amount

Amount (if any) paid or payable (in cash or shares or debentures) for any such property, specifying amount (if any) paid or payable for goodwill.	Total purchase price . Rs. Cash . Rs. Shares . Rs. Debentures. Rs. <hr/> Goodwill . Rs.
Amount (if any) paid or payable as commission for subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for any shares or debentures in the company ; or Rate of the commission.....	Amount paid. Amount payable Rate per cent.
The number of shares, if any, which persons have agreed for a commission to subscribe absolutely.	
Estimated amount of preliminary expenses.	Rs.....
Amount paid or intended to be paid to any promoter. Consideration for the payment.	Name of promoter..... Amount Rs..... Consideration :—
Dates of, and parties to every material contract (except contracts entered into in the ordinary course of the business intended to be carried on by the company or contracts, other than contracts appointing or fixing the remuneration of a managing director or managing agent, entered into more than two years before the delivery of this statement).	

Time

OF 1936.]

Indian Companies.

<p>Time and place at which the contracts or copies thereof may be inspected.</p>	
<p>Names and addresses of the auditors of the company (if any).</p>	
<p>Full particulars of the nature and extent of the interest of every director in the promotion of or in the property proposed to be acquired by the company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares, or otherwise, by any person either to induce him to become, or to qualify him as, a director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company.</p>	
<p>If it is proposed to acquire any business, the amount, as certified by the persons by whom the amounts of the business have been audited, of the net profits of the business in respect of each of the three financial years immediately preceding the date of this statement provided that in</p>	

the case of a business which has been carried on for less than three years and the accounts of which have only been made up in respect of two years or one year the above requirement shall have effect as if references to two years or one year, as the case may be, were substituted for references to three years, and in any such case the statement shall say how long the business to be acquired has been carried on.

Signatures of the persons above-named as directors or proposed directors, or of their agents authorised in writing).

Date

FORM II.

THE INDIAN COMPANIES ACT, 1913.
STATEMENT IN LIEU OF PROSPECTUS
filed by

.....LIMITED,

pursuant to sub-section (1) of section 154 of the Indian Companies Act, 1913.

Presented for filing by

The nominal share capital of the Company.	Rs.
Divided into	Shares of Rs....each. Shares of Rs....each. Shares of Rs....each.
Amount (if any) of above capital which consists of redeemable preference shares.	Shares of Rs....each.

The

<p>The date on or before which these shares are, or are liable, to be redeemed.</p>	
<p>Names, descriptions and addresses of Directors or proposed Directors and Managers or proposed Managers, and any provision in the Articles, or in any contract, as to appointment of and remuneration payable to Directors or Managers.</p>	
<p>If the share capital of the Company is divided into different classes of shares, the right of voting at meetings of the Company conferred by and the rights in respect of capital and dividends attached to, the several classes of shares respectively.</p>	
<p>Number and amount of shares and debentures issued within the two years preceding the date of this statement as fully or partly paid up otherwise than for cash or agreed to be so issued at the date of this statement.</p>	<ol style="list-style-type: none"> 1. Shares of Rs. fully paid. 2. Shares upon which Rs. per share credited as paid. 3. Debenture Rs. 4. Consideration.

Names

<p>Names and addresses of vendors of property (1) purchased or acquired by the Company within the two years preceding the date of this Statement or (2) agreed or proposed to be purchased or acquired by the Company.</p>	
<p>Amount (in cash, shares or debentures) payable to each separate vendor.</p>	
<p>Amount (if any) paid or payable (in cash or shares or debentures) for any such property specifying amount (if any) paid or payable for goodwill.</p>	<p>Total purchase price .. Rs..... Cash .. Rs..... Shares .. Rs..... Debentures Rs..... Goodwill .. Rs.....</p>
<p>Amount (if any) paid or payable as commission for subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for any shares or debentures in the Company ; or rate of the commission.</p>	<p>Amount paid. Amount payable. Rate per cent.</p>
<p>The number of shares, if any, which persons have agreed for a commission to subscribe absolutely.</p>	

Unless

<p>Unless more than two years have elapsed since the date on which the Company was entitled to commence business :— Estimated amount of preliminary expenses. Amount paid or intended to be paid to any promoter. Consideration for the payment.</p>	<p>Rs. Name of promoter. Amount Rs. Consideration.</p>
<p>Dates of, and parties to every material contract (except contracts entered into in the ordinary course of the business intended to be carried on by the Company or contracts, other than contracts appointing or fixing the remuneration of a Managing Director or Managing Agent, entered into more than two years before the delivery of this statement).</p>	
<p>Times and place at which the contracts or copies thereof may be inspected.</p>	
<p>Names and addresses of the Auditors of the Company.</p>	
<p>Full particulars of the nature and extent of the interest of every Director in the promotion of or in the property purchased or acquired by the Company within the two years preceding the date of this statement or proposed to be</p>	

acquired

113

H

acquired by the Company or where the interest of such a Director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares, or otherwise, by any person either to induce him to become, or to qualify him as, a Director, or otherwise for services rendered by him or by the firm in connection with the promotion of the formation of the Company.

If it is proposed to acquire any business, the amount, as certified by the persons by whom the accounts of the business have been audited, of the net profits of the business in respect of each of the three financial years immediately preceding the date of this statement provided that in the case of a business which has been carried on for less than three years and the accounts of which have only been made up in respect of two years or one

year

OF 1936.] *Indian Companies.*

year the above requirement shall have effect as if references to two years or one year, as the case may be, were substituted for references to three years, and in any such case the statement shall say how long the business to be acquired has been carried on.	
--	--

(Signatures of the persons above named as Directors or proposed Directors or of their agents authorised in writing.)	
--	--

Dated the *day of* ”

124. In

115

B 2

Amendment of Third Schedule, Act VII of 1913.

124. In the Third Schedule to the said Act,—
(a) for Form F the following form shall be substituted:—

“FORM F.
(See section 132.)
..... LIMITED.

Balance-Sheet as at.....19

Indian Companies. [ACT XXII

CAPITAL AND LIABILITIES.					PROPERTY AND ASSETS.
CAPITAL—					<p>FIXED CAPITAL EXPENDITURE— (Distinguishing as far as possible between expenditure upon goodwill, land, buildings, lease-holds, railway sidings, plant, machinery, furniture, development of property, patents, trade marks and designs, interest paid out of Capital during construction, etc., and stating in every case the original cost and the additions thereto and deductions therefrom during the year, and the total Depreciation written off under each head. Where sums have been written off on a reduction of capital or a revaluation of assets every balance-sheet after the first balance-sheet subsequent to the</p>
Authorised Capital shares of Rs.....each.					
(Distinguishing between the various classes of Capital.)					
Issued Capital .. shares of Rs. . . each					
(*) Shares issued as fully paid up pursuant to any contract without payments being received in cash .. shares of Rs.....each.					
(**) Shares issued for payments in cash.....shares of Rs.....each.					
Subscribed Capital shares of Rs .....each.					

Amount called up at Rs. per share									
Less—Calls unpaid—									
(i) due from Managing Agents ..	..	..	..	..	..	..	..	..	..
(ii) due from others ..	..	..	..	..	..	..	..	..	..
Add—Forfeited shares (amount paid up).	..	..	..	..	..	..	..	..	..
Note.—Where circumstances permit issued and subscribed capital and amount called up may be shown as one item, e.g.,	..	..	..	..	..	..	..	..	..
Issued and Subscribed Capital.. shares of Rs. each, Rs. paid up.	..	..	..	..	..	..	..	..	..
RESERVES									
DEBENTURES stating the nature of security ..	..	..	..	..	..	..	..	..	..
ANY SINKING FUND ..	..	..	..	..	..	..	..	..	..
ANY OTHER FUND CREATED OUT OF NET PROFITS, including any development fund.	..	..	..	..	..	..	..	..	..
ANY PENSION OR INSURANCE FUND ..	..	..	..	..	..	..	..	..	..
PROVISION FOR BAD AND DOUBTFUL DEBTS									
LOANS—									
(a) Secured—									
(i) loans on mortgages or fixed assets ..	..	..	..	..	..	..	..	..	..
(ii) loans on debentures ..	..	..	..	..	..	..	..	..	..
(iii) loans from banks, stating the nature of security ..	..	..	..	..	..	..	..	..	..
(iv) liabilities to subsidiary companies	..	..	..	..	..	..	..	..	..
reduction or revaluation shall show the reduced figures, with the date of and the amount of the reduction made.)	..	..	..	..	..	..	..	..	..
PRELIMINARY EXPENSES ..	..	..	..	..	..	..	..	..	..
COMMISSION OR BROKERAGE ..	..	..	..	..	..	..	..	..	..
(Commission or Brokerage paid for underwriting or placing or subscribing shares or debentures until written off.)	..	..	..	..	..	..	..	..	..
DISCOUNT ALLOWED ON THE ISSUE OF SHARES or so much as has not been written off at the date of the balance-sheet.	..	..	..	..	..	..	..	..	..
STORES AND SPARE PARTS ..	..	..	..	..	..	..	..	..	..
LOOSE TOOLS ..	..	..	..	..	..	..	..	..	..
LIVE-STOCK AND VEHICLES ..	..	..	..	..	..	..	..	..	..
STOCK IN TRADE ..	..	..	..	..	..	..	..	..	..
(Stating mode of valuation, e.g., cost or market value.)	..	..	..	..	..	..	..	..	..
BILLS OF EXCHANGE ..	..	..	..	..	..	..	..	..	..
BOOK DEBTS ..	..	..	..	..	..	..	..	..	..
(Distinguishing between those considered good and in respect of which the company is fully secured and those held no security other than the debtor's personal security, and distinguishing between debts considered good and debts considered doubtful or bad.	..	..	..	..	..	..	..	..	..
Debts due by directors or other officers	..	..	..	..	..	..	..	..	..

(v) other

CAPITAL AND LIABILITIES—contd.	PROPERTY AND ASSETS—contd.
LOANS—contd.	BOOK DEBITS—contd.
(a) Secured—contd.	of the company or any of them either
(v) other secured loans, stating the	severally or jointly with any other per-
nature of security	sons to be separately stated.)
(vi) interest accrued on mortgages,	ADVANCES
debentures or other secured loans	(Recoverable in cash or in kind or for
.. .. .	value to be received, <i>eg.</i> , Rates, Taxes,
(b) Unsecured—	Insurance, etc., showing separately—
(i) loans from banks	(i) loans given to subsidiary companies
(ii) fixed deposits	(ii) loans including temporary advan-
(iii) short-term loans	ces made at any time during the
(iv) advances by directors or mana-	year to directors or managers of the
gers and managing agents	company)
(v) interest accruing but not due and	INVESTMENTS
interest accrued and due	(Showing nature of investments and mode
(vi) liabilities to subsidiary companies	of valuation, <i>eg.</i> : Cost or Market
.. .. .	value and distinguishing—
UNCLAIMED DIVIDENDS	(i) investments in Government or trust
LIABILITIES—	securities
For Goods supplied	(ii) investments in shares, debentures
For Expenses	or bonds (showing separately shares
For Acceptances	fully paid up and partly paid up)
For Other Finance	(iii) investments in shares, debentures
ADVANCE PAYMENTS AND UNEXPIRED DIS-	or bonds of subsidiary companies
COUNTS	(iv) immovable properties

OF 1936.]

Indian Companies.

<p>(For the portion for which value has still to be given, e.g., in the case of the following classes of companies— Newspaper, Fire Insurance, Theatre, Club, Banking, Steamship Companies, etc.)</p> <p>PROFIT AND LOSS</p> <p>CONTINGENT LIABILITIES—</p> <p>Claims against the company not acknowledged as debts</p> <p>Money for which the company is contingently liable (Showing separately the amount of any guarantees given by the company on behalf of directors or officers of the company.)</p> <p>Arrears of Cumulative Preference Dividends</p>	<p>INTEREST ACCRUED ON INVESTMENTS</p> <p>CASH AND OTHER BALANCES</p> <p>Amount in hand</p> <p>Balances with Agents and Bankers (in detail showing whether on deposit, or current account, etc.)</p> <p>Profit and Loss</p>
---	---

The information required to be given under any of the items or sub-items in this Form if not included in the Balance-Sheet itself shall be furnished in a separate Schedule or Schedules to be attached to and to form part of the Balance-Sheet.;

(b) after

(b) after Form G the following shall be inserted as Form H, namely:—

“FORM H.

(See section 277.)

INFORMATION TO BE SUPPLIED IN OR IN ADDITION TO THE INFORMATION CONTAINED IN THE BALANCE-SHEET OF A COMPANY REFERRED TO IN PART X.

Liabilities.

1. *Summary of Authorised Share Capital and Issued Share Capital.*
2. *Redeemable Preference Shares, stating date on or before which the shares are or are liable to be redeemed.*
3. *Debentures stating the nature of the Security.*
4. *Redeemed debentures which the Company has power to re-issue.*
5. *Loans (a) secured, stating the nature of the Security; (b) unsecured.*
6. *Loans from Banks:—*
 - (a) *Secured, stating nature of security,*
 - (b) *Unsecured.*
7. *Profit and Loss Account, showing (unless disclosed in a separate account):—*
 - Balance as per previous Balance-Sheet.*
 - Appropriation thereof.*
 - Profit since last Balance-Sheet.*
8. *Contingent Liabilities.*
9. *Arrears of Cumulative Preference Dividend.*

Assets.

1. *Fixed Assets, with sufficient particulars to disclose their general nature, and stating how their values are arrived at.*
2. *Preliminary expenses, so far as not written off.*
3. *Any expenses incurred in connection with any issue of Share Capital or Debentures, so far as not written off.*

4. *If*

OF 1936.] *Indian Companies.*

4. *If it is shown as a separate item in or is otherwise ascertainable from the books of the Company, or from any contract for the sale or purchase of any property to be acquired by the Company, or from any documents in the possession of the Company relating to the stamp duty payable in respect of any such contract or the conveyance of any such property the amount of the goodwill and of any patents and trade marks as so shown or ascertained.*
5. *Interest paid on Capital, so far as not written off, showing the Share Capital on which and the rate at which interest has been paid out of Capital during the period to which the accounts relate.*
6. *Discount allowed on Shares issued, so far as not written off.*
7. *Commission paid or allowed in respect of any shares or debentures, so far as not written off.*
8. *Loans outstanding to enable employees or trustees on their behalf to purchase shares in the Company.*
9. *Particulars showing :—*
 - (a) *the amount of any loans which during the period to which the accounts relate have been made either by the Company or by any other person under a guarantee from or on a security provided by the Company to any director or officer of the Company, including any such loans which were repaid during the said period ;*
and
 - (b) *the amount of any loans made in manner aforesaid to any director or officer at any time before the period aforesaid and outstanding at the expiration thereof ;*
and
 - (c) *the total of the amount paid to the directors as remuneration for their services, inclusive of all fees, percentages, or other emoluments, paid to or receivable by them by or from the Company or by or from any subsidiary Company.*

Note (1).—There shall not be required to be shown :—

- (a) *in the case of a Company the ordinary business of which includes the lending of money,*

loans

Indian Companies. [ACT XXII OF 1936.]

loans made by the Company in the ordinary course of its business ;

or

- (b) *loans made by the Company to any employee of the Company if the loan does not exceed twenty thousand rupees and is certified by the directors of the Company to have been made in accordance with any practice adopted or about to be adopted by the Company with respect to loans to its employees.*

Note (2).—The foregoing shall not apply in relation to a Managing Director of the Company, and in the case of any other director who holds any salaried employment or office in the Company there shall not be required to be included in the said total amount any sums paid to him except sums paid by way of directors' fees.

(Where a company is a holding company then the Balance-Sheet shall disclose the particulars required by section 132A.)'

ACT NO. XXIII OF 1936.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
27th October, 1936.)

An Act to make better provision for the administration of the Durgah and the Endowment of the Durgah of Khawaja Moin-ud-din Chishti, generally known as Durgah Khawaja Saheb, Ajmer.

WHEREAS it is expedient to make better provision for the administration of the Durgah Khawaja Saheb, Ajmer; It is hereby enacted as follows:—

1. (1) This Act may be called the Durgah Khawaja Saheb Act, 1936. Short title and commencement.

(2) It shall come into force on such date (not later than six months after this Act receives the assent of the Governor General) as the Chief Commissioner may, by notification in the Gazette of India, appoint in this behalf.

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

- (1) "Committee" means the Durgah Committee constituted under this Act;
- (2) "Court" means the principal Court of original civil jurisdiction;
- (3) "Durgah" means the institution known as the Durgah Khawaja Saheb, Ajmer, and includes the premises called the Durgah Sharif with all buildings contained therein, together with all additions thereto or alterations thereof which may be made after the commencement of this Act;
- (4) "Durgah Endowment" includes—
 - (a) the Durgah Khawaja Saheb, Ajmer;
 - (b) all buildings and movable property within the boundaries of the Durgah Sharif;
 - (c) Durgah Jagir including all land, houses and shops and all landed property wheresoever situated belonging to the Durgah Sharif;

d) all

1

Durgah Khawaja Saheb. [ACT XXIII

(d) all other property in India, and all income derived from any source whatsoever, dedicated to the Durgah or placed for any religious, pious or charitable purposes under the Durgah Administration ; and

(e) only such offerings as are intended explicitly for the use of the Durgah.

(5) The words " trustee, Manager, or superintendent " used in this Act shall have the same meaning and application as under the Religious Endowments Act, 1863.

XX of 1863.

Act to override Act XX of 1863.

3. This Act shall have effect notwithstanding anything inconsistent therewith contained in the Religious Endowments Act, 1863.

XX of 1863.

The Committee.

4. (1) The administration and control of the Durgah Endowment shall be vested in a Committee constituted in the manner hereinafter provided.

(2) The Committee shall by the name of " The Durgah Committee, Ajmer " be a body corporate and shall have perpetual succession and a common seal and shall by the said name sue and be sued through its President.

Composition of Committee.

5. The Committee shall consist of twenty-five members of whom—

(a) one shall be Sajjadanashin for the time being *ex-officio* or his nominee ;

(b) one shall be Mutawalli for the time being *ex-officio* or his nominee ;

(c) two shall belong to the Khadim community and elected by the members of their own community possessing the qualifications mentioned in section 7 of this Act ;

(d) five shall be elected from amongst the Muslim citizens of Ajmer (other than Khadims, Mutawalli and the Sajjadanashin) by persons (other than the Khadims) possessing the qualifications mentioned in section 7 of this Act ;

(e) three shall be elected by the Muslim members of the Central Legislature ;

(f) one

OF 1936.]

Durgah Khawaja Sahib.

- (f) one shall be elected by the Muslim members of the North-West Frontier Province Legislative Assembly ;
- (g) one shall be elected by the Muslim members of the Bombay Provincial Legislature ;
- (h) one shall be elected by the Muslim members of the United Provinces Provincial Legislature ;
- (i) one shall be elected by the Muslim members of the Bihar Provincial Legislature ;
- (j) one shall be elected by the Muslim members of the Bengal Provincial Legislature ;
- (k) one shall be elected by the Muslim members of the Punjab Provincial Legislature ;
- (l) one shall be elected by the Muslim members of the Sind Provincial Legislature ;
- (m) one shall be elected by the Muslim members of the Madras Provincial Legislature ;
- (n) one shall be nominated by His Exalted Highness the Nizam of Hyderabad ;
- (o) four shall be Sajjadanashins of the Shrines of the Chishti Order of Sufis to be co-opted by the members elected or nominated under the preceding sub-sections (a) to (n) :

Provided that no person other than a Hanafi Muslim shall be a member thereof.

Members elected by the Provincial and Central Legislatures may not be members of Legislatures.

6. For the purpose of election of members mentioned ^{Electoral Area.} in section 5 (d) to the Durgah Committee, the electoral area shall consist of the area within the Municipal limits of the city of Ajmer.

7. Only those Muslims who are recorded as voters in ^{Qualifications of electors.} the Register of voters of the Municipal Board of Ajmer, except persons belonging to the Khadim community shall have the right to vote in the election of members under section 5 (d).

8. No

Durgah Khawaja Sahib. [ACT XXIII]

Qualifications
of candidates
for election.

8. No person shall be qualified to be a candidate for election to the Committee unless he is qualified as a voter under section 7 and—

- (a) he can read and write Urdu,
- (b) he has not been convicted by a criminal Court of any offence involving moral turpitude, and sentenced to imprisonment for a period exceeding three months.

Term of office
of members of
Committee.

9. A member of the Committee shall hold office for a term of five years from the date of election or nomination. Casual vacancies shall be filled up by the authority which has the power to appoint the members:

Provided that a member elected or nominated to fill up a casual vacancy shall hold office only so long as the member in whose place he was elected or nominated would have held office if the vacancy had not occurred.

President and
Vice-President

10. (1) The Committee shall elect a President and a Vice-President from among its members except those who are elected under items (a), (b) and (c) of section 5.

(2) When the office of the President is vacant or in the absence of the President from any meeting, the Vice-President shall exercise the functions of the President.

(3) In the absence of the President and Vice-President, a meeting of the Committee may be presided over by a member elected by the majority of the members present at the meeting.

Powers and
duties of
the
Committee.

11. (1) The Committee shall take the place of and shall supersede the Committee appointed under section 7 of the Religious Endowments Act, 1863.

XX of 1863.

(2) The duties and powers of the Committee shall be—

- (a) to manage the Durgah Endowment;
- (b) to keep the buildings within the boundaries of the Durgah Sharif and all buildings, houses and shops comprised in the Durgah Endowment in proper order and in a state of good repair;
- (c) to receive all moneys and other income of the Durgah Endowment;
- (d) to see that the endowment funds are spent in the manner desired by the donors;

(e) to

- (e) to pay salaries, allowances, and perquisites, and make all other payments due out of or charged on the revenues or income of the Durgah Endowment;
- (f) to engage, appoint, promote, degrade, suspend or dismiss servants of the Durgah Endowment;
- (g) to do all other such things as may be incidental or conducive to efficient administration.

(3) That the Committee will exercise its powers of administration, control and management of Durgah Endowment through the Mutawalli who shall be its Manager.

12. The Committee may appoint such and so many ^{Sub-Committees.} standing and special committees as it deems fit, and may appoint to them persons who are not members of the Committee, to exercise such powers and perform such duties as may be delegated to them by the Committee, subject to the confirmation by the Committee.

13. Save as otherwise provided under any enactment ^{Committee to observe Mohammadan Law and tenets of the Chishti Saints.} for the time being in force the Committee shall, in the exercise of its powers and the discharge of its duties, follow the rules of the Mohammadan law applicable to Hanafi Mussalmans in British India; and shall conduct and regulate the established rites and ceremonies in accordance with the tenets of the Chishti Saints.

14. The Chief Commissioner may make rules, ^{not Rules.} inconsistent with the provisions of this Act, to—

- (a) provide for the manner of elections under section 5;
- (b) provide for the authority by which and the manner in which electoral rolls shall be prepared or amended;
- (c) regulate the appointment and duties of the returning officer or officers for the election of the Committee and provide for the decision of election disputes.

15. (1) The Committee may make bye-laws ^{Bye-laws.} to carry out the purposes of this Act.

(2) In

(2) In particular and without prejudice to the generality of the foregoing power such bye-laws may provide for—

- (a) the division of duties among the President and members of the Committee ;
- (b) the establishment and term of office of Sub-Committees and their powers and duties ;
- (c) the time and place of, the quorum for, and the procedure and conduct of business at, the meetings of the Committee and of Sub-Committees ;
- (d) the security, if any, to be taken from the servants of the Committee ;
- (e) the books and accounts to be kept at the office of the Committee ;
- (f) the custody and investment of the property and funds of the Durgah ;
- (g) the details to be included in or excluded from the budget of the Durgah ;
- (h) the persons by whom receipts may be granted for money paid to the Committee ;
- (i) the accounts, returns and reports to be submitted by the trustee, Manager, or superintendent ;
- (j) maintenance of peace and order within the Durgah compound ;
- (k) the duties and powers of the trustee, Manager, or superintendent and other officers and servants of the Durgah ;
- (l) the manner of entering into contracts by or on behalf of the Committee.

(3) All bye-laws made by the Committee under this section shall first be published in draft for objections by being hung up on the premises of the Durgah.

Tribunal of
Arbitration.

16. Any dispute arising about the powers or privileges of Sajjadanashin, Mutawalli or any Khadim and the Committee, shall at the request of either side be referred to a Tribunal of Arbitration consisting of one member appointed by the Committee, one member appointed by the aggrieved party and an umpire of a rank not below that of a District Judge appointed

by

OF 1936.] *Durgah Khawaja Saheb.*

IX of 1899. by the Chief Commissioner of Ajmer-Merwara. The decision of the Tribunal shall be final and no suit shall lie in any civil Court in respect of the matters decided by the Tribunal. Every such request shall be deemed to be a submission to arbitration under the terms of this section within the meaning of the Indian Arbitration Act, 1899, and all the provisions of that Act, with the exception of section (2) thereof, shall apply accordingly.

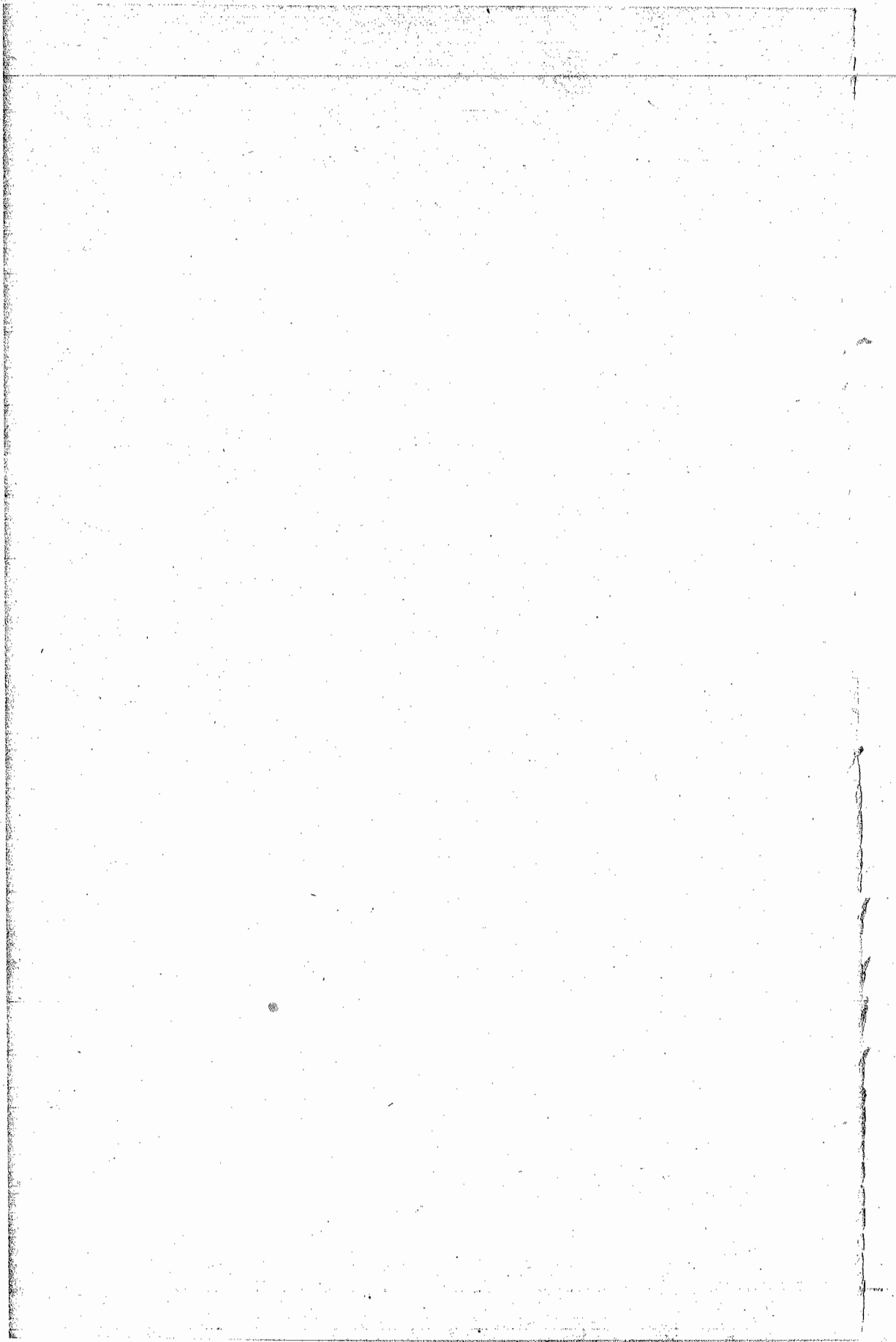
17. No act or proceeding of the Committee shall be invalidated merely by reason of the existence of a vacancy or vacancies among its members. Validity of proceedings of the Committee.

18. The Durgah Committee shall not be empowered to use the property, movable and immovable, of the Durgah Endowment for any purpose other than those intended by the founders of the Wakf. Restriction on powers of Committee.

19. The Committee shall in the expenditure of the income of the Durgah Endowment abide by the directions contained in the Wakf-Deed and shall allot not less than 20 per cent. of the income from Durgah Endowment to religious preaching. Expenditure of income.

20. (1) The accounts of the Durgah shall be duly audited every year by a Chartered or Registered Accountant appointed by the Committee. Audit of accounts and annual report.

(2) The Committee shall publish an annual report on the administration of the Durgah with the financial estimate and the report of the Auditor.



ACT NO. XXIV OF 1936.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the
31st October, 1936.)

An Act further to amend the Cantonments Act, 1924,
for certain purposes.

WHEREAS it is expedient further to amend the
Cantonments Act, 1924, for the purposes here-
inafter appearing; It is hereby enacted as follows:—

1. (1) This Act may be called the Cantonments Short title, ex-
tent and com-
mencement.
(Amendment) Act, 1936.

(2) It extends to the whole of British India, including
British Baluchistan but excluding Burma.

(3) It shall come into force at once, but the Governor
General in Council may, by notification in the Gazette
of India, direct either generally or in respect of a parti-
cular cantonment that a specified section or sections
shall not take effect until such date as he may by a
like notification appoint in this behalf.

2. In section 2 of the Cantonments Act, 1924 (here- Amendment of
section 2, Act
II of 1924.
inafter referred to as the said Act),—

(a) for clause (iv) the following clause shall be
substituted, namely:—

“(iv) ‘building’ means a house, outhouse,
stable, latrine, shed, hut or other roofed
structure whether of masonry, brick, wood,
mud, metal or other material, and any
part thereof, and includes a well and a wall
(other than a boundary wall not exceeding
eight feet in height and not abutting on
a street) but does not include a tent or other
portable and temporary shelter;”;

(b) clause (v) shall be omitted;

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

“(xii) ‘entitled consumer’ means a person in a
cantonment who is paid from the Defence
Services

Services Estimates and is authorised by general or special order of the Governor General in Council to receive a supply of water for domestic purposes from the Military Engineer Services or the Public Works Department on such terms and conditions as may be specified in the order ; ” ;

(d) in clause (xvii), after the words “ in a cantonment ” the following shall be inserted, namely :—

“ or where more than one such officer has charge of the military works in a cantonment such one of those officers as the Officer Commanding the Station may designate in this behalf ” ;

(e) clause (xv) shall be omitted ;

(f) after clause (xx) the following clause shall be inserted, namely :—

“ (xxa) ‘ Military Estates Officer ’ means the officer appointed by the Governor General in Council to perform the duties of the Military Estates Officer under rules made under clauses (a) and (b) of sub-section (2) of section 280 ; ” ;

(g) in clause (xxi),—

(i) in paragraph (a), after the words “ Air Force Act,” the words and figures “ or the Indian Air Force Act, 1932,” shall be inserted ; and

(ii) to paragraph (b) the words “ , or the Indian Air Force Act, 1932 ” shall be added ;

(h) after clause (xxvii) the following clause shall be inserted, namely :—

“ (xxviii) a person is deemed to reside in a cantonment if he maintains therein a house or a portion of a house which is at all times available for occupation by himself or his family even though he may himself reside elsewhere, provided that he has not abandoned all intention of again occupying such house either by himself or his family ” ;

(i) in clause (xxvii), for the words “ , passage or open space ” the words “ or passage ” shall be substituted ;

(j) in

OF 1936.]

Cantonments.

(j) in clause (xxxviii), the word "and" occurring at the end shall be omitted; and

(k) after clause (xxxix) the following word and clause shall be inserted, namely:—

"and

(xl) 'year' means the year commencing on the first day of April."

3. To section 3 of the said Act the following sub-section shall be added, namely:—

Amendment of section 3, Act II of 1924.

"(3) When any place is declared a cantonment for the first time, the Governor General in Council may, until a Board is constituted in accordance with the provisions of this Act, by order make any provision which appears necessary to him either for the administration of the Cantonment or for the constitution of the Board."

4. In section 9 of the said Act, for the words "specified in the notification in which there is no Board" the following clauses shall be substituted, namely:—

Amendment of section 9, Act II of 1924.

"(a) situated within the limits of a Presidency-town; or

(b) in which the Board is superseded under section 54,"

5. For sections 10 to 14 of the said Act the following sections shall be substituted, namely:—

Substitution of new sections for sections 10 to 14, Act II of 1924.

"10. For every cantonment there shall be a Cantonment Board and an Executive Officer.

Cantonment Board and Executive Officer.

11. Every Board shall, by the name of the place by reference to which the cantonment is known, be a body corporate having perpetual succession and a common seal with power to acquire and hold property both moveable and immovable and to contract and shall, by the said name, sue and be sued.

Incorporation of Cantonment Board.

12. (1) The Executive Officer of every cantonment shall be appointed by the Governor General in Council, or by such person as the Governor General in Council may authorise in this behalf, from the Service of Executive Officers constituted by rules made under section 280:

Appointment of Executive Officer.

Provided

Cantonments.

[ACT XXIV

Provided that an Executive Officer appointed before the commencement of the Cantonments (Amendment) Act, 1936, shall, unless the Governor General in Council otherwise directs in any case, be deemed to have been duly appointed in accordance with this sub-section.

(2) Not less than half the cost of the salary of the Executive Officer shall be paid by Government and the balance from the cantonment fund :

Provided that the salary of an Executive Officer appointed before the commencement of the Cantonments (Amendment) Act, 1936, shall, until the Governor General in Council otherwise directs, continue to be paid from the source from which it was being paid at the commencement of the said Act.

(3) The Executive Officer shall be the Secretary of the Board and of every committee of the Board, but shall not be a member of the Board or of any such committee.

Constitution of
Cantonment
Boards.

13. (1) Cantonments shall be divided into three classes, namely :—

- (i) Class I Cantonments, in which the civil population exceeds ten thousand ;
- (ii) Class II Cantonments, in which the civil population exceeds two thousand five hundred, but does not exceed ten thousand ; and
- (iii) Class III Cantonments, in which the civil population does not exceed two thousand five hundred :

Provided that the Governor General in Council may, by notification in the Gazette of India, place in Class II any cantonment in the North-West Frontier Province or in British Baluchistan which if it were situated elsewhere would be a Class I Cantonment, or place in Class III any such cantonment which if it were situated elsewhere would be a Class II Cantonment.

(2) For the purposes of sub-section (1), the civil population shall be calculated in accordance with the latest official census, or, if the Governor General in Council, by general or special order, so directs, in accordance with a special census taken for the purpose.

(3) In

(3) In Class I Cantonments, the Board shall consist of the following members, namely :—

- (a) the Officer Commanding the station or, if the Governor General in Council so directs in respect of any cantonment, such other military officer as may be nominated in his place by the Officer Commanding-in-Chief, the Command ;
- (b) a Magistrate of the first class nominated by the District Magistrate ;
- (c) the Health Officer ;
- (d) the Executive Engineer ;
- (e) four military officers nominated by name by the Officer Commanding the station by order in writing ;
- (f) seven members elected under this Act.

(4) In Class II Cantonments, the Board shall consist of the following members, namely :—

- (a) the Officer Commanding the station or, if the Governor General in Council so directs in respect of any cantonment, such other military officer as may be nominated in his place by the Officer Commanding-in-Chief, the Command ;
- (b) a Magistrate of the first class nominated by the District Magistrate ;
- (c) the Health Officer ;
- (d) the Executive Engineer ;
- (e) (i) in cantonments of which the civil population exceeds seven thousand five hundred, three military officers,
(ii) in cantonments of which the civil population exceeds five thousand, but does not exceed seven thousand five hundred, two military officers,
(iii) in cantonments of which the civil population does not exceed five thousand and in cantonments which the Governor General in Council, by notification under the proviso to sub-section (1), has placed in Class II, whatever be the population, one military officer, nominated by name by the Officer Commanding the station by order in writing ;

(f) such

(f) such number of members elected under this Act as is equal to the number of members constituted or nominated by or under clauses (b) to (e).

(5) In Class III Cantonments, the Board shall consist of the following members, namely :—

(a) the Officer Commanding the station, or if the Governor General in Council so directs in respect of any cantonment, such other military officer as may be nominated in his place by the Officer Commanding-in-Chief, the Command ;

(b) one military officer nominated by name by the Officer Commanding the station by order in writing ;

(c) one member elected under this Act.

(6) The Officer Commanding the station may, if he thinks fit, with the sanction of the Officer Commanding-in-Chief, the Command, nominate in place of any military officer whom he is empowered to nominate under clause (e) of sub-section (3), clause (e) of sub-section (4) or clause (b) of sub-section (5), any person, whether in the service of the Government or not, who is ordinarily resident in the cantonment or in the vicinity thereof.

(7) Every election or nomination of a member of a Board and every vacancy in the membership thereof shall be notified by the Local Government in the local official Gazette.

Power to vary constitution of Boards in special circumstances.

14. (1) Notwithstanding anything contained in section 13, if the Governor General in Council is satisfied—

(a) that, by reason of military operations, it is necessary, or

(b) after consultation with the Local Government, that, for the administration of the cantonment, it is desirable,

to vary the constitution of the Board in any cantonment under this section, the Governor General in Council may, by notification in the Gazette of India, make a declaration to that effect.

(2) Upon

OF 1936.]

Cantonments.

(2) Upon the making of a declaration under sub-section (1), the Board in the cantonment shall consist of the following members, namely :—

- (a) the Officer Commanding the station ;
- (b) one military officer nominated by name by the Officer Commanding the station by order in writing ;
- (c) one member, not being a person in the service of the Government nominated by the Officer Commanding the station.

(3) Every nomination of a member of a Board constituted under this section, and every vacancy in the membership thereof, shall be notified by the Local Government in the local official Gazette.

(4) The term of office of a Board constituted by a declaration under sub-section (1) shall not ordinarily extend beyond one year :

Provided that the Governor General in Council may from time to time, by a like declaration, extend the term of office of such a Board by any period not exceeding one year at a time :

Provided also that the Governor General in Council shall forthwith direct that the term of office of such a Board shall cease if, in the opinion of the Governor General in Council, the reasons stated in the declaration whereby such Board was constituted, or its term of office was extended, have ceased to exist.

(5) When the term of office of a Board constituted under this section has expired or ceased, the Board shall be replaced by the former Board which, but for the declaration under sub-section (1), would have continued to hold office, or, if the term of office of such former Board has expired, by a Board constituted under section 13."

6. In section 15 of the said Act,—

- (a) in sub-sections (1) and (4), for the words, brackets and figures "sub-section (2) of section 14" the words, brackets and figures "sub-section (7) of section 13" shall be substituted ; and

Amendment of
section 15, Act
II of 1924.

(b) to

- (b) to sub-section (1) the following proviso shall be added, namely:—

“Provided that the Governor General in Council may, when satisfied that it is necessary in order to avoid administrative difficulty, extend the term of office of all the elected members of a Board by such period, not exceeding one year, as he thinks fit.”

Amendment of section 20, Act II of 1924.

7. In section 20 of the said Act,—

(a) in sub-section (1), after the words “Officer Commanding the station”, where they first occur, the words “if a member of the Board” shall be inserted; and

(b) for sub-section (2) the following sub-sections shall be substituted, namely:—

“(2) Where the Officer Commanding the station is not a member of the Board, the military officer nominated in his place under clause (a) of sub-section (3), sub-section (4) or sub-section (5) of section 13 shall be President of the Board.

(3) In every Board in which there is more than one elected member, there shall be a Vice-President elected by the elected members only and from among their number.”

Amendment of section 21, Act II of 1924.

8. For sub-section (1) of section 21 of the said Act the following sub-section shall be substituted, namely:—

“(1) The term of office of a Vice-President shall be three years or the residue of his term of office as a member, whichever is less.”

Amendment of section 25, Act II of 1924.

9. In clause (a) of the proviso to section 25 of the said Act, the words “where there is a Board” shall be omitted.

Amendment of section 26, Act II of 1924.

10. In sub-section (1) of section 26 of the said Act,—

(a) the words, brackets and figures “Where a Board is to be constituted in any cantonment otherwise than in accordance with the proviso to sub-section (1) of section 14,” shall be omitted; and

(b) for

of 1936.]

Cantonments.

(b) for the words "the Cantonment Authority" the following shall be substituted, namely :—

"The Board or, where a Board is not constituted in any place declared by notification under sub-section (1) of section 3 to be a cantonment, the Officer Commanding the station,".

11. In section 27 of the said Act,—

Amendment of
section 27, Act
II of 1924.

(a) In sub-section (1),—

(i) in sub-clause (iii) of clause (b), for the words "is a graduate" the words "has passed the Matriculation or other equivalent examination" shall be substituted;

(ii) sub-clause (iv) of clause (b) shall be re-numbered as sub-clause (v) and the following shall be inserted as sub-clause (iv), namely :—

"(iv) is a person whose name is entered on the current electoral roll of the constituency of which the cantonment forms part for the purposes of the Central or Provincial Legislatures; or";

(iii) in clause (c), for the word "during" the word "for" shall be substituted; and

(b) in sub-section (2),—

(i) in clause (v), for the words "six months" the words "two years" shall be substituted and after the word "transportation" the words "for an offence which is declared by the Governor General in Council to be such as to unfit him to become an elector" shall be inserted, and the words "or has been ordered to find security for good behaviour under the Code of Criminal Procedure, 1898" shall be omitted; and

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

"Provided further that any disqualification incurred by a person under clause (v) shall terminate on the lapse of three years from the expiry of the sentence or order."

12. In section 28 of the said Act,—

Amendment of
section 28, Act
II of 1924.

(a) in sub-section (1), for the words "a stipendiary Magistrate or a military officer or soldier"

the

the

the words "a person in the military or civil service of the Crown in India" shall be substituted;

(b) in sub-section (2),—

(i) in clause (a), for the words "the Cantonment Authority" the following shall be substituted, namely:—

"a Board or an authority which, before the commencement of the Cantonments (Amendment) Act, 1936, exercised and performed the powers and duties of a Cantonment Authority under this Act;" and

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

"(dd) is an officer or servant, permanent or temporary, of a Board; or".

Amendment of section 36, Act II of 1924.

13. After sub-section (3) of section 36 of the said Act the following sub-section shall be added, namely:—

"(4) Every person applying for employment as a servant of a Board shall, if he is related by blood or marriage to any member of the Board or to any person, not being a menial servant, in receipt of remuneration from the Board, notify the fact and the nature of such relationship to the appointing authority before the appointment is made, and if he has failed to do so, his appointment shall be invalid but without prejudice to the validity of anything previously done by him."

Amendment of section 39, Act II of 1924.

14. In section 39 of the said Act,—

(a) in sub-section (1),—

(i) after the word "Board", where it occurs first, the words "in which there is more than one elected member" shall be inserted; and

(ii) the proviso shall be omitted; and

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) The quorum necessary for the transaction of business at a meeting of a Board constituted

OF 1936.]

Cantonments.

constituted under sub-section (5) of section 13 or under sub-section (1) of section 14, shall be two.”

15. For section 40 of the said Act the following section shall be substituted, namely :—

Substitution of
new section 40
in Act II of
1924.
Presiding officer.

“40. In the absence of—

- (a) both the President and the Vice-President from any meeting of a Board in which there is more than one elected member,
- (b) the President from a meeting of a Board constituted under sub-section (5) of section 13 or sub-section (1) of section 14,

the members present shall elect one from among their own number to preside.”

16. In sub-section (2) of section 41 of the said Act, for the words “and the District Magistrate” the words “the District Magistrate and the Military Estates Officer” shall be substituted.

Amendment of
section 41, Act
II of 1924.

17. After section 43 of the said Act the following section shall be inserted, namely :—

Insertion of
new section
43A in Act
II of 1924.

- “43A. (1) Every Board constituted under section 13 in a Class I Cantonment or Class II Cantonment shall appoint a committee consisting of the elected members of the Board, the Health Officer and the Executive Engineer for the administration of such areas in the cantonment as the Governor General in Council may, by notification in the Gazette of India, declare to be bazar areas, and may delegate its powers and duties to such committee in the manner provided in clause (e) of sub-section (1) of section 44.
- (2) The Vice-President of the Board shall be the Chairman of the committee appointed under sub-section (1).”

Committees for
Bazars.

18. In section 45 of the said Act,—

Amendment of
section 45, Act
II of 1924.

(a) in sub-section (1),—

- (i) in sub-clause (ii) of clause (a), for the words “either of the said authorities” the words “the Board or by such other local authority” shall be substituted ; and

(ii) in

(ii) in clause (b),—

(1) after the words “with the previous sanction of” the words “the Officer Commanding-in-Chief, the Command, and” shall be inserted;

(2) for the words “authorities so contracting” the words “Board and by such other local authority” shall be substituted; and

(3) for the words “said authorities” the words “Board and such other local authority” shall be substituted; and

(b) in sub-section (2), for the word “authorities” the words “Board and other local authority” shall be substituted.

Insertion of new section 45A in Act II of 1924.

Report on administration.

19. After section 45 of the said Act the following section shall be inserted, namely :—

“45A. Every Board shall, as soon as may be after the close of the year and not later than the date fixed in this behalf by the Governor General in Council, submit to the Governor General in Council through the Officer Commanding-in-Chief, the Command, a report on the administration of the cantonment during the preceding financial year, in such form and containing such details as the Governor General in Council may direct. The comments, if any, of the Officer Commanding-in-Chief, the Command, on such report shall be communicated by him to the Board which shall be allowed a reasonable time to furnish a reply thereto, and the comments together with the reply, if any, shall be forwarded to the Governor General in Council along with the report.”

Amendment of section 48, Act II of 1924.

20. In section 48 of the said Act, the words “The Governor General in Council or” occurring at the beginning shall be omitted.

Amendment of section 49, Act II of 1924.

21. In section 49 of the said Act, for the words “under section 47” the words “under section 46 or section 47” shall be substituted.

22. In

22. In section 52 of the said Act,—

(a) in clause (b) of sub-section (1), after the words
“cancel the suspension or” the words “after
giving the Board a reasonable opportunity of
showing cause why such direction should not
be made,” shall be inserted; and

(b) for clause (c) of sub-section (2) the following
clause shall be substituted, namely:—

“(c) after giving the Board a reasonable
opportunity of showing cause why such
direction should not be made, direct that the
decision shall not be carried into effect or
that it shall be carried into effect by the Board
with such modifications as he may specify.”

23. For section 60 of the said Act the following section
shall be substituted, namely:—

“60. (1) The Board may, with the previous sanc-
tion of the Local Government, impose in any
cantonment any tax which, under any enact-
ment for the time being in force, may be
imposed in any municipality in the province
wherein such cantonment is situated:

Provided that, where the previous sanction of the
Governor General in Council is required to the
imposition of any tax in a municipality, such
sanction shall also be required to its imposition
in a cantonment.

(2) Any tax imposed under this section shall take
effect from the date of its notification in the
local official Gazette.”

24. For sections 61, 62 and 63 of the said Act the
following sections shall be substituted, namely:—

“61. When a resolution has been passed by the
Board proposing to impose a tax under section
60, the Board shall in the manner prescribed
in section 255 publish a notice specifying—

(a) the tax which it is proposed to impose;
(b) the persons or classes of persons to be made
liable and the description of the property
or other taxable thing or circumstance in
respect of which they are to be made liable;
and

(c) the rate at which the tax is to be levied.

62. (1) Any

Amendment of
section
Act II of 1924.

Substitution of
new section 60
in Act II of
1924.

General power
of taxation.

Substitution
of new sections
for sections 61,
62 and 63, Act
II of 1924.

Framing of
preliminary
proposals.

Objections
and disposal
thereof.

62. (1) Any inhabitant of the cantonment may, within thirty days from the publication of the notice under section 61, submit to the Board an objection in writing to all or any of the proposals contained therein and the Board shall take any objection into consideration and pass orders thereon by special resolution.
- (2) If the Board decides to modify its proposals or any of them, it shall re-publish the modified proposals in the manner provided by section 61 indicating that the proposals are in modification of the proposals previously published; and the provisions of sub-section (1) of this section shall apply to such modified proposals.
- (3) When the Board has finally settled the proposals, it shall submit them along with the objections, if any, made in connection therewith to the Local Government through the Officer Commanding-in-Chief, the Command.

Imposition of
tax.

63. The Local Government may authorise the Board to impose the tax either in the original form or, if any objection has been submitted, in that form or any such modified form as it thinks fit."

Amendment of
section 65, Act
II of 1924.

25. In sub-section (1) of section 65 of the said Act, for the words "from the Secretary of State in Council or from" the words "granted by or on behalf of the Secretary of State in Council or" shall be substituted.

Amendment of
section 68, Act
II of 1924.

26. In sub-section (4) of section 68 of the said Act, the words "where there is a Board" shall be omitted, and for the word "thereof" the words "of the Board" shall be substituted.

Amendment of
section 71, Act
II of 1924.

27. In section 71 of the said Act,—
- (a) for sub-section (1) the following sub-section shall be substituted, namely:—
- "(1) The Board may amend the assessment list at any time—
- (a) by inserting or omitting the name of any person whose name ought to have been or ought to be inserted or omitted, or

(b) by

OF 1936.]

Cantonments.

- (b) by inserting or omitting any property which ought to have been or ought to be inserted or omitted, or
- (c) by altering the assessment on any property which has been erroneously valued or assessed through fraud, accident or mistake, whether on the part of the Board or of the Assessment Committee or of the assessee, or
- (d) by revaluing or reassessing any property the value of which has been increased, or
- (e) in the case of a tax payable by an occupier, by changing the name of the occupier :

Provided that no person shall by reason of any such amendment become liable to pay any tax or increase of tax in respect of any period prior to the commencement of the year in which the assessment is made.”; and

- (b) after sub-section (1) the following sub-section shall be inserted as sub-section (1a), namely :—

“(1a) Before making any amendment under sub-section (1) the Board shall give to any person affected by the amendment notice of not less than one month that it proposes to make the amendment.”

28. To section 73 of the said Act the following sub-section shall be added, namely :—

Amendment of section 73, Act II of 1924.

- “(5) the Executive Officer shall record every transfer on devolution of title notified to him under sub-section (1) or sub-section (2) in the assessment list and other tax registers of the Board.”

29. In section 75 of the said Act, after the word “owner” the words “or occupier” shall be inserted.

Amendment of section 75, Act II of 1924.

30. In section 76 of the said Act, the words “other than a hill cantonment” shall be omitted and in sections 76 and 77 of the said Act,—

Amendment of sections 76 and 77, Act II of 1924.

- (a) for the word “ninety” the word “sixty” shall be substituted ;

(b) the

Cantonments.

[ACT XXIV

- (b) the words " during any year " shall be omitted ;
and
- (c) the words " and payable in respect of that
year " shall be omitted.

Amendment of section 82, Act II of 1924. **31.** To sub-section (2) of section 82 of the said Act the words " and shall give a receipt specifying the items seized " shall be added.

Amendment of section 84, Act II of 1924. **32.** In the proviso to sub-section (1) of section 84 of the said Act, the words " there is a Board and " shall be omitted.

Amendment of section 93, Act II of 1924. **33.** In sub-section (1) of section 93 of the said Act,—

- (a) after the words " wherever it may be found " the words " in the cantonment " shall be inserted ; and
- (b) after the words " any moveable property of " the words " or standing timber, growing crops or grass belonging to " shall be inserted.

Amendment of section 102, Act II of 1924. **34.** In section 102 of the said Act,—

- (a) after the word " tax ", in each place where it occurs, the words " or rate " shall be inserted ; and
- (b) at the end, the following proviso shall be added, namely :—
" Provided that, where the sum written off in favour of any one person exceeds fifty rupees, the sanction of the Officer Commanding-in-Chief, the Command, shall be first obtained."

Amendment of section 107, Act II of 1924. **35.** In sub-section (3) of section 107 of the said Act, for the words " Local Government ", where they occur for the first time, the words " Officer Commanding-in-Chief, the Command " shall be substituted.

Amendment of section 114, Act II of 1924. **36.** In sub-section (1) of section 114 of the said Act, the words " where there is a Board ", in both places where they occur, and the words " or, where there is no Board, be signed by the Officer Commanding the station and be sealed with the official seal of the Cantonment Authority " shall be omitted.

Amendment of section 116, Act II of 1924. **37.** In clause (n) of section 116 of the said Act, after the word " maintaining " the words " or assisting " shall be inserted.

38. In

38. In section 126 of the said Act,—

- (a) after the word “owner” the words “or part-owner or person claiming to be the owner or part-owner thereof, or, failing any of them, the occupier” shall be inserted; and
- (b) for the words “protect or enclose” the words “or to protect or to enclose” shall be substituted.

39. For clause (d) of sub-section (1) of section 138 of the said Act the following clause shall be substituted, namely :—

“(d) Where the cantonment is a Class I or Class II cantonment, two non-official members of the Board, or where the cantonment is a Class III cantonment, one non-official member of the Board.”

40. In sub-section (2) of section 162 of the said Act, the words “, or, where there is no Board, the Officer Commanding the station” shall be omitted.

41. In sub-section (3) of section 166 of the said Act, the words “, or, where there is no Board, the Officer Commanding the station,” shall be omitted.

42. In clause (b) of sub-section (1) of section 171 of the said Act, after the word “dispensary” the words “or veterinary hospital” shall be inserted.

43. In section 173 of the said Act, after the words “may receive medical” the words “or surgical” shall be inserted.

44. In section 174 of the said Act, after the word “medical” the words “or surgical” shall be inserted.

45. In Chapter XI of the said Act, before section 179, the following section shall be inserted, namely :—

“178A. No person shall erect or re-erect a building on any land in a cantonment, except with the previous sanction of the Board, nor otherwise than in accordance with the provisions of this Chapter and of the rules and bye-laws made under this Act relating to the erection and re-erection of buildings.”

46. In sub-section (1) of section 179 of the said Act, for the words “give notice” the words “apply for sanction by giving notice” shall be substituted.

47. For

Amendment of
section 181, Act
II of 1924.

47. For sub-sections (2), (3) and (4) of section 181 of the said Act the following sub-sections shall be substituted, namely :—

- “(2) The Board may refuse to sanction the erection or re-erection of any building, either on grounds sufficient in the opinion of the Board affecting the particular building, or in pursuance of a general scheme sanctioned by the Officer Commanding-in-Chief, the Command, restricting the erection or re-erection of buildings within specified limits for the prevention of overcrowding or in the interests of persons residing within such limits or for any other public purpose.
- (3) The Board, before sanctioning the erection or re-erection of a building on land which is under the management of the Military Estates Officer, shall refer the application to the Military Estates Officer for ascertaining whether there is any objection on the part of Government to such erection or re-erection ; and the Military Estates Officer shall return the application together with his report thereon to the Board within thirty days after it has been received by him.
- (4) The Board may refuse to sanction the erection or re-erection of any building—
- (a) when the land on which it is proposed to erect or re-erect the building is held on a lease from Government, if the erection or re-erection constitutes a breach of the terms of the lease, or
- (b) when the land on which it is proposed to erect or re-erect the building is not held on a lease from Government, if the right to build on such land is in dispute between the person applying for sanction and the Government.
- (5) If the Board decides to refuse to sanction the erection or re-erection of the building, it shall communicate in writing the reasons for such refusal to the person by whom notice was given.
- (6) Where the Board neglects or omits, for one month after the receipt of a valid notice, to make and to deliver to the person who has given the

the notice any order of any nature specified in this section, and such person thereafter by a written communication sent by registered post to the Board calls the attention of the Board to the neglect or omission, then, if such neglect or omission continues for a further period of fifteen days from the date of such communication the Board shall be deemed to have given sanction to the erection or re-erection, as the case may be, unconditionally:

Provided that, in any case to which the provisions of sub-section (3) apply, the period of one month herein specified shall be reckoned from the date on which the Board has received the report referred to in that sub-section."

48. In section 183 of the said Act, for the words "without fresh sanction obtained in the manner hereinbefore provided" the words "unless the Board on application made therefor has allowed an extension of that period" shall be substituted. Amendment of section 183, Act II of 1924.

49. After section 183 of the said Act the following section shall be inserted, namely:— Insertion of new section 183A in Act II of 1924.

"183A. A Board, when sanctioning the erection or re-erection of a building as hereinbefore provided, shall specify a reasonable period after the work has commenced within which the erection or re-erection is to be completed, and, if the erection or re-erection is not completed within the period so fixed, it shall not be continued thereafter without fresh sanction obtained in the manner hereinbefore provided, unless the Board on application made therefor has allowed an extension of that period: Period for completion of building.

Provided that not more than two such extensions shall be allowed by the Board in any case."

50. To clause (c) of section 184 of the said Act the words "or has been suspended by the Officer Commanding-in-Chief, the Command, under clause (b) of sub-section (1) of section 52" shall be added. Amendment of section 184, Act II of 1924.

51. Section

Amendment of section 185, Act II of 1924. 51. Section 185 of the said Act shall be re-numbered as sub-section (1) of that section and—

(a) in that section as so re-numbered,—

(i) after the words “in any such case” the following words shall be inserted, namely:—

“or in any other case in which the Board considers that the erection or re-erection of a building is an offence under section 184, within six months of the completion of such erection or re-erection”; and

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

“Provided further that the Board shall not, without the previous concurrence of the Officer Commanding-in-Chief, the Command, accept any sum by way of composition under the foregoing proviso in respect of any building on land which is not under the management of the Board.”; and

(b) to that section as so re-numbered the following sub-section shall be added, namely:—

“(2) A Board shall by notice in writing direct the owner, lessee or occupier of any land in the cantonment to stop the erection or re-erection of a building in any case in which the order under section 181 sanctioning the erection or re-erection has been suspended by the Officer Commanding-in-Chief, the Command, under clause (b) of sub-section (1) of section 52, and shall in any such case in like manner direct the demolition or alteration, as the case may be, of the building or any part thereof so erected or re-erected where the Officer Commanding-in-Chief, the Command, thereafter directs that the order of the Board sanctioning the erection or re-erection of the building shall not be carried into effect or shall be carried into effect with modifications specified by him:

Provided that the Board shall pay to the owner of the building compensation for any loss actually incurred by him in consequence of the demolition or alteration of any building which
has

has been erected or re-erected prior to the date on which the order of the Officer Commanding-in-Chief, the Command, has been communicated to him."

52. In section 186 of the said Act,—

Amendment of
section 186,
Act II of 1924.

- (a) in clause (c), the word " and " shall be omitted ;
and
- (b) after clause (d) the following clauses shall be added, namely :—
- "(e) the circumstances in which a mosque, temple or church or other sacred building may be erected or re-erected ; and
- (f) with reference to the erection or re-erection of buildings, or of any class of building, all or any of the following matters, namely :—
- (i) the line of frontage where the building abuts on a street ;
- (ii) the space to be left about the building to secure free circulation of air and facilities for scavenging and for the prevention of fire ;
- (iii) the materials and method of construction to be used for external and party-walls, roofs and floors ;
- (iv) the position, the material and the method of construction of fire-places, chimneys, drains, latrines, privies, urinals and cess-pools ;
- (v) height and slope of the roof above the uppermost floor upon which human beings are to live or cooking operations are to be carried on ;
- (vi) the level and width of the foundation, the level of the lowest floor and the stability of the structure ;
- (vii) the number and height of the storeys of which the building may consist ;
- (viii) the means to be provided for egress from the building in case of fire ;
- (ix) the safeguarding of wells from pollution ;
or

(x) the
21.

Cantonments.

[Act XXIV

(x) the materials and method of construction to be used for godowns intended for the storage of foodgrains in excess of fifty maunds in order to render them rat proof."

Amendment of section 193, Act II of 1924. 53. After sub-section (2) of section 193 of the said Act the following sub-section shall be added, namely:—

"(3) When a number has been affixed to any building under sub-section (1), the owner of the building shall maintain the number in order, and shall replace it if removed or defaced, and if he fails to do so the Board may by notice in writing require him to replace it."

Amendment of section 207, Act II of 1924. 54. In sub-section (1) of section 207 of the said Act, the words "if any," shall be omitted.

Amendment of section 210, Act II of 1924. 55. In section 210 of the said Act,—

(a) in sub-section (1),—

(i) in clause (p), the word "and", where it occurs for the second time, shall be omitted; and

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

"and

(r) barbers and keepers of shaving saloons;";

(b) in sub-section (2), for the words "for one year" the words "until the end of the year in which it is issued" shall be substituted; and

(c) in sub-section (4), after the word "fees" the words ", not exceeding the cost of granting the licences," shall be inserted.

Amendment of section 215, Act II of 1924. 56. In sub-section (1) of section 215 of the said Act, the words "of a Board" shall be omitted.

Amendment of section 233, Act II of 1924. 57. In section 233 of the said Act, for the words "this section and in section 234" the words "this Chapter" shall be substituted.

Amendment of section 234, Act II of 1924. 58. In section 234 of the said Act, after the word "apply" the following shall be inserted, namely:—

"and in which the Board is not receiving a bulk supply of water under section 234A,".

59. After

OF 1936.]

Cantonments.

59. After section 234 of the said Act the following sections shall be inserted, namely :—

Insertion of new sections 234A and 234B in Act II of 1924.

“ 234A. (1) Where in any cantonment there is a water-supply such as is referred to in sub-section (1) of section 233, the Board may receive from the Engineer Services or the Public Works Department, as the case may be, at such point or points as may be agreed upon between the Board and the Officer, a supply of water adequate to the requirements for domestic use of all persons in the cantonment other than entitled consumers.

Supply of water from Government water supply to the Board.

(2) Any supply of water received under sub-section (1) shall be a bulk supply, and the Board shall make such payments to the Officer for all water so received as may be agreed upon between the Board and the Officer, or, in default of such agreement, as may be determined by the Governor General in Council to be reasonable having regard to the actual cost of supplying the water in the cantonment and the rate charged for water in any adjacent municipality :

Provided that, notwithstanding anything contained in this Act, the Board shall not charge for the supply to persons in the cantonment of water received by the Board under this section a rate calculated to produce more than the sum of the payments made to the Officer for water received and the actual cost of the supply thereof by the Board to consumers.

(3) If any dispute arises between the Board and the Officer regarding the amount of water adequate to the requirements of persons in the cantonment other than entitled consumers, the dispute shall be referred to the Governor General in Council whose decision shall be final.

234B. Where under the provisions of sub-section (1) of section 234A a bulk supply of water is received by the Board, the Board shall be solely responsible for the supply of water to all persons in the cantonment other than entitled consumers ; and the provisions of this Act shall apply as if such bulk supply were a source of public water-supply under the control of the Board and as if the communications from and connections with such bulk supply for the purpose of supplying water to such persons were a system of water-supply established and maintained by the Board.”

Functions of the Board in relation to distribution of bulk supply.

Cantonments.

[ACT XXIV

Amendment of section 253, Act II of 1924. **60.** In clause (a) of section 253 of the said Act, the words "where there is a Board," and the words "where there is no Board, by the Executive Officer ; or " shall be omitted.

Substitution of new section for section 259, Act II of 1924. **61.** For section 259 of the said Act the following section shall be substituted, namely :—

Method of recovery.

" 259. (1) Notwithstanding anything elsewhere contained in this Act, arrears of any tax and any other money recoverable by a Board under this Act may be recovered together with the cost of recovery either by suit or, on application to a Magistrate having jurisdiction in the cantonment or in any place where the person from whom such tax or money is recoverable may for the time being be residing, by the distress and sale of any moveable property of, or standing timber, growing crops or grass belonging to, such person which is within the limits of such Magistrate's jurisdiction, and shall, if payable by the owner of any property as such, be a charge on the property until paid :

Provided that the tools of artisans shall be exempt from such distress or sale.

(2) An application to a Magistrate under sub-section (1) shall be in writing and shall be signed by the President or Vice-President of the Board or by the Executive Officer, but shall not require to be personally presented."

Amendment of section 262, Act II of 1924. **62.** In clause (c) of sub-section (1) of section 262 of the said Act, the words " who shall be persons liable to pay taxes in the cantonment and ordinarily resident therein or in the immediate vicinity thereof " shall be omitted.

Amendment of section 266, Act II of 1924. **63.** Section 266 of the said Act shall be re-numbered as sub-section (1) of that section, and to the said section as so re-numbered the following sub-section shall be added, namely :—

" (2) No offence made punishable under this Act shall be tried by any Magistrate or by any Bench, if such Magistrate or any of the Magistrates composing the Bench is a member of the Board."

Amendment of section 272, Act II of 1924. **64.** In section 272 of the said Act, the words " or authority appointed under sub-section (2) of section 10 " shall be omitted.

65. In

of 1936.]

Cantonments.

65. In sub-section (1) of section 277 of the said Act, ^{Amendment of section 277, Act II of 1924.} for the words "the Cantonment Authority", where they occur for the second time, the words "either party to the proceedings" shall be substituted.

66. In sub-section (2) of section 280 of the said Act, — ^{Amendment of section 280, Act II of 1924.}

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

"(cc) the constitution of a Service of Executive Officers and the appointment, control, supervision, conditions of service, pay and allowances, suspension, removal, dismissal and punishment of the members thereof;" and

(b) clause (hh) shall be omitted.

67. In sub-section (2) of section 285 of the said Act, ^{Amendment of section 285, Act II of 1924.} for the words "for sale to the public" the words "and shall be sold to the public at cost price singly, or in collections at the option of the purchaser" shall be substituted.

68. In Schedule V to the said Act, —

^{Amendment of Schedule V, Act II of 1924.}

(a) in column 3, to the words "Officer Commanding-in-Chief, the Command", wherever they appear, the following words shall be added, namely:—

"or other authority authorised in this behalf by the Governor General in Council"; and

(b) in column 4 against section 181, for the words "Thirty days from date of refusal" the words "Thirty days from the date on which the refusal shall have been communicated to the person applying for sanction" shall be substituted.

69. In the said Act, for the expressions "Cantonment Authority", "Cantonment Authorities" and "Cantonment Authority's", ^{Substitution of "Board" for "Cantonment Authority" throughout Act II of 1924.} wherever they occur, the words "Board", "Boards" and "Board's", respectively, shall be substituted.

THE INDIAN FINANCE ACT, 1936.

(Made by the Governor General on the 31st March, 1936.)

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

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

1. (1) This Act may be called the Indian Finance Act, 1936. Short title and extent.

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

2. The provisions of section 7 of the Indian Salt Act, 1882, shall, in so far as they enable the Governor General in Council to impose by rule made under that section a duty on salt manufactured in, or imported into, any part of British India other than Burma or Aden, be construed as if, for the year beginning on the 1st day of April, 1936, they imposed such duty at the rate of one rupee and four annas per maund of eighty-two and two-sevenths pounds avoirdupois of salt manufactured in, or imported by land into, any such part, and such duty shall, for all the purposes of the said Act, be deemed to have been imposed by rule made under that section. Fixation of salt duty.

3. For the year beginning on the 1st day of April, 1936, the Schedule contained in the First Schedule to this Act shall be inserted in the Indian Post Office Act, 1898, as the First Schedule to that Act. Inland Postage rates.

4. (1) Income-tax for the year beginning on the 1st day of April, 1936, shall be charged at the rates specified Income-tax and super-tax.

Price anna 1 or 1½d.

Indian Finance Act, 1936.

specified in Part I of the Second Schedule, increased in each case by one-twelfth of the amount of the rate.

(2) The rates of super-tax for the year beginning on the 1st day of April, 1936, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be those specified in Part II of the Second Schedule, increased in each case by one-twelfth of the amount of the rate. XI of 1922.

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

(4) For the purpose of any assessment to be made for the year ending 31st March, 1937, the rate of income-tax applicable to such part of the total income of any person as is derived from salaries or from interest on securities paid in the year ending 31st March, 1936, shall be the previous year's rate, and for the purposes of refunds under sub-section (1) or sub-section (3) of section 48 in respect of dividends declared in the year ending 31st March, 1936, or of payments made in the said year of salaries or of interest on securities, the rate applicable to the total income of the person claiming refund shall be the previous year's rate.

Explanation.—In this sub-section the term 'previous year's rate' with reference to any person means the rate of income-tax which would have been applicable to his total income if he had been assessed for the year ending 31st March, 1936, on a total income equal to that on which he is assessable for the year ending 31st March, 1937.

SCHEDULE I.

Schedule to be inserted in the Indian Post Office Act, 1898.

[See section 3.]

"THE FIRST SCHEDULE.

INLAND POSTAGE RATES.

[See section 7.]

Letters.

For a weight not exceeding one tola	.	.	.	One anna.
For every tola, or fraction thereof, exceeding one tola	.	.	.	Half an anna.
				<i>Postcard.</i>

Indian Finance Act, 1936.

Postcards.

Single	Nine pies.
Reply	One and a half annas.

Book, Pattern and Sample Packets.

For the first five tolas or fraction thereof	Nine pies.
For every additional five tolas or fraction thereof in excess of five tolas.	Six pies.

Registered Newspapers.

For a weight not exceeding ten tolas	Quarter of an anna.
For a weight exceeding ten tolas and not exceeding twenty tolas	Half an anna.
For every twenty tolas, or fraction thereof, exceeding twenty tolas	Half an anna.

Parcels.

For a weight not exceeding twenty tolas	Two annas.
For a weight exceeding twenty tolas and not exceeding forty tolas	Four annas.
For every forty tolas, or fraction thereof, exceeding forty tolas	Four annas."

SCHEDULE II.

[See section 4.]

PART I.

Rates of Income-tax.

	Rate.
A. In the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	
(1) When the total income is Rs. 2,000 or upwards, but is less than Rs. 5,000	Six pies in the rupee.
(2) When the total income is Rs. 5,000 or upwards, but is less than Rs. 10,000	Nine pies in the rupee.
(3) When the total income is Rs. 10,000 or upwards, but is less than Rs. 15,000	One anna in the rupee.
(4) When the total income is Rs. 15,000 or upwards, but is less than Rs. 20,000	One anna and four pies in the rupee.
(5) When the total income is Rs. 20,000 or upwards, but is less than Rs. 30,000	One anna and seven pies in the rupee.
(6) When the total income is Rs. 30,000 or upwards, but is less than Rs. 40,000	One anna and eleven pies in the rupee.
(7) When the total income is Rs. 40,000 or upwards, but is less than Rs. 1,00,000	Two annas and one pie in the rupee.
(8) When the total income is Rs. 1,00,000 or upwards	Two annas and two pies in the rupee.
B. In the case of every company and registered firm, whatever its total income	Two annas and two pies in the rupee.

PART II.

Indian Finance Act, 1936.

PART II.

Rates of Super-tax.

	Rate.
In respect of the excess over thirty thousand rupees of total income—	
(1) in the case of every company—	
(a) in respect of the first twenty thousand rupees of such excess	Nil.
(b) for every rupee of the remainder of such excess	One anna in the rupee.
(2) (a) in the case of every Hindu undivided family—	
(i) in respect of the first forty-five thousand rupees of such excess	Nil.
(ii) for every rupee of the next twenty-five thousand rupees of such excess	One anna and three pies in the rupee.
(b) in the case of every individual, unregistered firm and other association of individuals not being a registered firm or a company—	
(i) for every rupee of the first twenty thousand rupees of such excess	Nine pies in the rupee.
(ii) for every rupee of the next fifty thousand rupees of such excess	One anna and three pies in the rupee.
(c) in the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	
(i) for every rupee of the next fifty thousand rupees of such excess	One anna and nine pies in the rupee.
(ii) for every rupee of the next fifty thousand rupees of such excess	Two annas and three pies in the rupee.
(iii) for every rupee of the next fifty thousand rupees of such excess	Two annas and nine pies in the rupee.
(iv) for every rupee of the next fifty thousand rupees of such excess	Three annas and three pies in the rupee.
(v) for every rupee of the next fifty thousand rupees of such excess	Three annas and nine pies in the rupee.
(vi) for every rupee of the next fifty thousand rupees of such excess	Four annas and three pies in the rupee.
(vii) for every rupee of the next fifty thousand rupees of such excess	Four annas and nine pies in the rupee.
(viii) for every rupee of the next fifty thousand rupees of such excess	Five annas and three pies in the rupee.
(ix) for every rupee of the next fifty thousand rupees of such excess	Five annas and nine pies in the rupee.
(x) for every rupee of the remainder of such excess	Six annas and three pies in the rupee.