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PART XI.

Bills introduced into the Legislative Assembly of Orissa, Reports of Select Committees presented or to be presented to that Assembly and Bills published before introduction in that Assembly.

LAW, COMMERCE AND LABOUR DEPARTMENT.

NOTIFICATION.

The 14th August 1939.

No. 5555-L.—The following Bill which it is proposed to introduce in the Orissa Legislative Assembly is hereby published under rule 70 of the Orissa Legislative Assembly Rules, 1937, for general information.

THE SAMBALPUR LOCAL SELF- GOVERNMENT BILL, 1939.

A

BILL

TO MAKE BETTER PROVISION FOR LOCAL
SELF-GOVERNMENT AND TO PROVIDE
FOR CREATION OF REPRESENTATIVE
INSTITUTIONS IN RURAL AREAS IN
THE DISTRICT OF SAMBALPUR IN THE
PROVINCE OF ORISSA.

Preamble.

WHEREAS it is expedient to make better provision for local self-government and to provide for creation of representative institutions in rural areas in the district of Sambalpur in the province of Orissa ;

It is hereby enacted as follows :—

Short title.

1. (1) This Act may be called the Sambalpur Local Self-Government Act, 1939.

Extent.

(2) It shall extend to the whole of the district of Sambalpur excluding any area within the limits of any place or town to which the provisions of the Bihar and Orissa Municipal Act, 1922, have been, or may hereafter be, extended. B. & O. Act VII of 1922.

Commencement.

(3) Sections 1 and 2 of this Act shall come into force at once. Part I of this Act shall come into force throughout the district of Sambalpur, as specified in sub-section (2), on such date as the Provincial Government may by notification appoint. All or some of the provisions of Part II of this Act shall come into force throughout the whole or any part of the said district of Sambalpur on such date or dates as the Provincial

Government may by notification appoint and different dates may be so appointed for different provisions and different areas.

(4) Any notification, order or rule and any appointment to an office may be made or election held under any Part of this Act after it shall have received the assent of the Governor but such notification, order, rule, appointment or election shall take effect only on such part of this Act coming into force.

Definition.

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

- (1) "building" includes a hut, a shed and a house for the collection of rent;
- (2) "case" means a criminal proceeding in respect of an offence;
- (3) "Cattle registration" means the recording by a person appointed for the purpose by the District Board of sale or purchase of any cattle in a public market, in a register prescribed for the purpose on payment by the sellers or purchasers of cattle of a fee prescribed by the District Board for all such markets in the district;
- (4) "District Board" means the District Board of Sambalpur established under this Act;
- (5) "District Judge" includes any officer subordinate to the District Judge to whom with the sanction of the Provincial Government, he may delegate all or any of his powers under this Act;

- (6) "District Magistrate" includes the Deputy Commissioner and any Magistrate subordinate to the Deputy Commissioner to whom he may delegate any of his powers under this Act;
- (7) "Local Authority" means any district board or joint committee or union board constituted under this Act;
- (8) "Local body" means a panchayat constituted under the Central Provinces Village Sanitation Act, ^{Act XI of 1902.} 1902, or a panchayat constituted under the Central Provinces Village Panchayat Act, 1920 or ^{Act V of 1920.} the District Council or Local Board constituted under the Central Provinces Local Self-Government Act, 1883; ^{Act I of 1883.}
- (9) "Market" means a place for the sale of goods or animals publicly exposed and containing at least ten shops, stalls or sheds or where at least fifty animals are ordinarily or periodically brought for sale;
- (10) "Municipal authority" means the commissioners of a Municipality constituted under the provisions of the Bihar and Orissa Municipal Act, 1922; ^{B. & O. Act VII of 1922.}
- (11) "Nazul" means immovable property (other than roads) belonging to the Crown or paying or liable to pay the Provincial Government a ground rent which is not managed by Imperial Department or directly by Forest Revenue, Police or Public Works Department;
- (12) "Panchayat" means a panchayat constituted under the provisions of this Act;

- (13) "Prescribed" means prescribed by rules under this Act;
- (14) "Private market" means a market other than a public market;
- (15) "Public market" means a market in which the district board has, by notification made under section 136, been invested with exclusive rights of levying fees and tolls and of control;
- (16) "Public servant" means a public servant as defined in section 21 of the Indian Penal ^{Act XLV of} 1860. Code;
- (17) "Salaried servant of the Crown" means a wholetime servant of the Crown who receives his salary direct from any Government and includes a Manager of an estate under the Court of Wards and an officer whose services have been lent by any Government to a local authority but does not include a retired servant of the Crown in receipt of pension;
- (18) "Sanitation" includes water-supply, conservancy and drainage and other measures for the improvement of the public health and the prevention of public nuisances;
- (19) "Subdivisional Magistrate" means any Magistrate in charge of a subdivision of the district;
- (20) "suit" means a civil suit.

PART I.

District Board.

PRELIMINARY.

Enactments
repealed.

3. When the provisions contained in Part I of this Act (hereinafter referred to as this part) come into force in the district of Sambalpur specified in subsection (2) of section 1, the enactment mentioned in the First Schedule shall cease to be in force in such area to the extent specified in the third column thereof and the enactments mentioned in the Fourth Schedule shall be amended to the extent and in the manner mentioned in the third column thereof.

But this repeal shall not revive any office, authority or thing abolished by such enactment or affect the validity of anything which has been done or suffered, or any right, title, obligation or liability which has accrued before the commencement of this part.

Continuity of
District Council
officers, appoint-
ment, rules, etc.,
not affected by
repeal.

4. The District Council and the Local Boards constituted, members and Chairmen appointed or elected, Committees established, limits defined, appointments, rules, orders, and bye-laws made, licences granted, notifications and notices issued, taxes and rates imposed and proceedings taken under the enactments repealed by section 3 shall, so far as may be, be deemed to have been respectively constituted, appointed, elected, established, defined, made, granted, issued, imposed and taken under this part:

Provided that in the case of a person holding office in the district under the repealed provisions of the Central Provinces Local Self-Government Act, 1883, ^{Act I of 1883.}

if for a period of twelve months from the date on which this part comes into force in the district the District Board does not abolish such office or make such appointment as aforesaid, the person holding such office shall be deemed to have been appointed to it under the provisions of this part:

Provided further, that, if such office shall be abolished or a new appointment made in respect thereof, compensation, pension or gratuity shall be paid from the District Fund to any person not being a servant of the Crown who may be deprived of such office, and the amount of such pension or gratuity shall be calculated in accordance with any rules made under the provisions of the Central Provinces Local Self-Government Act, 1883, or if no ^{Act I of 1883.} such rules have been made, the amount shall be calculated in accordance with the rules regulating the payment of compensations, pensions or gratuities to uncovenanted servants of the Crown.

Passing of properties, rights and liabilities to the District Board constituted under this part.

5. All properties, all rights of whatever kind used, enjoyed or possessed by and all interests of whatever kind owned by or vested in or held in trust by or for the District Council and Local Boards constituted under the Central Provinces Local Self-Government Act, 1883, as well as all ^{Act I of 1883.} liabilities legally subsisting against the said District Council and Local Boards shall pass to the District Board as constituted under this part.

Recovery of sums due at the commencement of the part.

6. All rates, taxes, payments by way of composition for a rate or tax and all sums of money otherwise due to the District Council or the Local Boards at the commencement of this part may be recovered as though they had accrued under this part.

Vacancy of office
by existing
members and
Chairmen.

7. Notwithstanding anything contained in section 34 of the Central Provinces Local Self-Government Act, 1883, and the rules made thereunder or the orders issued by the Provincial Government under the said rules, the term of office of the Chairmen and members holding office under the Central Provinces Local Self-Government Act, 1883, shall extend to ^{Act I of 1883.} and expire on such date or dates not later than one year after the commencement of this part as the Provincial Government shall by notification declare and the Provincial Government shall make appointments and cause a register of voters to be prepared by the District Magistrate of Sambalpur and arrangements for election to be made under this part.

Provision for
exercise of
extraordinary
powers.

8. At any time within one year after the commencement of this part the Provincial Government or the Deputy Commissioner of the district with the previous sanction of the Provincial Government may take such action, consistent so far as may be with the provisions of this part, as may in the opinion of the Provincial Government be necessary for the purpose of newly constituting the District Board or bringing the provisions of this part into force for the first time so that the newly elected and appointed members may come into office :

Provided that—

- (i) Chairmen of the District Council and Local Boards elected or appointed under the Central Provinces Local Self-Government Act, 1883, shall continue ^{Act I of 1883.} in office until a new Chairman of the District Board has been elected or appointed under this part and shall then vacate office ;

- (ii) if any vacancy occurs in the office of a member of the District Council or Local Boards constituted under the Central Provinces Local Self-Government Act, 1883, before a register of voters has been prepared under this part, the register of voters in force immediately before the commencement of this part shall continue to operate for the purposes of such election.

Confirmation and recovery of existing taxes and accounts of the same.

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

(b) An account of the gross receipts and of the charges (if any) of collection of all such rates in the district shall be kept by the Deputy Commissioner of the district, and shall be annually rendered by him to the District Board.

Powers of the Provincial Government with respect to rates.

(2) The Provincial Government may, from time to time, by notification in the Gazette—

(a) prescribe in what instalments, and at what times, the rates referred to in sub-section (1) shall be payable, and make rules for their collection by village-officers or others; and

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

CHAPTER I.

CONSTITUTION OF DISTRICT BOARD.

Establishment of
District Board.

10. (1) The Provincial Government shall, by notification, establish a District Board for the district of Sambalpur.

(2) The District Board shall have authority for the purposes of this part over the entire district for which it is established.

Constitution of the
District Board.

11. (1) The Provincial Government shall, by notification, fix—

(a) the total number of members of the District Board,

(b) the number of such members who shall be elected,

(c) the number of such members who shall be appointed

and may in like manner, on the recommendation of the District Board, alter any number so fixed :

Provided that—

(i) the total number of members shall not be more than forty ;

(ii) the number of elected members shall not be less than three-fourths of the total number of members ; and

(iii) not less than one-third of the appointed members shall be persons who are not salaried servants of the Crown.

(2) Notwithstanding anything contained in sub-section (1) the Provincial Government may, by notification, direct that all the members of the District Board shall be elected.

Appointment of
members.

12. (1) The members whose number is fixed under clause (c) of sub-section (1) of section 11 shall be appointed by the Provincial Government, and if any electoral circle in the district fails, within such time as may be prescribed by rules made by the Provincial Government in this behalf, to elect the number of members fixed under sub-section (1) of section 15; the Provincial Government shall, notwithstanding anything contained in the proviso to the sub-section (1) of section 11, appoint members to make up that number.

(2) The power vested in the Provincial Government to make appointments under sub-section (1) shall be exercised with a view to secure—

(a) the representation of minorities and special interests which, in the opinion of the Provincial Government, are insufficiently represented by the elected members; and

(b) the association in District Board administration of persons specially fitted in the opinion of the Provincial Government for appointment as members.

Publication of
names.

13. The names of members elected and appointed shall be published in the Gazette.

Qualifications of
members and
voters.

14. The Provincial Government shall, by rules consistent with this part prescribe the qualifications—

(a) of candidates for election as members of the District Board; and

(b) of voters at such election:

Provided that no person shall be eligible for election if such person—

(i) is not resident within the district or within a municipality in the district;

(ii) is not a British subject or the subject of any State in India, provided that the Provincial Government may exempt any alien or class of aliens from this disqualification;

(iii) has not attained the age of twenty-one years;

(iv) has been adjudged by a competent court to be of unsound mind;

(v) is an undischarged insolvent or being a discharged insolvent has not obtained from the Court a certificate that his insolvency was caused by misfortune without misconduct on his part; or

(vi) is a salaried servant of the Crown.

Powers to form
electoral circles.

15. (1) For the purpose of election of members of the District Board, the Provincial Government may, by rules made under this part after previous publication, make provision for the division of the district into electoral circles and prescribe the number of members to be elected for each circle.

(2) When the district has been divided into electoral circles under sub section (1), no person shall be eligible for election for any such circle unless he is resident within the limits of the subdivision or subdivisions in which such circle is situated, or in a municipality within such limits.

(3) For the purposes of this section and section 14 a person shall be deemed

to be resident within the limits of a particular area if he—

- (a) ordinarily lives within those limits;
- (b) has his family dwelling-house within those limits, and occasionally visits it; or
- (c) maintains within those limits a dwelling-house ready for occupation in the charge of servants, and occasionally occupies it.

Term of office of members.

16. Save as is otherwise provided in this part—

- (1) a member of the District Board elected at a general election of members of the District Board shall hold office for five years commencing from the date of the general election;
- (2) an appointed member of the District Board newly constituted after a general election, shall hold office for five years or for such shorter period as may be specified in the order appointing him, and such appointment shall be deemed to have been made on the date of the general election;
- (3) a member elected or appointed to fill a vacancy in the District Board shall hold office for the unexpired residue of the term of office of the member in whose place he has been elected or appointed; and
- (4) an out-going member of the District Board may be reappointed or, if otherwise qualified, re-elected.

Term of office to include any period up to the first meeting of the new Board.

17. (1) The term of five years mentioned in section 16 shall be held to include any period which may elapse between the expiration of the said five years and the first meeting of the newly appointed and elected members of the Board at which a quorum shall be present.

(2) The Provincial Government may, from time to time by notification for sufficient cause which shall be stated therein, direct that the term of office of the members of the District Board as a whole be extended or reduced by such period not exceeding one year at a time as may be specified in the notification.

Provision regarding additional members when the number is increased.

18. Whenever the number of members of an existing District Board is increased, the additional member or members shall be appointed or elected as the case may be, and the term of office of such an additional member or members shall expire simultaneously with the expiration of the term of office of the other members of such District Board under section 17.

Resignation of office of members.

19. A member of the District Board may resign his office in writing to the Chairman of the District Board who shall forthwith lay such notice of resignation before the District Board and, on the resignation being accepted, the office shall become vacant.

Removal of members.

20. (1) The Provincial Government may remove any member of the District Board, elected or appointed under this part, if such member is guilty of misconduct in the discharge of his duties, or if he is convicted of any such offence or subjected by a criminal court to any such order, as implies moral turpitude which in the opinion of the Provincial Government makes him unfit to be a member, and if a resolution recommending his removal has been supported by

not less than two-thirds of the whole number of the members of the District Board at a meeting specially convened for the purpose.

(2) The Provincial Government may remove any member of the District Board,

(a) if he refuses to act or becomes incapable of acting, or is declared insolvent;

(b) if he, without an excuse sufficient in the opinion of the Provincial Government, absents himself from six consecutive meetings of the District Board, without having obtained previously permission from the Chairman of the District Board;

(c) if, in the judgment of the Provincial Government to be recorded in writing, he has become disqualified to continue in office under section 131;

(d) if he, being a legal practitioner, acts or appears in any suit or other proceeding on behalf of any other person against the District Board or acts or appears on behalf of any other person in any criminal proceeding instituted by or on behalf of the District Board; or

(e) if he ceases to be a resident as contemplated under sub-sections (2) and (3) of section 15.

(3) A member who has been removed from office under sub-section (1) or clause (a) of sub-section (2) shall not be elected or re-elected as a member of the District Board, without the consent of the Provincial Government.

(4) A member who has been removed from office under clause (b) of sub-section (2) shall not be elected or re-elected as a member of the District Board, within a period of three years from the date of his removal.

Vacation of office
by salaried servants
of Crown.

21. When a salaried servant of the Crown who is a member of the District Board, is granted leave for a period exceeding three months or is transferred from the district or subdivision in which the District Board has authority, he shall be deemed to have vacated his office from the date of his departure on leave or transfer.

Casual vacancies.

22. If a member of the District Board whether elected or appointed, ceases to be a member thereof by reason of his death, resignation, removal or otherwise, the vacancy so caused shall be filled by the election or appointment, as the case may be, of another member.

CHAIRMAN AND VICE-CHAIRMAN.

Election or appoint-
ment of Chairman
of District Board.

23. (1) The members of the District Board at a meeting shall elect one from among their own number to be Chairman, provided that no salaried servant of the Crown shall vote in the election or be eligible for election.

(2) Such election shall take place within thirty days from the date of the publication of the names of the members in the Gazette under section 13, or, in the case of vacancy due to any cause other than the expiry of the term of office of the Chairman, within thirty days from the date of the occurrence of such vacancy.

(3) If the members of the District Board fail to elect a Chairman within

the period prescribed by sub-section (2) the Provincial Government may appoint a person, not being a salaried servant of the Crown, to be Chairman.

Status of appointed Chairman.

24. Notwithstanding anything contained in section 11 every Chairman of the District Board appointed under section 23 shall, if he is not a member of the District Board of which he has been appointed Chairman, from the date of his appointment during the term of his office, enjoy all the rights and privileges and be subject to all the liabilities and disabilities of a member of such District Board.

Election of Vice-Chairman of District Board.

25. The District Board shall at a meeting elect one of its members to be Vice-Chairman.

Grant of leave to Chairman or Vice-Chairman.

26. The District Board may grant leave of absence to its Chairman or Vice-Chairman for any period not exceeding three months in any one year.

Term of office of Chairman and Vice-Chairman.

27. The Chairman and Vice-Chairman of the District Board shall continue to hold office until the next general election of members of the District Board, and for such further period as may elapse between the date of the general election and the first meeting of the newly constituted District Board held under the provisions of sub-section (2) of section 23 and shall then vacate office.

Meeting for election of Chairman and Vice-Chairman.

28. (1) On the vacation of office of the Chairman and Vice-Chairman under section 27 the members present at the meeting shall forthwith elect one of their own number, who is not himself a candidate for the post of Chairman or Vice-Chairman, to preside thereat.

(2) The members shall then proceed to elect a Chairman and a Vice-Chairman.

(3) If the members fail to elect a Chairman, the Chairman shall be

deemed not to have vacated office till a new Chairman is appointed.

Resignation of
Chairman and Vice-
Chairman.

29. (1) An appointed Chairman of the District Board may resign in writing to the Provincial Government and on such resignation being accepted shall be deemed to have vacated office.

(2) An elected Chairman of the District Board may resign in writing to the District Board.

(3) A Vice-Chairman of the District Board may resign in writing to the Chairman of the District Board, who shall forthwith lay such notice of resignation before the District Board.

(4) On a resignation under sub-section (2) or (3) being accepted by the District Board, the Chairman or Vice-Chairman of the District Board shall be deemed to have vacated office.

Removal of
Chairman and
Vice-Chairman.

30. A Chairman or a Vice-Chairman of the District Board may at any time be removed from office by a resolution of the District Board in favour of which not less than two-thirds of the whole number of the members of such Board have given their votes at a meeting specially convened for the purpose.

Casual vacancies.

31. (1) If the Chairman or Vice-Chairman of the District Board is unable by reason of his death, resignation or removal to complete his full term of office, or if he ceases to be a member of the District Board or if the Chairman of the District Board avails himself of leave under section 26, the vacancy so caused shall be filled by the election or appointment, as the case may be, of another person to the said office; and the person so elected or appointed shall fill such vacancy for the unexpired portion of the term for which such Chairman or Vice-Chairman would otherwise have continued

in office or during the absence on leave of such Chairman, as the case may be.

(2) Notwithstanding anything contained in section 25 if a Vice-Chairman of the District Board avails himself of leave under section 26, the Chairman of the District Board shall appoint a member thereof to officiate as Vice-Chairman during the period of such leave. Such appointment shall be subject to the approval of the District Board.

Incorporation of District Board.

32. The District Board shall be a body corporate by the name of the "District Board of Sambalpur" and shall have perpetual succession and a common seal, with power to acquire and hold property both movable and immovable and, subject to any rules made under this part to transfer any such property held by it, and to do all other things necessary for the purpose of the Act and may sue and be sued in its corporate name.

Proceeding not to be invalidated by casual vacancies.

33. No act of the District Board shall be deemed to be invalid only by reason of the existence of a vacancy in such Board.

COMMITTEES.

Committees.

34. (1) The District Board may join with any other District Board constituted under any law or with any municipal authority or with more than one such Board, or municipal authority, in constituting out of their respective bodies a Joint Committee for any purpose in which they are jointly interested and in delegating to any such Joint Committee any power which might be exercised by either or any of the Boards or authorities concerned, and may from time to time frame rules as to the proceedings of any such Joint Committee, and as to the conduct of correspondence relating to the purpose for which the Joint Committee is constituted.

(2) The District Board shall have the powers for general working purposes, to appoint one or more persons whether members, thereof, or not, to be a committee for the conduct of any work or for the management of any institution under its control or administration or to provisionally decide or report on any matter and may delegate to it such of its own powers as may be necessary. The proceedings of the Committee shall be subject to review and confirmation of the District Board. The District Board may also, with the approval of the Provincial Government, pay any remuneration and allowance to the members of the Committee constituted under this sub-section.

CONDUCT OF BUSINESS.

Record and publication of proceedings.

35. Minutes of the proceedings at each meeting of the District Board shall be drawn up and recorded in a book to be kept for the purpose, and shall be signed by the Chairman of the meeting and shall be published in such manner as the Provincial Government may from time to time direct, and shall at all reasonable times and without charge be open to the inspection of any person resident within, or owning or holding land within, the jurisdiction of such Board.

Resolution passed by District Board how to be treated.

A copy of every resolution passed by the District Board at a meeting shall, within three days from the date of the meeting, be forwarded to the District Magistrate for transmission to the Revenue Commissioner.

Power to make rules as to business and affairs.

36. The District Board, subject to the control of the Provincial Government, shall make rules as to—

- (a) the time and place of its meetings, the business to be transacted at meetings, and the manner in which notice of meeting shall be given;

- (b) the conduct of proceedings at meetings, the due record of all dissents and discussions and the adjournment of meetings;
- (c) the custody of the common seal, and the purposes for which it shall be used;
- (d) the division of duties amongst its members;
- (e) the powers to be exercised by the Chairman or Vice-Chairman or by Sub-Committees or members to whom particular duties are assigned;
- (f) the persons by whom receipts shall be granted for money received under this part;
- (g) the duties, appointment, leave, leave allowance and punishment (including suspension and removal) of the officers and servants of the Board; and
- (h) other similar matters;

and may, subject to the like control, from time to time repeal or alter such rules:

Provided that all rules made under this section, and all orders repealing or altering any such rules, shall be considered, by the District Board at a meeting specially convened for the purpose, and be subject to the approval of not less than two-thirds of the number of members present at the meeting.

All such rules and orders as aforesaid shall be published in the Gazette and in such other manner as the Provincial Government may direct and so far as they are consistent with this part and with any rules made by the Provincial Government thereunder, shall upon such publication have the force of law.

District Board
may appoint establish-
ments and
fix salaries.

37. (1) The District Board, subject to the provisions hereinafter contained, may from time to time determine and appoint

the establishment to be employed by it, or by any Joint Committee constituted under section 34 or by any Committee of the District Board, and may fix the pay of such establishments :

Provided—

- (1) That the appointment of a District Engineer or any appointment the maximum pay of which amounts to three hundred rupees or more a month shall not be created or abolished without the sanction of the Provincial Government, and that any increase or reduction in the pay of any such appointment, or the increase of the maximum pay of a sanctioned appointment to an amount exceeding three hundred rupees a month, shall be subject to confirmation by the Provincial Government;
- (2) That the aggregate pay in any one financial year of the establishment employed by the District Board for the purpose of heading (D) of Chapter IV of this part shall not, without the sanction of the Provincial Government, exceed twenty per centum on the total amount available for expenditure by the Board upon public works during the financial year;
- (3) That the District Board shall conform to any rules made by the Provincial Government under this part regarding the qualifications of candidates for employment;
- (4) That if by a direction under section 70, made after the commencement of this part any property

which is vested in the Crown is placed under the control and administration of the District Board, every nomination to, and dismissal from, the appointment of a District Engineer shall be subject to confirmation by the Provincial Government.

(2) Notwithstanding anything contained in sub-section (1), the Provincial Government shall have power to fix or alter the number, designation, and grades of and the salaries, fees and allowances payable to the officers and servants of the District Board or any class of such officers or servants and it shall not be open to the District Board to vary the number, designation, grades, salaries, fees or allowances as so fixed, or altered, except with the previous sanction of the Provincial Government.

(3) Provincial Government may lend any officer to the District Board for any purpose and may recover his salary, travelling allowance and leave and pension contribution from the District Board.

Pensions and gratuities to be paid out of the District Fund.

38. The District Board may, from time to time, subject to the control of the Provincial Government make rules for pensions and gratuities to be granted and paid out of the District Fund to its establishment, and for the grant and payment therefrom of extraordinary pensions and gratuities to the families of deceased employees; and may, subject to the like control, repeal, add to, or alter such rules.

Provident Fund.

39. The District Board may, from time to time, subject to the control of the Provincial Government, make rules—

(a) for the creation and management of a Provident Fund for the establishment of the District Board;

- (b) for compelling members of any such establishment to make contributions to such Fund;
- (c) for supplementing such contributions by grants from the District Fund; and
- (d) for the payment of moneys out of such Provident Fund;

and may, subject to the like control, repeal, add to, or alter such rules.

CHAPTER II.

FINANCE.

General.

Provincial Government may direct that funds of existing local bodies shall be vested in new local authorities.

40. The Provincial Government may, by notification, direct that all or any portion of the funds vested in any local body existing in the district shall be vested in any local authority constituted under this Act immediately upon such local authority being constituted.

Provincial Government to prescribe minimum closing balance, statements, etc.

41. The Provincial Government may prescribe by rules made under this part—

- (a) the minimum closing balance to be maintained by the District Board; and
- (b) the statements, accounts and reports to be submitted to the Provincial Government.

Budget estimate.

42. (1) The District Board shall cause to be prepared and laid before it, at a meeting to be held in every year before such date as may be prescribed by the Provincial Government by rules made under this part, a budget estimate of the income and expenditure of the said Board for the ensuing financial year.

(2) The budget estimate shall contain such particulars as may be prescribed in the aforesaid rules.

(3) The budget estimate after it has been approved by the District Board shall be submitted to the Provincial Government which shall examine it with a view to seeing that—

- (a) the estimate of income is reasonable and proper;
- (b) provision has been made for the minimum closing balance prescribed under section 41;
- (c) provision has been made for the payment of any sums specified in clauses Firstly, Secondly, Thirdly and Fourthly of section 47; and
- (d) provision has been made for the expenditure of any grants given by any Government for a specific purpose for such purpose.

Power of Provincial Government as to budget estimate.

43. The Provincial Government, if they find the budget estimate defective, erroneous or improper in respect of any of the particulars specified in section 42 shall return it to the District Board for such alterations and modifications as the Provincial Government may deem necessary, and the District Board shall make such alterations and modifications in the budget estimate and resubmit it to the Provincial Government for their approval.

How details of budget estimates may be altered.

44. When a budget estimate has been finally approved by the Provincial Government, the District Board shall not incur expenditure under any of the heads of the budget estimate in excess of the amount provided under that head without making provision for such excess by variation and alteration of the budget, and if the variation or alteration affects any provision made in accordance with

clause (b), (c) or (d) of sub-section (3) of section 42 shall obtain the approval of the Provincial Government thereto.

District Boards may raise loans and may form a sinking fund.

45. It shall be lawful for the District Board, subject to the provisions of any law relating to the raising of loans by local authorities for the time being in force, from time to time to raise loans for the purpose of carrying out any of the provisions of this part and to guarantee the payment of interest on such loans, and to form a sinking fund.

CHAPTER III.

THE DISTRICT FUND.

Constitution of District Fund.

46. There shall be formed for the district a fund to be called the "District Fund" and there shall be placed to the credit thereof—

- (1) the proceeds of the rates and cesses payable under settlement records and confirmed by section 9 and of all taxes, fees, tolls, cesses and rates imposed under this part excluding those levied by a Union Board under Part II of this Act;
- (2) all sums received under any loan raised under section 45;
- (3) all sums levied within the district as fines, penalties or otherwise under this part except when levied by a Union Board or a Panchayat under Part II of this Act;
- (4) the surplus, if any, accruing under section 18 of the Cattle Trespass Act, 1871; Act I of 1871.
- (5) all receipts in respect of public ferries within or on the boundary of the district, which have

been placed under the management of the District Board under the provisions of the Northern India Ferries Act, Act XVII of 1878. 1878;

- (6) all receipts in respect of any schools, hospitals, dispensaries, or other buildings, institutions or works, which have been constructed by, vested in or placed under the control and administration of the District Board under Chapter IV, of this part;
- (7) all receipts accruing within the district from tolls or leases under Chapter IV, heading D-1, of this part;
- (8) all sums which may be allotted to the District Board from the provincial revenues by the Provincial Government for any of the purposes mentioned in Chapter IV of this part or for any other purpose;
- (9) all sums contributed to the District Board by local bodies or private persons;
- (10) all sums received as tolls or fees from Public Markets under section 137;
- (11) all such rents and profits accruing from Nazul property as the Provincial Government may direct to be paid to the District Fund.

The proceeds of the rates and cesses shall be placed to the credit of the District

Fund under such separate heads as the Provincial Government may from time to time determine.

District Fund to be vested in Board.

The District Fund shall be vested in the District Board, and the balance standing to the credit of the Fund shall be kept in such custody as the Provincial Government may from time to time direct.

Application of District Fund.

47. The District Fund shall be applicable to the following objects, and in the following order—

Firstly—To the payment of the cost of establishment entertained and expenses incurred by the Collector or the Deputy Commissioner under sections 9 and 134.

Secondly—To the indemnification of the Collector or the Deputy Commissioner with the sanction of the Revenue Commissioner, for any other costs or damages which he may have incurred or for which he may have become liable, in the course of the proceedings for the assessment and collection of the rates and cesses under sections 9 and 134.

Thirdly—To the payment of any sums which the District Board may be liable to pay as interest upon loans raised by it under section 45 for the purposes of this part and to the formation of a sinking fund, when required.

Fourthly—To the payment of any sums which the District Board may under this part from time to time have undertaken to pay as interest on capital expended on any works which may directly improve the means of communication within the district or between the district and other districts.

Fifthly—To the payment of such percentage as the Provincial Government may from time to time direct towards the cost of audit, and towards the cost of establishments in any office of account or in any treasury :

Provided that the total amount which the District Board may be required to pay on this account shall not in any year exceed two per centum on the whole amount of the District Fund for such year.

Sixthly—To the payment of the salaries of the establishments employed by the District Board for the purposes of this part and of any pensions and gratuities granted under section 38 and of any grants made for supplementing contributions by members of such establishments to any Provident Fund created under section 39 and to the payment to the Provincial Government of such percentage as the Provincial Government may from time to time direct on the salaries of such establishments in consideration of the Provincial Government undertaking to pay the leave and pension allowances of such establishments.

Seventhly—To the payment of—

- (a) expenses incurred by the District Board in—
 - (i) the construction, repair and maintenance of any works, which may become vested in, or be placed under the control and administration of such Board under Chapter IV of this part,
 - (ii) the acquisition, by purchase or otherwise, of offices for the use of the District Board, or a house and land for the

residence of the District Engineer or any officer or servant of the District Board or the acquisition of land for, and the construction of, such offices or house, and

- (iii) the performance of duties imposed and the exercise of powers conferred by this Act;
- (b) advances granted to members of, the establishments of the District Board for the purpose of enabling them to acquire or construct residences for themselves;
- (c) any contribution made by the District Board under Chapter IV of this part;
- (d) any sums assigned by the District Board to a Union Board constituted under Part II of this Act;
- (e) subject to such rules as the Provincial Government may prescribe, advances, granted to members of the establishments of the District Board for the purchase of means of conveyance for the performance of their duties; and
- (f) any loans granted to Union Boards constituted under Part II of this Act for the performance of duties imposed on them by this or any other Act or Regulation.

Eighthly—To the payment at such rates as the Provincial Government may direct—

- (a) of travelling expenses incurred by members of the District Board or of any Committee

appointed by the District Board in attending meetings of the District Board or meetings of a Committee or Joint Committee;

(b) in such cases, if any, as the Provincial Government may approve, of travelling expenses incurred by members of the District Board in performing journeys for carrying out other objects of this Act;

(c) in such cases, if any, as the Provincial Government may approve, of the travelling expenses incurred by the delegates of the District Board in attending the Conference of recognised associations of local authorities and delegation fees and subscriptions payable to such associations and the expenditure which are necessary for carrying the purposes of this Act or which are likely to promote the safety, health and welfare and convenience of the inhabitants; and

(d) of the expenses of any of the poorer inhabitants of the district for journeys to and from and for their subsistence at any hospital established in any part of British India for the treatment of special diseases.

Ninthly—To the investment in any local debenture loans issued by the Central or the Provincial Government or by any Municipal authority or local authority, for the construction of public works

which may directly improve the means of communication within the district or between such district and other districts:

Provided—

- (1) that except as is provided in section 112 no sum shall be expended from the District Fund—

in the construction of any channel for the purposes of irrigation; or

for the purposes of drainage connected with any irrigation works in charge of public officers; or

for the improvement or maintenance of any water channel on which tolls are levied, when no portion of the proceeds of such tolls is paid into the District Fund;

- (2) that no part of the District Fund shall be applied to the construction, repair or maintenance of any road within any municipality which has been, or may hereafter be, constituted under the Bihar and Orissa Municipal Act, 1922, unless such road shall have been expressly excluded from the operation of the said Act under section 59 thereof;

B. & O. Act.
VII of 1922.

- (3) that any loans granted by the District Board to Union Boards constituted under Part II of this Act, shall be subject to such conditions as regards the rates of interest, periods and methods of repayment as the Provincial Government may prescribe;

- (4) that, if in the opinion of the Provincial Government the expenditure of the District Board on any of the objects referred to in this section is insufficient, the Provincial Government may prescribe the minimum expenditure to be incurred from time to time by the District Board on the said object.

Tenthly—To the payment of expenses incurred by the District Board under section 77 of this Act.

Eleventhly—To do all acts and things which are necessary for carrying out the purposes of this Act, or which are likely to promote the safety, health, welfare, or convenience of the inhabitants, or expenditure whereon may be declared by the District Board, with the sanction of the Provincial Government, to be an appropriate charge on the District Fund.

Temporary or accidental deviations from provisions relating to crediting or application of District Fund.

48. If any deviation from the provisions of this part or any rule made hereunder relating to the crediting of the rate and cesses to the District Fund or the application thereof as part of such fund, is shown to the satisfaction of the Provincial Government to have been of temporary duration or of an accidental character, it may cause a declaration to be made to that effect ;

and such deviation shall thereupon be deemed to be valid, notwithstanding any of the provisions hereinbefore referred to.

Accounts of District Fund how to be kept and published.

49. Account books of the District Fund shall be kept by an officer to be appointed by the District Board.

An account showing the receipts and expenditure during the quarter, arranged

under the proper heads and duly balanced, shall be prepared immediately after the close of each quarter, and published in such manner as the Provincial Government direct, and any person resident in or owning or holding land in the district may at all reasonable times inspect any such account without payment of a fee.

A similar account showing the income of the District Fund under each head of receipt, the charges of establishment, the works undertaken, the sums expended on each work, and the balance, if any, of the Fund remaining unspent at the end of the year, shall be prepared for each financial year as soon as possible after its close, and shall be open to inspection as aforesaid.

Finance
Committee.

50. The District Board shall appoint a Finance Committee consisting of as many members as it thinks fit.

It shall be the duty of such Committee to prepare the statements, estimates and accounts required for submission under sections 41 and 42 and generally to superintend all matters connected with the finances and accounts of the District Board.

The Finance Committee shall at all times, when required so to do, produce its accounts for audit by any officer who may be appointed by the Provincial Government in that behalf.

CHAPTER IV.

DUTIES AND POWERS OF DISTRICT BOARD.

Operation of
provisions included
under headings
A to E.

51. The provisions included under the headings A to E (both inclusive) of this Chapter shall be in force as regards the District Board, unless and until the Provincial Government shall otherwise direct.

The headings referred to in the above paragraph are:—

- A—Pound.
- B—Education.
- C—Medical.
- D—Public Works.
- D-1—Tolls on bridges.
- E—Sanitation.

Operation of provisions included under headings F to I.

52. No provision included under the headings F to I (both inclusive) of this Chapter shall apply to the District Board, unless and until it has been expressly extended thereto by notification by the Provincial Government.

The headings referred to in the above paragraph are:—

- F—Vaccination.
- G—Census.
- H—Famine Relief.
- I—Miscellaneous.

A—Pounds.

Powers of District Board in respect of pounds.

53. The District Board shall perform such functions as may be transferred to it by notification under section 31 of the Cattle Trespass Act, 1871.

Act I of 1871.

B—Education.

Primary and middle schools under public management.

54. Subject to any rules made by the Provincial Government under this Part, the District Board shall be charged with, and be responsible for, the maintenance and management of all primary and middle schools under public management within the district, and construction and repair of all buildings connected therewith, the appointment (subject to the provisions of section 37) of all masters

and assistant masters thereof, and the payment of the salaries of such masters and assistant masters :

Provided that nothing contained in this section shall be held to apply to schools for the education of Europeans and Eurasians.

Other schools.

55. The District Board may, subject to any rules made by the Provincial Government under this part—

- (a) with its own consent, be charged with, and made responsible for the maintenance and management of any other schools or class of schools within the district;
- (b) make grants-in-aid of any such schools, whether the same be under public or private management; and
- (c) Open and maintain libraries within the district.

High English Schools.

56. It shall be lawful for the Provincial Government to declare that the maintenance and management of any High English School under public management, situated within a town which has been or may hereafter be constituted a Municipality under the Bihar and Orissa Municipal Act, 1922, shall be entrusted to a Joint Committee, consisting partly of members delegated by the Commissioners of such Municipality and partly of members delegated by the District Board as may be named in the order ;

B. and O.
Act VII of
1922.

Provided that no order shall be made under this section except with the consent of each of the local authorities and the Municipal authority affected thereby.

Every order issued under this section shall specify the number of members to be delegated and the proportion of the cost of maintenance of the school to be

provided by each of the local authorities and the Municipal authority named therein.

Every Joint Committee appointed under this section shall in respect of any such school, have the same powers and be subject to the same liabilities as are by this heading conferred and imposed on District Boards.

Provision,
maintenance and
management of
students' hostel.

57. The District Board may, subject to any rules made by the Provincial Government under this part—

- (a) provide buildings to be used as students' hostels in connection with schools for the maintenance and management of which the Board is responsible under section 54 or section 55 and maintain and manage such hostels;
- (b) make grants-in-aid of any school referred to in section 55 or section 56 or any other school, college or educational institutions, for the purpose of providing buildings to be used as students' hostels in connection with such school, college or institution, or for the purpose of maintaining and managing such hostels; and
- (c) establish scholarships for the furtherance of technical or any other special form of education.

Transfer of funds
by Government to
District Board.

58. It shall be lawful for the Provincial Government from time to time to transfer to the District Board such funds as it may deem necessary for expenditure on—

- (a) the improvement of any school or class of schools within the district under private management; or

- (b) the maintenance or improvement of any school or class of schools maintained and managed by the District Board; or
- (c) the provision of buildings to be used as students' hostels in connection with any school referred to in section 56 or in clause (a) or clause (b) of this section, or any other school, college or educational institution, and the maintenance and management of such hostels. And, subject to any rules made by the Provincial Government under this part the Board shall be charged with, and be responsible for, the proper distribution of such funds.

Site of students' hostels.

59. The hostels referred to in sections 57 and 58 may be situated either within the area directly subject to the authority of the District Board or within any place or town lying within that area in which the Bihar and Orissa Municipal Act, 1922, is for the time being in force.

B & O. Act
VII of
1922.

Constitution and functions of Education Committee.

60. (1) The District Board shall appoint an Education Committee consisting of—

- (a) the District Inspector of Schools;
- (b) not more than four members of the District Board;
- (c) the District Inspectress of Schools; and
- (d) not more than two persons who may be of either sex and who are not members of the District Board but who in the opinion of the District Board possess special qualifications for serving on the Committee:

Provided that at least one member of the Committee shall be a Muhammadan.

(2) The Education Committee shall, subject to the control of the District Board and to any rules made under this part--

(i) superintend all matters connected with the finances, accounts, maintenance and management of all schools maintained by the District Board; and

(ii) determine the conditions on which grants may be made in aid of other schools.

(3) Nothing contained in the foregoing sub-section shall apply to schools referred to in section 56.

C—Medical.

District Board to have control and administration of public charitable dispensaries or hospitals within the district.

61. It shall be lawful for the Provincial Government from time to time to direct, by notification, that any public charitable dispensary or hospital within the district shall be under the control and administration of the District Board. And the District Board shall thereupon be charged with the control and administration thereof, and the construction and repair of all buildings connected therewith.

The Provincial Government may at any time vary or annul any order made under this section.

District Board may establish and maintain dispensaries and hospitals.

62. (1) The District Board may provide for the use of the inhabitants of the district, dispensaries, hospitals or temporary places for the reception of the sick, and for that purpose may—

(a) itself build such dispensaries, hospitals or places of reception; or

(b) contract for the use of any such dispensary, hospital or place of reception, or of any part thereof; or

(c) enter into any agreement with any person having the management of any hospital for the reception of the sick inhabitants of the district, on payment of such annual or other sum as may be agreed on.

(2) The District Board may also provide for—

(a) the training and employment of compounders, midwives, veterinary practitioners, kavirajas and homeopaths; and

(b) the promotion of free vaccination.

Management of
hospitals and
dispensaries by
Joint Committee.

33. (1) The Provincial Government may, by notification, direct that the maintenance and management of any hospital or dispensary in any municipality which has been, or may hereafter be, constituted under the Bihar and Orissa Municipal Act, 1922, shall be entrusted to a Joint Committee, consisting partly of persons appointed by the commissioners of such municipality, and partly of persons appointed by the District Board and shall specify in such notification the proportion of the cost of maintenance of the said hospital or dispensary to be provided by the commissioners of the said municipality and by the District Board respectively:

B. & O. Act
VII of 1922.

Provided that no direction shall be made under this section except with the consent of the commissioners of the said municipality and the District Board.

(2) Subject to such rules as may be made by the Provincial Government in this behalf, such Joint Committee shall in respect of such hospital or dispensary have the same powers and be subject to the same liabilities as are conferred and imposed by any law for the time being in force on the Commissioners of the said municipality and the District Board.

District Boards may combine to establish dispensaries.

64. The District Board may combine with any other District Board or Boards of the other districts of the Province of Orissa in providing a common dispensary, hospital or place for the reception of the sick, and fix the proportions of the cost thereof to be borne by them respectively.

District Board may contribute towards cost of maintenance of dispensary or hospital outside district.

65. The District Board may contribute such annual or other sum as may be agreed on towards the cost of the maintenance of any dispensary or hospital which is situated outside the district, but is habitually used by the inhabitants of the district.

Power to provide temporary supply of medicine and medical assistance.

66. The District Board may provide, or contract with any person to provide, a temporary supply of medicine and medical assistance for the poorer inhabitants of the district.

District Board to conform to rules made by Provincial Government.

67. The District Board, in exercising powers vested in it by sections 61 to 66 (both inclusive) shall conform to any rules made by the Provincial Government under this part.

D—Public Works.

Constitution and functions of Public Works Committee.

68. (1) The District Board shall appoint a Public Works Committee consisting of—

- (a) not more than four members of the District Board; and
- (b) not more than three persons who are not members of the District

Board, but who in the opinion of the District Board possess special qualifications for serving on the Committee.

(2) It shall be the duty of the Public Works Committee to examine and check estimates and bills in respect of Public Works under the control and administration of the District Board, and to perform such other duties and exercise such powers as may, in accordance with rules made under this part, be imposed and conferred upon it by the Board.

(3) All the proceedings of the Public Works Committee shall be subject to the confirmation of the District Board.

Transfer to District Boards of roads and other property of the District Council.

69. From and after the establishment of the District Board all roads, bridges, channels, buildings and other property, movable or immovable, held by, or under the control and administration of the District Council shall, for the purposes of this part, be under the control and administration of the District Board.

Government may place other property under the District Board.

70. It shall be lawful for the Provincial Government from time to time to direct that any road, bridge, channel, building or other property, movable or immovable, which is vested in the Crown and which is situated within the district shall, with the consent of the District Board and subject to such exceptions and conditions as the Provincial Government may make and impose, be placed under the control and administration of the District Board for the purposes of this part; and thereupon such road, bridge, channel, building or other property shall be under the control and administration of the District Board, subject to all exceptions and conditions so made and imposed and to all charges and liabilities affecting the same.

Works constructed
by District Board
to be vested in it.

71. Every road, building or other works constructed by the District Board from the District Fund shall be vested in the District Board.

District Board may,
with the consent of
owners, take over
and repair works.

72. The District Board may agree with the person in whom the property in any road, bridge, tank, ghat, well, channel or drain is vested to take over the property therein, and after such agreement may declare, by notice in writing put up thereon or near thereto, that such road, bridge, tank, ghat, well, channel, or drain has been transferred to the District Board.

Thereupon the property therein shall be vested in the District Board, and such road, bridge, tank, ghat, well, channel or drain shall thenceforth be repaired and maintained out of the District Fund.

District Board to
submit schedules of
public works.

73. The District Board shall, at such times and in such form as the Provincial Government may direct, submit a schedule of all public works subject to the control of, or vested in, the District Board.

District Board to
repair and
maintain works.

74. It shall be the duty of the District Board to provide for the repair and maintenance of roads, bridges, water-channels and other works for directly improving communications, which have been taken charge of by the District Board under this part or towards which it may have agreed to contribute; and for the construction of new roads, bridges, water-channels and other means of communication.

Power to turn,
divert, discontinue
or close road.

75. The District Board may, after giving one month's notice to the public and the Provincial Government, turn, divert, discontinue or permanently close any road which is under the control and administration of, or is vested in, the District Board.

Miscellaneous
improvements.

76. It shall be lawful for the District Board to take measures for, or to contribute towards—

the construction, repair and maintenance of any works which may directly improve the means of communication within the district or between the district and other districts;

the planting of trees by the road-side; and

the construction and maintenance of any means and appliances for improving the supply of drinking water or for providing or improving drainage.

District Board
may construct and
maintain railways
or tramways.

77. It shall be lawful for the District Board, with the sanction of the Provincial Government, either singly or in combination with any municipal authority or any other local authority, to construct and maintain a railway or tramway within the rural and municipal areas of the district of Sambalpur under the provisions of any law for governing the construction of railways or tramways for the time being in force in Orissa, and to do all lawful acts which may be necessary in that behalf.

District Board may
subscribe to
debenture loan to
construct and
maintain railways
or tramways.

78. It shall be lawful for the District Board, with the sanction of the Provincial Government, to subscribe to any debenture loan raised by the Central or any Provincial or by any municipal authority or local authority for the construction or maintenance of any railway or tramway which in the opinion of the District Board is likely to be of direct benefit to the district.

District Board
may guarantee
interest on capital
expended on works
of communication.

79. It shall be lawful for the District Board, with the sanction of the Provincial Government, from time to time to guarantee the payment from District

Fund of such sums, as it shall think fit, as interest on capital expended on any railway, tramways, or other works which may directly improve the means of communication within the district :

Provided that no application for the said sanction shall be made in the case of a railway or tramway, unless it is authorised by a resolution which has been passed at a meeting specially convened for the purpose and in favour of which a majority of not less than two-thirds of the members of the District Board have voted.

District Board may undertake construction, repair and maintenance of crown buildings.

80. It shall be lawful for the District Board from time to time to undertake, on behalf of the Government concerned, and upon such conditions as may be agreed upon, the construction, repair and maintenance of any public building or other work which is the property of the Crown :

Provided that the cost of such construction, repair or maintenance shall be defrayed by the Government concerned.

District Board to appoint Engineer and his subordinates.

81. Subject to the provisions of section 37 and to any rules made by the Provincial Government under this part, the District Board shall appoint a properly qualified person to be its Engineer and such and so many subordinate officers under his orders as it may think necessary.

Duties of District Engineer.

82. It shall be the duty of the District Engineer to prepare all plans, designs, specifications and estimates which the District Board may require to carry out such works as it may direct and to conform generally to all rules that may be made by the District Board under section 36 or by the Provincial Government under section 125.

Powers of Board under sections 74 and 76 to be subject to rules for approval of plans.

83. The powers of the District Board under sections 74 and 76 shall be subject to any rules made by the Provincial Government under this part regarding the submission for approval of plans, designs, specifications and estimates; and the power of the District Board to make any contribution under section 76 shall be subject to any rules, made by the Provincial Government under this part prescribing conditions precedent to the making of such contribution.

D-1—Tolls on bridges.

Power of District Board to establish toll-bars and levy tolls.

84. The District Board, with the sanction of the Provincial Government, may establish a toll-bar—

- (i) on any bridge in the district which has after the date of the commencement of this part been constructed or purchased out of the District Fund or to the cost of the construction or purchase of which contribution has, after the said date, been made out of the District Fund; or
- (ii) on any roadway or footway of a railway bridge which has, after the said date, at the instance of the District Board and out of the District Fund, been so constructed or widened as to allow the passage of persons, vehicles or animals; or
- (iii) at any place in the district adjacent to any bridge referred to in clause (i) or clause (ii) at which tolls may conveniently be levied;

and may, with the like sanction levy at such toll-bar a toll on vehicles and

animals passing over such bridge, roadway or footway, for the purpose of recovering, during a period which may extend to twenty years,—

- (a) the amount spent, or contributed by the District Board for the purpose of constructing, purchasing or widening such bridge, roadway or footway;
- (b) the amount of the loss to the District Board of receipts in respect of any public ferry referred to in clause (5) of section 46 when such loss results from the construction or widening of such bridge, roadway or footway;
- (c) interest on such amounts at the rate of five per centum per annum; and
- (d) the capitalized value of the estimated cost to the District Board of maintaining such bridge, roadway or footway and of renewing it, if it requires periodical renewal:

Provided that—

- (1) no toll-bar shall be established nor toll levied on or in respect of any bridge, roadway or footway, the cost or estimated cost of which, as indicated in clauses (a), (b) and (d), is less than ten thousand rupees;
- (2) if on the expiry of the said period of twenty years, the said amounts, interest and capitalized value have not been fully recovered the Provincial Government may empower the District Board to levy tolls for such further period as the Provincial Government may determine;

- (3) the provisions of this section shall not be applicable to cases in which communication is established by means of a bridge of boats, pontoons or rafts or a swing bridge or flying bridge or a temporary bridge such as pontoon bridge at Sambalpur over which the District Board shall be entitled to levy tolls under the provisions of the Northern India Ferries Act, ^{Act XVII of 1878.} 1878.

Lease of toll-bar.

85. The District Board may grant a lease, for any period not exceeding three years, of any toll-bar established under section 84.

Procedure where two District Boards have contributed towards cost of bridges, etc.

86. When the District Board of Sambalapur and any one or more District Boards constituted under any other law having jointly constructed, purchased or contributed towards the cost of the construction or widening of a bridge, roadway or footway have received sanction under section 84 to the establishment of a toll-bar, the tolls shall be levied or granted in lease by such District Board as the Provincial Government may, in their order according sanction, direct; and the proceeds of such tolls or of the lease thereof shall be adjusted between the two or more District Boards according to rules made in this behalf by the Provincial Government.

Exemptions.

87. The following vehicles and animals shall be exempted from payment of tolls at any toll-bar established under section 84, namely:—

- (a) Vehicles and animals used for the conveyance of police and other public officers and District Board officers when such officers

are travelling on duty, or for the transport of property belonging to, or in the custody of, such officers;

- (b) conservancy carts and other vehicles and animals belonging to the District Board; and
- (c) any other class of vehicles and animals that may be exempted by order of the District Board.

Rates of tolls.

88. (1) When it has been determined that tolls shall be levied at any toll-bar established under section 84 the District Board shall make and publish an order specifying the rates at which the tolls shall be levied.

(2) Such rates shall be subject to the sanction of the Provincial Government, and may, from time to time, be varied with the like sanction.

Table of tolls to be hung up.

89. (1) A table of such tolls, legibly printed or written in the vernacular of the district, shall be hung up in some conspicuous position near every such toll-bar, so as to be easily readable by all persons required to pay the tolls.

(2) In default of compliance with sub-section (1) of this section, the toll-collector, or the lessee of the toll-bar, as the case may be, shall be liable to fine which may extend to ten rupees for each day after the first during which the default continues.

Power to compound for tolls.

90. The District Board, or the lessee of any toll-bar may compound with any person for a certain sum to be paid by such person for any vehicles or animals kept by him in lieu of the rates specified under section 88.

Power of toll-collector or lessee in case of refusal to pay toll.

91. Any toll-collector or lessee of a toll-bar established under section 84 may refuse to allow any vehicle or animal to pass through the toll-bar until the proper toll has been paid.

Penalty for refusing to pay toll.

92. Whoever, having rendered himself liable to the payment of toll, refuses to pay the toll, shall be liable to fine which may extend to fifty rupees.

Police officers to assist.

93. If resistance is offered to any person authorised under this Chapter to collect tolls, any Police Officer whom he may call to his aid shall be bound to assist him; and such Police Officer shall, for that purpose, have the same powers as he has in the exercise of his ordinary police duties.

Penalty for taking unauthorized tolls.

94. If any person authorized under this Chapter to collect tolls demands or takes any higher tolls than the tolls authorized under this Chapter, he shall be liable to fine which may extend to fifty rupees, and in default of payment to imprisonment for a term which may extend to one month.

District Board to publish expenses, etc., of toll-bars.

95. (1) When a toll-bar has been established and tolls have been levied, under section 84 in respect of any bridge, roadway or footway, the District Board shall, at the end of each financial year, publish, by causing to be posted up at their office, an abstract account showing—

(a) the amount spent or contributed by the District Board for the purpose of constructing, purchasing or widening such bridge, roadway or footway;

(b) the amount of the loss to the District Board of receipts in respect of any public ferry referred to in clause (5) of section 46 when such loss

results from the construction or widening of such bridge, roadway or footway;

- (c) the amount of interest which has accrued due on such expenses;
- (d) the capitalized value of the estimated cost to the District Board of maintaining the bridge, roadway, or footway and of renewing it, if it requires periodical renewal; and
- (e) the amount which has been received from the profits of the said toll-bar since its establishment.

(2) As soon as such expenses, interest and capitalized value have been recovered as aforesaid, such toll-bar shall be removed, and tolls shall no longer be levied in respect of such bridge, roadway or footway.

E—Sanitation.

District Board to provide for sanitation.

96. It shall be the duty of the District Board subject to any rules made by the Provincial Government under this part to provide so far as may be possible, for the proper sanitation of its district and to incur such expenses or undertake such liabilities as may be necessary in that behalf.

General powers for supplying district with water.

97. The District Board may provide any place within its district with a proper and sufficient supply of water, and for this purpose may—

- (1) construct repair and maintain water-works, wells or tanks, and do any other necessary acts;
- (2) take on lease or hire any water-works and purchase any water-works, or any water or right to

take or convey water, either within or without its district; and

- (3) contract with any person for a supply of water.

Power to contribute towards cost of municipal water-supply.

98. The District Board may, with the sanction of the Provincial Government contribute such annual or other sum as may be agreed upon towards the cost of—

- (a) the construction, repair and maintenance under the provisions of the Bihar and Orissa Municipal Act, 1922, of water-works, wells or tanks within the district; or
- (b) taking measures under the said Act for the prevention of plague in the district:

B. & O. Act VII of 1922.

Provided that no application for such sanction shall be made unless it is authorized by a resolution which has been passed at a meeting specially convened for the purpose and in favour of which a majority of not less than two-thirds of the total number of members of the District Board have voted.

Public streams, channels, water-courses, tanks, reservoirs, springs, and wells to be under control of District Board.

99. Subject to provisions made in Part II of this Act all streams, channels, water-courses, tanks, reservoirs, springs and wells situated within the district, and not being private property or under the control of any servant of the Crown shall, for the purposes of this part be under the control and administration of the District Board.

District Board may set apart tanks, parts of rivers, streams or channels for drinking and culinary purposes.

100. The District Board may, by an order duly published at such places and in such manner as it may deem fit, set apart convenient tanks, parts of rivers, streams or channels, situated within the district, and not being private property or under the control of any servant of the Crown for the supply of water for drinking and for culinary purposes; and,

from the date of publication of such order, such tanks, parts of rivers, streams or channels shall be held to be public springs or reservoirs.

Constitution and functions of Sanitation Committee.

101. (1) The District Board shall appoint a Sanitation Committee consisting of—

- (a) the Civil Surgeon of the district,
- (b) not more than six members of the District Board, and
- (c) not more than four persons who may be of either sex and who are not members of the District Board, but who in the opinion of the District Board possess special qualifications for serving on the Committee.

(2) The Sanitation Committee shall initiate and supervise all works connected with the sanitation of the district and shall exercise such powers as may be delegated to it by the District Board, in accordance with rules made under this part.

(3) All the proceedings of the Sanitation Committee shall be subject to the confirmation of the District Board.

Appointment of Health Officers, etc.

102. (1) The District Board shall appoint a Health Officer and may appoint such number of additional or assistant Health Officers as it may consider necessary:

Provided that the Provincial Government may exempt the District Board from the application of this sub-section:

Provided also that if at any time the Provincial Government are satisfied that the district or any part thereof is visited by, or threatened with an outbreak of any dangerous epidemic disease, and are of opinion that the number of Health

Officers employed by the District Board is insufficient, the Provincial Government may direct the said Board to appoint such number of additional or assistant Health Officers as the Provincial Government deem necessary.

(2) When the District Board is exempted from the application of subsection (1) of this section, the Provincial Government may appoint a servant of the Crown as the Health Officer of the District Board and may direct—

- (i) that the District Board shall appoint such of the subordinate staff, as the Provincial Government consider necessary for due performance of the public health work in the district ;
- (ii) that the District Board shall pay such travelling allowance to the Health Officer as the Provincial Government consider proper ; and
- (iii) that the District Board shall conform to the rules framed by the Provincial Government defining powers and duties and control of the Health Officer and the subordinate staff.

Constitution and
function of Public
Health Board.

103. (1) The Provincial Government may, by notification, constitute a Public Health Board for the Province of Orissa and may appoint, either by name or by official designation, such persons as they may deem fit to be members thereof.

(2) The said Board shall, when so required, advise the Provincial Government regarding any schemes for sanitation and for the improvement of the public health that may be framed by a local authority, and shall perform such other duties and exercise such powers

as may be assigned to it by rules made by the Provincial Government under this part or any other Act or Regulation for the time being in force.

F—Vaccination.

District Board to have supervision of vaccinators within its district.

104. The District Board shall, within its district be charged with the appointment, payment, management and supervision of all public vaccinators.

District Board to appoint Inspectors of Vaccination.

105. The District Board shall appoint a properly qualified person to be Inspector of Vaccination within its district, and shall, subject to the provisions of section 37 fix the salary to be paid to such person.

Every Inspector of Vaccination appointed under this section shall, within the district, exercise the powers and perform the duties assigned to the Superintendent of Vaccination under the Bengal Vaccination Act, 1880. Bengal Act V of 1880.

District Board to have powers of Magistrate in district to which the Vaccination Act extends.

106. In every locality to which the Bengal Vaccination Act, 1880, has been or may hereafter be extended, the District Board shall have the powers of the Magistrate of the district under section 25 of the said Act. Bengal Act V of 1880.

Revenue Commissioner to make rules for guidance of District Board.

107. The Revenue Commissioner may, with the sanction of the Provincial Government, make rules consistent with this part and with the Bengal Vaccination Act, 1880, for the guidance of every District Board in the exercise of the powers conferred under the three last preceding sections, and may from time to time, with the like sanction, repeal or alter such rules. Bengal Act V of 1880.

Act to be read with the Bengal Vaccination Act.

108. The four last preceding sections, so far as is consistent with the tenor thereof, shall be read with, and form a part of Bengal Vaccination Act, 1880. Bengal Act V of 1880.

G—Census.

Revenue Commissioner may direct District Board to take a census.

109. It shall be lawful for the Revenue Commissioner, with the sanction of the Central Government, at any time to require a District Board to take an account of the number of persons, who, at the time of taking such account, shall be within the district of such District Board :

Provided that no part of the cost incurred in taking such account shall be charged upon, or be defrayed out of, the District Fund.

Power for taking census.

110. The District Board when required to take an account under the last preceding section shall, in taking such account, conform to the provisions of any Act or Regulation or rules thereunder for the time being in force for regulating the taking of a census.

H—Famine and Distress.

District Board may take relief measure in case of famine or serious distress.

111. It shall be lawful for the District Board to take such measures as it thinks fit for the relief of famine or serious distress within its district, and for that purpose to—

- (1) open and maintain such relief works as may be necessary ;
- (2) open and maintain such temporary hospitals, poor houses, orphanages and places for the gratuitous distribution of food as may be necessary ;
- (3) employ such extra medical or other assistants as may be necessary ;
- (4) distribute such gratuitous relief, in the form of doles of money or food, as may be necessary.

Irrigation works
for relief of famine
or scarcity.

112. It shall be lawful for the District Board to incur expenditure on any local irrigation work or the construction or maintenance of an embankment, which may appear to it to be necessary for the purpose of preventing or mitigating the effects of famine or scarcity within its district :

Provided that no such expenditure shall be incurred unless such irrigation work, construction or maintenance has been sanctioned by the Provincial Government as a relief work in accordance with rules made under this part.

Miscellaneous.

Miscellaneous
powers of District
Board.

113. It shall be lawful for the District Board subject to such rules and restrictions as the Provincial Government may from time to time prescribe under this part to—

Staging bungalow
and serais.

(1) establish and maintain, at such places within its district as it thinks fit, staging bungalows and serais for the use of travellers and charge such fees for the use of such bungalows and serais as it thinks fit ;

Rewards for
destruction of
noxious animals.

(2) offer rewards for the destruction of noxious animals within the district ;

Fairs and exhibi-
tions.

(3) hold, within the district, from time to time, fairs and exhibitions of cattle, country produce and agricultural implements, or local manufactures, and incur such expenditure and charge such fees in connection therewith as it thinks fit :

Veterinary
dispensaries.

- (4) establish and maintain veterinary dispensaries for the reception and treatment of horses, cattle and other animals, and charge such fees for the use of dispensaries as it thinks fit;

Treatment of
diseases of animals.

- (5) appoint and pay qualified persons to prevent and treat diseases of horses, cattle and other animals;

Breeding of
animals.

- (6) provide for the improvement of the breed of horses, cattle and asses and for the breeding of mules;

Grants-in-aid of
agricultural and
veterinary improve-
ments.

- (7) make grants-in-aid of measures for improving agriculture or for carrying out any of the objects specified in clause (4) or clause (5); and

Works not other-
wise provided for.

- (8) undertake and carry out any other local work likely to promote the health, comfort or convenience of the public, and not otherwise provided for by this part.

CHAPTER V.

CONTROL.

Powers of Provin-
cial Government
and of Revenue
Commissioner and
District Magis-
trate with respect
to proceedings of
local authorities.

114. It shall be the duty of the Provincial Government and of the Revenue Commissioner and the District Magistrate, acting under the orders of the Provincial Government, to see that the proceedings of local authorities are in conformity with law and with the rules in force thereunder. The Provincial Government may set aside any resolution or order of any local authority if in their opinion the resolution or order is in excess of the powers conferred by law.

Records to be open for inspection of Revenue Commissioner or District Magistrate.

115. Every local authority shall at all times permit the Revenue Commissioner or the District Magistrate or such other person as the Provincial Government may authorise in this behalf to have access to all its books, proceedings and records.

Power of Revenue Commissioner or of District Magistrate to inspect works.

116. The Revenue Commissioner or the District Magistrate or such other person as the Provincial Government may authorise in this behalf shall have power at all times to enter on and inspect, or cause to be entered on and inspected any immovable property occupied by, or any work in progress under the orders of, or any institution controlled by, a local authority.

Appointment of Inspector of Local Works, and duties to be performed by him.

117. It shall be lawful for the Provincial Government to appoint an officer to be Inspector of Local Works in respect of the district and to sanction an establishment for such officer.

It shall be the duty of the Inspector of Local Works to inspect and advise with regard to all public works under construction or repair vested in, or in charge of, any local authority in the district.

The Inspector of Local Works shall also perform such duties and exercise such powers as may be assigned to him by any rules made by the Provincial Government under this part.

The Inspector of Local Works may at all times enter upon, or cause to be entered upon, any immovable property belonging to any local authority in the district or any work in progress under its direction, and may require it to furnish such statements, plans estimates, and reports and other documents relating to any work as he thinks fit. A report of every inspection shall be prepared and

a copy thereof forwarded to the District Board concerned, through the District Magistrate.

In all matters of professional detail, the local authority shall be guided by the report of the Inspector of Local Works.

Power to suspend
action of local
authorities by
District Magistrate.

118. The District Magistrate may, by order in writing, suspend the execution of any order or resolution of a local authority within the jurisdiction of such Magistrate, or the doing of any act which is about to be done, or is being done, by such local authority, if in his opinion, the execution of the resolution or order, or the doing of the act, is likely to cause serious injury to the public, or to any class or body of person, or to lead to a serious breach of the peace.

Power to provide
for performance of
duties in case of
default by District
Board.

119. If it appears to the Provincial Government, on complaint made or otherwise, that the District Board has made default in performing any duty imposed on it by or under this part, the Provincial Government, if satisfied, after due enquiry, that the District Board has made default as alleged, may, by order in writing fix a period for the performance of that duty.

If that duty is not performed within the period so fixed, the Provincial Government may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the District Board.

If the expense and remuneration are not so paid, the Provincial Government may make an order directing the person having the custody of the balance of the District Fund to pay the expense and remuneration or as much thereof as is possible, from that balance, and such person shall make payment accordingly.

Extraordinary powers in case of emergency.

120. In case of emergency, the District Magistrate may provide for the execution of any work, or the doing of any act which a local authority is empowered to execute or do, and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith, paid by the District Board.

If the expense and remuneration are not so paid, the District Magistrate may make an order directing the person having the custody of the balance of the District Fund to pay the expense and remuneration, or as much thereof as is possible, from that balance; and such person shall make payment accordingly.

Magistrate's order under sections 118 and 120 to be reported to Provincial Government who may confirm, modify or rescind it.

121. When the District Magistrate makes any order under section 118 or 120 he shall forthwith submit to the Provincial Government a copy of the order, with a statement of his reasons for making it, and with any explanation which the local authority concerned may wish to offer, and the Provincial Government may thereupon confirm, modify or rescind the order.

Power of Provincial Government to dissolve or supersede District Board.

122. (1) If in the opinion of the Provincial Government the District Board is not competent to perform, or persistently makes default in the performance of the duties imposed on it by or under this part, or otherwise by law, or exceeds or abuses its powers, the Provincial Government may, by notification specifying the reason for so doing, declare such District Board, to be

incompetent or in default or to have exceeded or abused its powers, as the case may be ; and

(a) direct that on a date to be specified in the order the offices of the members of the District Board shall be deemed to be vacant and require a fresh election to be held on or before the said date ; or

(b) direct that the District Board shall be superseded for one year :

Provided that the Provincial Government may, as often as they think fit, by like notification renew such direction for further periods of six months each time.

(2) The members of a District Board who vacate office by reason of a declaration made under sub-section (1) shall not, unless the Provincial Government otherwise direct, be deemed disqualified for re-election or re-appointment.

Consequences of
supersession.

123. When an order of supersession has been passed under clause (b) of sub-section (1) of section 122, the following consequences shall ensue, namely :—

(a) All the members of the District Board shall, from a date to be specified in the order, vacate their offices as such members ;

(b) all the powers and duties which may under the provisions of this part or of any other Act or Regulation be exercised and performed by such District Board shall, during the period of supersession, be exercised and performed by such person or persons as the Provincial Government may direct ;

- (c) all property vested in the District Board shall during the period of supersession vest in the Provincial Government; and
- (d) before the expiration of the period of supersession elections shall be held and appointments made for the purpose of reconstituting the District Board.

Decision of disputes
not otherwise
provided for.

124. If any dispute, for the decision of which this Act does not otherwise provide, arises between two or more local authorities, or between a local authority or authorities and a Municipal authority or authorities, the matter shall be referred to the Provincial Government.

And the decision of the Provincial Government upon the matter so referred shall be final and binding.

Power of Provincial
Government to
make rules.

125. It shall be lawful for the Provincial Government to make rules, consistent with this part for the District Board for the purposes of—

- (a) determining the mode and time of appointment or election of members of the District Board, the term of office and the qualifications of such members and the qualifications and disqualifications and the registration of voters and candidates, and generally for regulating all elections under this Part and determining the authority who shall decide disputes relating to such elections;
- (b) regulating the conduct of proceedings of the District Board and Committees, including the manner in which the notices of a meeting shall be given, the fixing of a quorum, the due record of proceedings and the language in which business shall be transacted;

- (c) fixing the time within which a Vice-Chairman may be elected ;
- (d) regulating the powers of the District Board to transfer property ;
- (e) regulating the powers of the District Board and Committees to contract and do other things necessary for the purposes of their constitution and the mode of executing contracts ;
- (f) determining the intermediate offices, if any, through which correspondence between the District Board and Committees, or members of the District Board and Committees, and the Provincial Government or their officers, shall pass ;
- (g) prescribing the qualifications of candidates for employment under section 37 and declaring what circumstances shall be a disqualification for continuance of employment under that section ;
- (h) prescribing the closing balance to be maintained by the District Board, the statements, accounts and reports to be submitted to the Provincial Government, the date for the preparation of the budget estimate and the particulars to be contained therein ;
- (i) prescribing the conditions on which a house and land may be acquired or on which land may be acquired and a house constructed, by the District Board for the residence of an officer or servant of the District Board and

the term on which such officer or servant may be required to occupy the same ;

- (j) prescribing the separate heads under which the rates and cesses imposed under this part shall be placed under section 46 ;
- (k) prescribing the conditions as regards the rate of interest on and the period and method of repayment of loans granted by the District Board to Union Boards under sub-clause (f) of clause seventhly of section 47 ;
- (l) prescribing forms for statements, estimates and accounts and regulating and keeping, checking and publication of such accounts and the manner of periodical audit under sections 49 and 50 ;
- (m) regulating the maintenance and management of schools under sections 54, 55, and 56 and construction and repair of buildings connected therewith, and the appointment of masters and assistant masters and the proper distribution of funds transferred to the District Board under section 58
- (n) prescribing the conditions subject to which grants-in-aid may be made under section 55 or section 57 ;
- (o) regulating the opening, maintenance and management of libraries under section 55.
- (p) regulating the provision, maintenance and management of students' hostels and the establishment of scholarships under section 57 ;

- (q) prescribing the powers and duties of Committees appointed by the District Board and regulating the appointment, term of office and removal from office of members of such Committees ;
- (r) regulating the control and administration of dispensaries, hospitals, and places of reception for the sick, including dispensaries and hospitals entrusted to a Joint Committee under section 63, the construction and repair of buildings connected therewith, and the supply of medicines and medical assistance for the poorer inhabitants of the district, the training and employment of compounders, and the promotion of free vaccination ;
- (s) prescribing the procedure to be adopted in the appointment of the Engineer to the District Board under section 81 and regulating the performance and exercise of the duties and powers of such Engineer and of the Inspector of Local Works under sections 82 and 117 respectively ;
- (t) regulating the submission for approval of plans, designs, specifications and estimates under section 83 and prescribing conditions precedent to the making of any contribution under section 76.
- (u) prescribing for the purposes of section 84 ; the mode of ascertaining the capitalized value of the estimated cost to the District Board of maintaining bridges, roadway or

footways, and of renewing any bridge, roadway or footway which requires periodical renewal, and the mode of determining what classes of bridges, roadways or footways require periodical renewal;

- (v) prescribing for the purposes of section 86 the method in which the proceeds of tolls or of the lease thereof, shall be adjusted between the District Boards of two or more districts;
- (w) regulating the duties and powers of the District Board and Sanitation Committees in regard to sanitation and for the prevention of epidemic diseases;
- (x) regulating the duties and powers of a Public Health Board constituted under section 103;
- (y) regulating the duties of the District Board in regard to the relief of famine, serious distress or scarcity;
- (z) regulating the establishment and maintenance of staging bungalows and serais, the holding of fairs and exhibitions, the offer of rewards for the destruction of noxious animal, the establishment and maintenance of veterinary dispensaries, the appointment and payment of qualified persons to prevent and treat diseases of horses, cattle and other animals, the improvement of the breed of horses, cattle or asses and the breeding of mules, the making of grants-in-aid under clause (7) of section

113 and the carrying out of any other work likely to promote the health, comfort or convenience of the public ;

- (21) providing for the appointment and payment of auditors of the accounts of the District Board and Committees ;
- (22) affording guidance to the District Board when suits or other proceedings are threatened or have been instituted by or against it in Civil Courts ;
- (23) generally, determining the relations between the District Board and Union Boards and for the guidance of the District Board and Committees and Government officers in all matters connected with the carrying out of the provisions of this part ;
- (24) as to fees which may be charged for licenses under section 143 ; and
- (25) as to the imposition of fees and tolls specified in section 137.

Rules made under this section shall be published in such manner as the Provincial Government may direct, and shall thereupon have the force of law.

CHAPTER VI.

MISCELLANEOUS.

Power of District Board to make by-laws.

126. The District Board may, subject to the control of the Provincial Government, make bye-laws for carrying out all or any of the purposes of this part.

Bye-laws made under this section shall have the force of law when confirmed by the Provincial Government and published in such manner and for such time as the Provincial Government may direct.

Penalty for
infringement of
bye-laws.

127. In making a bye-law under last preceding section the Board may provide that a breach of the same shall be punishable with fine which may extend to fifty rupees, and in the case of a continuing breach with a further fine which may extend to five rupees for every day during which the breach is continued after the offender has been convicted of such breach.

Prosecutions.

128. (1) Prosecutions under this part for breach of bye-laws may be instituted by the Board, or by any person authorised by the Board in this behalf.

(2) No court shall take cognizance of any offence punishable under this part or any rule or bye-law made thereunder except on the complaint of the Chairman of the District Board or of some persons generally or specially authorised in this behalf by the District Board.

A judge or magistrate shall not be deemed to be, within the meaning of section 556 of the Code of Criminal Procedure, 1898 a party to, or personally interested in, any case under this section merely because he is a member of the Board. Act V of 1898.

Liability of
members of Board.

129. No person shall be liable for the loss, waste or misapplication of any money or other property belonging to the District Board unless such loss, waste or misapplication is a direct consequence of his neglect or misconduct while a member of the District Board; and a suit for compensation for the same may be instituted against him, in such Court as the Provincial Government direct, by the District Board with the sanction of the Provincial Government.

Procedure for
making rules and
bye-laws.

130. The Provincial Government, before making any rules under section 125, and the District Board, before making any bye-laws under section 126, shall publish in such manner as the Provincial Government deem sufficient for giving information to persons interested in the proposed rules or bye-laws, together with a notice specifying a date on or after which the same will be taken into consideration; and shall, before making such rules or bye-laws, receive and consider any objection or suggestion which may be made by any person with respect to the same before the date so specified.

Every such rule or bye-law shall be published in the Gazette in English, and in such other language as the Provincial Government direct, and such publication shall be evidence that the rule or bye-law has been made as required by this section.

Penalty on member,
officer or servant
being interested
in contracts made
with a local
authority.

131. (1) If any member of the District Board or any officer or servant maintained by or employed under the District Board has, directly or indirectly, any share or interest in any work done by order of the District Board of which he is a member, or by which he is maintained, or under which he is employed, or in any contract with or under such District Board, he shall thereupon be disqualified to continue in office and shall be liable on conviction before a Criminal Court to a fine which may extend to five hundred rupees :

Provided that the penalty herein prescribed shall not be deemed to apply by reason only of a person—

- (a) having a share in any joint stock company which shall contract with, or be employed by, or on behalf of, the District Board ; or

- (b) having a share or interest in any newspaper in which any advertisement relating to the affairs of the District Board may be inserted; or
- (c) holding a debenture or being otherwise concerned in any loan raised, by, or on behalf of, the District Board.

Nevertheless, it shall not be lawful for a person having any share or interest, such as is described in clauses (a) and (b), to act as a member of the District Board in any matter relating to a contract or agreement between the District Board and such company or the manager or publisher of such newspaper.

Nothing in this section shall apply to the payment of fees to a legal practitioner for services rendered by him in his professional capacity.

Power to make compensation out of the District Fund.

132. The District Board may make compensation out of the District Fund to any person sustaining any damage by reason of the exercise of any of the powers conferred by this part.

No action to be brought against

officers until after two months' notice of cause of action.

133. No suit shall be brought against the District Board or any of its officers, or any person acting under its direction, for anything done under this part until the expiration of two months next after notice in writing has been delivered or left at the office of such Board and also (if the suit is intended to be brought against any officer of the said Board or any person acting under its direction) at the place of abode of the person against whom such suit is intended to be brought, stating the cause of action and the name and place of abode of the person who intends to bring the suit; and unless such notice be proved, the Court shall find for the defendant.

Every such action shall be commenced within three months next after the accrual of the cause of action, and not afterwards.

If any such person to whom any such notice is given shall, before suit is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover anything in the suit.

CHAPTER VII.

SPECIAL PROVISIONS.

Power of District Board to levy additional cess.

134. (1) With the previous sanction of the Provincial Government, the District Board may by a resolution passed by a majority of the members present at a special meeting convened for the purpose, impose an additional rate or cess *for the purposes of this part* at a rate not exceeding $6\frac{1}{4}$ per cent of the Kamiljama assessed on every zamindari and malguzari village of any estate or mahal.

(2) The cess imposed under sub-section (1) shall be paid by the persons who are liable to pay the land revenue to the Provincial Government under the Central Provinces Land Revenue Act, 1881^{Act XVIII of 1881.} (Act XVIII of 1881), as amended by Act XII of 1898 or would be so liable if such land revenue had not been released or compounded for or redeemed, and it shall be collected by the Deputy Commissioner and credited to the District Fund.

(3) In a mahal in which there are superior and inferior proprietors, if the superior proprietor pays the cess under sub-section (1), he shall be entitled to recover it from the inferior proprietor.

(4) In a mahal in which there is a thekadar, the proprietor from whom such thekadar holds shall be entitled to recover the cess from him.

(5) When cess is imposed under sub-section (1), every tenant, not being a sub-tenant shall be required to pay in addition to and along with his rent, a sum calculated on such rent at a rate equal to one-half of that imposed under sub-section (1) and such sum shall be recoverable as though it were part of his rent.

Power of Provincial Government with respect to rates.

135. The Provincial Government may, from time to time, by notification in the Gazette—

- (a) prescribe in what instalments and at what times, the rates referred to in section 134 shall be payable and make rules for their collection by village-officers or others, and
- (b) exempt any land from the liability to pay the whole or any part of any such rate and vary or cancel any such exemption.

PUBLIC MARKET.

Vesting of market rights.

136. (1) The Provincial Government may by notification order that the right of levying fees and tolls and of control in any market shall vest exclusively in the District Board.

(2) The issue of a notification under sub-section (1) shall, as far as may be, be subject to the provisions relating to previous publication laid down in *section 24 of the Orissa General Clauses Act, 1937.*

Orissa Act
1 of 1937.

(3) An order under sub-section (1) shall be final unless and until it is cancelled or

modified by a decree in a suit instituted within six months of the publication of such order.

Power of levying certain fees and tolls in public markets.

137. Subject to the rules made under section 125 the District Board may impose in any public market situated outside the local area of a Union Board constituted under Part II of this Act any one or more of the following fees or tolls:—

- (a) Licence fees on brokers, commission agents, weighmen or measurers practising their calling within such market.
- (b) Tolls on vehicles, pack animals or porters bringing goods for sale into such market.
- (c) Market fees for the right to expose goods for sale in such market or for the use of any building or structure therein.
- (d) Fees on the registration of animals sold in such market.

PRIVATE MARKET.

Power to apply sections 139 to 147 to villages.

138. The Provincial Government may notify villages to which sections 139 to 147 shall apply and thereafter unless due cause is shown to the contrary, these sections shall be applicable thereto from and after the expiry of six months from the date of such notification.

Provisions as to licences required for private markets.

139. (1) No person shall establish or maintain a private market except under a licence granted by the District Board.

(2) The District Board as regards markets lawfully in existence on the date on which this part comes into force, shall, and as regards other markets, may, grant a licence under sub-section (1), subject to such condition as to sanitation, drainage, water-supply, width

of paths and ways, weights and measures to be used and rents, fees and tolls to be charged in such markets as the District Board may think fit.

Procedure to be followed in claiming right to levy fees or tolls.

140. Any person claiming right to levy fees or tolls of the nature specified in section 137 shall first apply to the Revenue Commissioner who may grant him a certificate recognising his right in this behalf and on such certificate being submitted to the District Board, it shall in granting him a licence under section 139, sub-section (2), allow the licensee to levy such fees or tolls.

Grounds of decision on claims to levy fees or tolls.

141. In deciding whether to grant certificate or not, the Revenue Commissioner shall take into consideration the representations which the District Board may make in writing or otherwise to the Revenue Commissioner against such right and also the following circumstances, namely, (a) whether the applicant is entitled by long usage to levy such fees or tolls, (b) whether he is entitled to levy them under the special sanction of the Provincial Government granted prior to the commencement of this part or according to the provisions of the Village Administration paper.

Suit for establishment of right to levy fees or tolls.

142. Any person aggrieved by an order refusing to grant a certificate under section 141 may within six months from the date of such order institute a suit to establish a right to levy fees or tolls which he claims and subject to the result of such suit, such order shall be final.

Fees for licence.

143. When a licence granted under section 139, sub-section (2) does not permit the levy of any fees or tolls, it shall be granted free of charge but when such permission is given, a fee not exceeding such amount as may be fixed by rules made under section 125 may be charged for such licence.

Suspension or
cancellation of
licence.

144. A licence under section 139 shall unless it otherwise directs remain in force for the financial year during which it has been granted but it may at any time be suspended or cancelled for breach of any of its conditions or levy of any unauthorised fees or tolls.

Appeal against
orders of District
Board.

145. Any person aggrieved by any order made by the District Board under the powers vested in it by sections 139, 140, 143 or 144 may appeal within 30 days from the date thereof to the Revenue Commissioner whose decisions shall be final.

Failure to grant a
licence and applica-
tion against such
order.

146. If the District Board fails to grant a licence under section 139, sub-section (2) for a period of two months from the date of receipt of an application for such licence, any person aggrieved by such failure may apply to the Revenue Commissioner who may reject such application or direct the District Board to grant a licence or grant it himself and his decision shall be final.

Penalty for
unlicensed market.

147. Any person—

- (a) establishing or maintaining a market for which a licence has not been granted under section 139 sub-section (2) or section 146, or
- (b) opening or keeping open a market for which a licence has been cancelled under section 144, or
- (c) opening or keeping open a market during the period of suspension specified under section 144, shall be punishable with fine which may extend to Rs. 100 and if the breach is a continuing breach with further fine which may extend to Rs. 10 per day.

after the first, during which the breach is proved to be persisted in.

Prosecutions.

148. No court shall take cognizance of any offence punishable under this Chapter except on the complaint of the Chairman of the District Board or of some person authorised either generally or specially by the District Board in this behalf.

Levy of other tolls or rates.

149. Subject to the provisions of any law or enactment for the time being in force and subject to the previous sanction of Provincial Government, the District Board may, by a resolution passed by a majority of not less than two-thirds of members present at a special meeting convened for the purpose, impose any tax, toll or rate other than those specified in sections 134 and 137 of this Chapter.

(2) Nothing in this section shall authorise the imposition of any tax, toll or rate which the Provincial Legislature has no power to impose in the Province under the Government of India Act, 1935 :

Provided that a District Board which immediately before the commencement of Part III of the said Act was lawfully levying any such tax, toll or rate under this section as then in force, may continue to levy that tax, toll or rate until provision to the contrary is made by the Central Legislature.

Suspension or remission of cess.

150. When on account of famine or epidemic or other wide-spread calamity, the Provincial Government have ordered the suspension or remission of land revenue demand in any area, any cess, fee, toll, tax or rate imposed under the provisions of this Chapter may with the

previous sanction of the Provincial Government be suspended or remitted in such area or any portion thereof.

Recovery of dues.

151. All dues of the District Board, such as, cesses, fees, tolls, taxes, rates, rents, and fines whether under this part or any other law, rule or bye-law and arrears thereof shall be recoverable as if they were arrears of land revenue or as an arrear under the Agriculturists Loans Act, 1884 and the Land Improvement Loans Act, 1883. Act XII of 1884.
Act XIX of 1883.

Declaration of a member of the District Board to be a Public Servant.

152. Every member of the District Board shall be deemed to be a public servant within the meaning of section 21 of Indian Penal Code 1860. Act XLV of 1860.

PART II.**Union Board.****PRELIMINARY.**

Withdrawal of
Part II of the Act.

153. The Provincial Government may by notification withdraw the extension of Part II of this Act (hereinafter referred to as this part) or any portion thereof from the district or any part thereof.

Acts repealed.

154. (1) When the provisions of this part are in force the enactments specified in the second Schedule shall be repealed to the extent mentioned in the third column thereof. But this repeal shall not revive any office authority or thing abolished by such enactment or affect the validity of anything which has been done or suffered, or any right, title, obligation or liability which has accrued before the commencement of this part.

Continuity of orders passed, appointments made by Panchayats under C. P. Village Sanitation Act, 1902, not affected by repeal.

(2) The panchayats constituted, members and Chairmen appointed, or elected, committees established, limits defined, appointments, rules, orders and bye-laws made, licences granted, notifications and notices issued, taxes and rates imposed and proceedings taken under the enactments repealed by sub-section (1) shall be deemed to have been respectively constituted, appointed, elected, established, defined, made, granted, issued, imposed and taken under this part.

The old assessment to continue till new assessment is made.

(3) Until a new assessment is made under this part any assessment, rate or tax, fee, toll or rent which was in force in such area under the provisions of the Central Provinces Village Sanitation Act, 1902, or the Central Provinces Village

Act XI of 1902.

Panchayat Act 1920 shall continue ^{Act V of 1920.} to be in force and all sums due on account of such rate or tax, fee, toll or rent shall be realized under the provisions of this part and shall be credited to the Union Fund and may be expended by the Union Board by which they are realized.

Vesting of property, etc., when the Panchayats under C.P. Village Sanitation Act, 1902, or C.P. Village Panchayat Act, 1920, cease to exist.

(4) When in consequence of the repeal of the enactments referred to in subsection (1) of this section, any panchayat constituted under the Central Provinces Village Sanitation Act, 1902, or the Central ^{Act XI of 1902.} Provinces Village Panchayat Act, 1920, ^{Act V of 1920.} ceases to exist, all the properties, funds and dues which are vested in such panchayat shall be vested in such Union Board or the District Board and in accordance with such allocation as may be determined by the Provincial Government whose orders thereon shall be final.

Vacancy of office by existing members and Chairman.

155. (1) Notwithstanding anything contained in the Central Provinces Village Sanitation Act, 1902, the rules framed thereunder or orders issued under the said rules, the term of office of the Chairman and members holding office under the Central Provinces Village Sanitation Act, 1902, shall extend to and expire on ^{Act XI of 1902.} such date or dates not later than one year after the enforcement of this part as the Provincial Government by notification declare and the Provincial Government shall make appointment or cause a register of voters prepared by the District Magistrate of Sambalpur and arrangements for elections to be made under this part.

Provision for exercise of extraordinary powers.

(2) At any time within one year after the enforcement of this part, the Provincial Government or the Deputy Commissioner with the previous sanction of Provincial Government may take such action consistent, so far as may be, with

the provisions of this part as may in the opinion of the Provincial Government be necessary for the purposes of constituting the Union Board or bringing the provisions of this part into force for the first time so that the newly elected or appointed members may come into office:

Provided that the Chairman of the Panchayat elected or appointed under the Central Provinces Village Sanitation Act, Act XI of 1902, shall continue in office until a new ^{1902.} President has been elected or appointed for the Union Board constituted under this part and shall then vacate office.

Effect of withdrawal of Part II.

156. When the provisions of this part are withdrawn from the district or part of the district under section 153, all properties, funds and other dues vested in any Union Board within such district or part of the district shall be vested in such local authority, or persons and in such manner as may be determined by the Provincial Government whose orders thereon shall be final.

CHAPTER I.

CONSTITUTION AND POWERS OF UNION BOARD.

Formation of Union Boards.

157. The Provincial Government may by notification—

- (a) declare any local area to be a union and define the local limits of such area;
- (b) direct that a union board shall be constituted for any such union;
- (c) direct that all or any of the provisions of Chapter II of this part shall be in force in any such union; and

- (d) direct that all or any portion of the funds vested in any Panchayat existing under the Central Provinces Village Sanitation Act, 1902, and the Central Provinces Village Panchayat Act, 1920, in respect of any local area for which a Union Board has been constituted shall vest in the said Union Board immediately upon such Union Board being constituted. ^{Act XI of 1902.} ^{Act VI of 1920.}

Establishment of
Panchayat in
Union.

158(1) In any area in which a Union Board has been constituted, the Provincial Government may by a notification direct—

- (a) that the members of the Union Board shall elect from among their own number three or more persons, to be during their term of office as members of the Union Board a Panchayat for the whole area of the union, or
- (b) that the members of the Union Board shall subdivide the union into panchayati circles and shall elect from their own number three or more persons to be during their term of office as members of each Union Board a Panchayat for each of the panchayati circles so formed.

(2) If, on the date fixed for the election, the members of the Union Board fail to elect any member or members, the District Magistrate shall either direct that a second election be held or fill the vacancies by appointment from among the members of the Union Board or from outside it. Any person so appointed, who is not a member of the Union Board, shall be qualified in the manner prescribed in section 160, and shall be deemed to be a duly elected member of the Panchayat.

Constitution of
Union Boards.

159. (1) A Union Board constituted under section 157 shall consist of such number of members not being less than three nor more than twenty as the Provincial Government may in each case direct.

(2) The members of a Union Board shall be elected within such time and in such manner as may be prescribed.

(3) The Provincial Government may direct that the District Board shall elect at a meeting not more than two persons to be members of the Union Board in addition to the number fixed under sub-section (1). A person may be elected under this sub-section notwithstanding that he does not possess the qualification specified in section 160 or any rules thereunder.

(4) If on the date fixed for the election, the electors of any union fail to elect any member or members, the Chairman of the District Board shall either direct that a second election shall be held or fill the vacancies by appointment. Any person so appointed shall be qualified in the manner prescribed in section 160 and shall be deemed to be a duly elected member.

Qualifications of
voters and mem-
bers.

160. (1) Every male person owning or occupying a dwelling house within the union who during the year immediately preceding such election has paid any sum as tax, fee, toll or rent under section 177 shall be entitled to vote at an election for members of the Union Board if he is of the age of eighteen years.

(2) If he is of the age of twenty-one years, shall be entitled to be a member of the Union Board if duly elected thereto.

(3) The Provincial Government shall prescribe the qualification for voters and

members for the first election to be held to constitute a Union Board under this part:

Provided that no person shall be a member of more than one Union Board.

Validity of election. **161.** No election held under this Chapter or under the rules thereunder shall be called in question except in the manner laid down in the rules.

Disqualification of certain persons. **162.** Notwithstanding anything contained in this Chapter, no person who is not a British subject or a subject of any State in India shall be qualified to vote at an election of, or to be a candidate for election as a member of a Union Board nor shall such person be elected by the District Board to be a member of a Union Board :

Provided that the Provincial Government may by notification exempt from the provisions of this section any person or class of persons who are not British subjects or subjects of any State in India.

Term of office. **163.** The term of office of a member of a Union Board shall be five years from the date on which the District Magistrate shall declare the Board to be duly constituted, but shall include any period which may elapse between the expiration of the said five years and the date of the first meeting at which a quorum is present, of the newly-elected members after the next general election for the Union Board.

Power to remove members. **164.** (1) The District Board may remove any member of a Union Board from his office—

(a) who is convicted of any non-bailable offence indicating moral turpitude; or

(b) who refuses to act, or becomes incapable of action, or is declared to be insolvent; or

(c) who has been declared by notification to be disqualified for employment in the public service; or

(d) who, without an excuse sufficient in the opinion of the District Board, absents himself from six consecutive meetings of the Union Board without having obtained previously permission from the President of the Union Board; or

(e) who has been guilty of misconduct in the discharge of his duties, if two-thirds of the total number of the members of the Union Board at a meeting, recommend his removal.

(2) No person who has been removed from his office under sub-section (1) shall be eligible for re-election within such period as may be specified by the District Board.

(3) A member who has been removed from his office under sub-section (1) shall thereupon cease to be a member of a panchayat constituted under section 158.

Filling of casual vacancies.

165. When the place of a member of a Union Board becomes vacant by his removal, resignation or death, a new member shall be elected in the manner prescribed and shall hold office so long as the member whose place he fills would have been entitled to hold office if such vacancy had not occurred :

Provided that no act of a Union Board or of its officers shall be deemed to be invalid by reason only that the number of members of the Board at the time of the performance of such act was less than the prescribed number.

Election of
President.

166. (1) Every Union Board shall be presided over by a President, who shall be elected by the members of the Union Board from among their own number.

(2) If any Union Board fails to elect a President within the period prescribed, the Chairman of the District Board shall appoint a member of the Union Board to be President.

Election of Vice-
President.

167. Every Union Board may elect one of its members to be the Vice-President of the Board.

Term of office of
President.

168. The term of office of a President or Vice-President of a Union Board shall be the residue of his term of office as a member.

Resignation of
President.

169. (1) A President of a Union Board may resign during his term of office by notifying in writing his intention to do so to the Chairman of the District Board and to the Union Board, and on such resignation being accepted by the Chairman shall be deemed to have vacated his office.

(2) A Vice-President or a member of a Union Board may resign during his term of office by notifying in writing his intention to do so to the Union Board, and on such resignation being accepted by the Union Board shall be deemed to have vacated his office.

Casual vacancy in
the offices of
President and
Vice-President.

170. (1) If the President dies, resigns, or is removed from his office under section 164, the Union Board shall, at a meeting within the period prescribed, elect from among its members a new President, and if the Union Board fails to elect a President within the prescribed period, the Chairman of the District Board shall appoint a new President.

(2) If the Vice-President dies, resigns or is removed, the Union Board may elect from among its own members a new Vice-President.

Incorporation of
Union Boards.

171. Every Union Board shall be a body corporate by the name of "the Union Board of (name of union)" and shall have perpetual succession and a common seal and shall by the same name sue and be sued, with power to acquire and hold property, both movable and immovable and, subject to any rules prescribed under this part to transfer any such property held by the Board and to contract and do all other things necessary for the purposes of this part.

Matters to be
administered by
Union Board.

172. The following matters shall be under the administration of the Union Board, subject to the control of the District Board and subject to such rules, if any, as the Provincial Government may prescribe :—

- (a) the conservancy, lighting and sanitation including drainage, of the local area and the prevention of public nuisance therein ;
- (b) the supply of water for domestic purposes within the local area ;
- (c) the construction and maintenance of such roads, footpaths and bridges within the local area, not being private property and not being under the control of the Provincial Government or the District Board as the Union Board may consider necessary, and of such roads, footpaths, and bridges as may be transferred to the Union Board with its consent ;
- (d) the charge, maintenance and management of existing primary

schools, if transferred to the Union Board by the District Board with the consent of the Union Board and the establishment of new primary schools, including *tols*, *pathsalas*, and *maktabs*;

- (e) the maintenance of existing dispensaries, if transferred to the Union Board by the District Board with the consent of the Union Board and the provision of other forms of medical relief of any kind;
- (f) such functions as may be transferred to it by notification under section 31 of the Cattle Trespass Act, 1871, or under any Act; Act I of 1871.
- (g) the management of any public ferry, if vested in the Union Board by an order under the Northern India Ferries Act, 1878; Act XVII of 1878.
- (h) if required by the Provincial Government, the registration of births and deaths within the union under the provisions of the Bengal Births and Deaths Registration Act, 1873; Bengal Act IV of 1873.
- (i) any other local work of public utility likely to promote the health, comfort, convenience or material prosperity of the public, including the development of agriculture, and village industries and not otherwise provided for in this part.

Power of inspection.

173. The Revenue Commissioner, the District Magistrate, the Chairman of the District Board and any officer or person authorised by them or by the Provincial Government in this behalf shall have

power at all times to inspect all the accounts, proceedings and records of a Union Board and to enter on and inspect, or cause to be entered on and inspected, any immovable property occupied by or any work in progress under the orders of, or any institution controlled by a Union Board.

Default by Union Board.

174. (1) The District Board may, after local inquiry, direct the Union Board to take such action as the District Board deem necessary for carrying out the duties entrusted to the Union Board under section 172 and may fix a period for the performance of the action.

(2) If the Union Board fails to take action in accordance with the orders of the District Board, the District Board may cause such action to be taken through its own agency and may recover the cost thereof from the Union Board :

Provided that the Union Board may appeal to the Provincial Government or to such officer as the Provincial Government may direct, within thirty days of such order against such order :

Provided further that no increase of the tax imposed under section 177 shall be made in consequence of such order without the sanction of the Provincial Government.

Power to make bye-laws.

175. (1) The District Board, after considering the views of the Union Board, may, subject to the control of the Provincial Government, frame bye-laws for carrying out all or any of the purposes of this part.

(2) In making any bye-law under this section, the District Board may provide that any breach thereof shall be punishable with a fine which may extend to

twenty rupees, and in the case of continuing breach with a further fine not exceeding one rupee for every day after the date of the first conviction during which the offender is proved to have persisted in the offence.

(3) Bye-laws made under this section shall have the force of law after confirmation by the Revenue Commissioner and after publication in such manner and for such period as the Provincial Government may direct.

Supply of
information.

176. The Union Board shall supply any local information which the District Magistrate or District Board may require, and in particular shall supply prompt information of any outbreak of epidemic disease in such manner and to such authorities as the Provincial Government may direct.

Imposition of taxes,
fees, tolls or rents.

177. (1) The Union Board may impose one or more of the following taxes, fees, tolls or rents for raising funds to meet the requirements of the purposes of this part:—

(a) A tax not exceeding Rs. 100 per annum per occupier payable by the occupiers of the houses, buildings or lands within the limits of the local area according to their circumstances and properties within those limits provided that when a house or building or land is vacant or unoccupied and unproductive of rent, the owner shall be deemed to be the occupier of the house, building or land for purposes of assessment of tax;

(b) a licence-fee on brokers, commission agents, weighmen and measurers practising their calling within the local area of the Union;

- (c) tolls on vehicles, pack-animals and porters bringing goods for sale into the local area of the Union, provided that the tolls levied under this clause may vary according to the class of goods brought for sale ;
- (d) rent from dealers temporarily occupying open grounds or any structure or building belonging to or maintained by the Union Board ;
- (e) fees on the registration of animals sold within the local area ;
- (f) fees for the right to expose goods for sale in any market or for use of any building or structure therein ;
- (g) fees for the use of slaughter-houses maintained by the Union Board ;
- (h) a latrine or conservancy tax payable by the occupier or owner upon private latrine, privies or cess pools or upon premises or compounds cleansed by the Union Board agency :

Provided that no tax or charge imposed under this sub-section shall be valid until it has been sanctioned by the Revenue Commissioner.

(2) If a Union Board has licensed persons to practise as brokers, commission agents, weighmen or measurers or has appointed persons to register sales of animals under clauses (b) and (e) of sub-section (1) any person who has not been so licensed or appointed and who practises as broker or commission agent or charges any fee for weighing or measuring goods or for registering sales of animals shall be punishable with fine which may extend to fifty rupees and, if

the breach is a continuing breach, with further fine which may extend to ten rupees for every day after the first, during which the breach is proved to have been persisted in.

Nature of
assessment,

178. No tax shall be imposed by a Union Board under section 177 (1) (a) unless the proposal for the imposition of the tax has been considered by the Union Board at a meeting specially convened for the purpose and has been approved by not less than two-thirds of the total number of members of the Union Board :

Provided—

- (a) that any person who in the opinion of the Union Board is too poor to pay a monthly tax of one anna may be exempted for a period of not exceeding one financial year from the payment of the tax and the Union Board may renew the same exemption as often as it deems necessary ;
- (b) the Union Board may by a special resolution to be confirmed by the District Board exempt from the payment of the tax or assessment or any portion of the tax or assessment imposed under section 177 (1)(a) on any person or class of persons or any houses, buildings or lands :

Provided that no tax shall be imposed on any person in respect of the occupation of any building and no assessment shall be made on any building—

- (a) which is set apart for public worship or religious assemblage or as a Dharamsala or as a mortuary and actually so used and used for no other purpose ;

- (b) which is used for educational purposes and for libraries which are open to the public ;
- (c) which is used for charitable hospitals, or dispensaries or other buildings exclusively used for charitable purposes ; and
- (d) which belongs to the District Board or Union Board.

Procedure of assessment and provision thereof by the Union Board.

179. The assessment for the imposition of the tax or charges under section 177 shall be made in accordance with the rule prescribed under this Chapter and any person dissatisfied with the amount at which he has been assessed may within such time as may be prescribed apply to the Union Board either orally or in writing for a revision of the assessment and the Union Board may amend the assessment, or confirm the same.

Power of District Board Chairman to revise assessment.

180. The Chairman of the District Board may at any time call for the papers containing the assessment of the tax or charges imposed under section 177 and may after such inquiry as may be necessary pass such orders thereon as he may think proper.

Arrears to be recovered by distraint and sale of movable property of defaulter.

181. The payment of the tax or charges under section 177 shall be made in accordance with the rules prescribed under this Chapter and in case of default of any such payment either in whole or in part, the President of the Union Board or if so directed by him the Vice-President (1) shall cause a notice of demand in the form to be prescribed served upon the defaulter and (2) if such payment is not made within fourteen days from the date of the service of the notice of demand, shall authorise any person in writing in the prescribed form of warrant to levy by distraint and sale of a sufficient portion of the movable property of the defaulter, the amount due

on account of the tax or charges together with a warrant fee of two annas for each warrant and the distraint fee according to a scale to be prescribed and with such further sum as will satisfy the probable charges that will be incurred in connection with the detention and the sale of the property so distrained :

Provided that the warrant of distraint for the non-payment of the tax or charges shall be cancelled by the President or the Vice-President concerned when the defaulter proves that his failure to pay the tax or charges was due to circumstances beyond his control.

What property may
be distrained and
sold for arrears.

182. (1) The distraint and sale of such movable property shall be conducted in accordance with rules prescribed under this Chapter.

(2) All goods and chattels, except ploughs, seed grain, plough cattle and such cattle as may be necessary to enable the defaulter to earn his livelihood, tools and implements of trade and agriculture and articles required for worship or prayer, the necessary wearing apparel and bedding of the defaulter, his wife and children and his necessary cooking utensils and books of account found in or upon any building or land occupied by any defaulter, shall be deemed to be his property, and shall be liable to be distrained and sold for the recovery of the arrear and also the penalty due under section 181.

(3) If any of the goods and chattels liable to be distrained belong to any person other than the defaulter, the defaulter shall be liable to indemnify the owner of such goods and chattels for any damage he may sustain by reason of such distress or by reason of any payment, he may make to avoid such distress or any sale under the same.

(4) The Provincial Government may by rule with respect to Union Boards generally or to any Union Board or class of Union Boards in particular, except any movable property from distraint and sale.

Distraint and sale
of property beyond
limits of the union.

183. (1) If the Union Board is unable to recover under section 182 the amount due for the arrear of the tax or charges and the penalty, the District Magistrate may, on the application of the Union Board, issue a warrant to any officer of his court for the distress and sale of any movable property or effects belonging to the defaulter within any other part of his jurisdiction or for the distress and sale of any movable property belonging to the defaulter within the jurisdiction of any other magistrate exercising jurisdiction within the province; and such other magistrate shall endorse the warrant so issued and cause it to be executed, and the amount, if levied, to be remitted to the magistrate issuing the warrant who shall remit the same to the Union Board.

(2) Provisions of section 182 shall apply to the distress and sale under this section.

(3) In case the prescribed cost realised does not cover the actual cost of the distress or sale, the District Magistrate shall realise from the defaulter such further cost in addition to the amount due for the tax or charges in default and the prescribed amount of cost.

Irregularities
not to avoid
d distraint.

184. No distress levied by virtue of this Chapter shall be deemed unlawful, nor shall any person making the same be deemed a trespasser on account of any defect, irregularity or want of form in any assessment, notice, summons, powers, writing, inventory or other proceeding relating thereto, nor shall such person be deemed a trespasser from the commencement on account of any irregularity

afterwards committed by him, but all persons aggrieved by such irregularity may recover full satisfaction for any special damage sustained by them, in any court of competent jurisdiction, subject to the provisions of section 191.

Distress not to be levied after fifteen months.

185. (1) No arrears of any tax or charges payable under this Chapter shall be recovered by distress after the expiration of fifteen months from the date on which the same shall have become due.

(2) All arrears of taxes and charges imposed under this part together with interest at the rate of twelve and a half per centum per annum subject to rules, if any, be recovered by the Deputy Commissioner as arrears of land revenue or as an arrear under the Agriculturalists Loans Act, 1884, and the Land Improvement Loans Act, 1883:

Act XII of 1884.
Act XIX of 1883.

Provided that the Deputy Commissioner may, for reasons to be recorded in writing, refuse to recover interest, if he considers it inexpedient, that interest should be charged.

Union Fund.

186. (1) There shall be formed for each Union a fund to be called "Union Fund" to which shall be credited—

- (a) all sums realized on account of the tax, fees, tolls and rents imposed under section 177 or under sub-section (3) of section 154;
- (b) the surplus, if any, accruing under section 18 of the Cattle Trespass Act, 1871;
- (c) all sums realized by panchayats as fines, fees or costs under Chapter II of this Part;
- (d) all donations and contributions from the Provincial Government, the District Board or any private persons;

Act I of 1871.

- (e) all receipts in respect of public ferries within or on the boundary of the Union which have been placed under the management of the Union Board under the provisions of the Northern India Ferries Act, 1878; Act XVII of 1878.
- (f) any sums transferred to the Union Board by an order under sub-section (4) of section 154;
- (g) fines levied under this part or rules made thereunder for offences committed within the local area of the Union.

(2) The accounts of the Union Board shall be kept in accordance with such rules as may be prescribed.

Provident Fund.

187. The Union Board may, from time to time, subject to the control of the Provincial Government make rules—

- (a) for the creation and management of a Provident Fund for the establishment of the Union Board;
- (b) for compelling members of any such establishment to make contributions to such Fund;
- (c) for supplementing such contributions by grants from the Union Fund; and
- (d) for the payment of moneys out of such Provident Fund;

and may, subject to the like control, repeal, add to, or alter such rules.

Application of Union Fund.

188. Except as is otherwise provided in this Chapter, the Union Fund shall be applied to the payment of expenditure incurred by the Union Board or by the panchayats, in carrying out the purposes of this part :

Provided that the salaries of the establishment of the Union Board shall be the first charge upon the Union Fund :

Provided also that all funds realized by or made over to the Union Board for a specific purpose shall be applied solely to that purpose.

Grants-in-aid
to Union Boards.

189. The District Board may make over to the Union Board such grants-in-aid from the District Fund, as they may think fit, to enable the Union Board to carry out the duties specified in section 172 and may attach to grants any conditions that may appear to the District Board to be desirable:

Provided that—

- (a) during the first year after the establishment of the Union Board, the District Board shall make a suitable grant-in-aid;
- (b) when any of the duties specified in clauses (c), (d) and (e) of section 172 have been transferred to the Union Board by the District Board, the District Board shall make grants-in-aid adequate for the performance of such duties and the amount of any such grant shall not be reduced without the consent of the Union Board;
- (c) in the case of any Union Board which has imposed a tax under section 177 (1) (a), the District Board shall make a grant-in-aid which shall not be less than such sum as may be determined by the Provincial Government, but neither the said grant-in-aid nor the sum determined by the Provincial Government, shall exceed the amount of the tax realized in the previous year; and
- (d) in calculating the grant-in-aid under provisos (a) and (c) all

sums transferred from the District Board to the Union Board under the Cattle Trespass Act, ^{Act I of 1871.} 1871, or the Northern India Ferries Act, 1878, may be taken ^{Act XVII of 1878.} into account.

Liability of members.

190. (1) No member of a Union Board shall be personally liable for any contract made, or expense incurred, by, or on behalf of the Board.

(2) Every member shall be personally liable for any wilful misapplication of money entrusted to the Union Board to which he shall knowingly have been a party, and he shall be liable to be sued for the same by the District Board.

Bar to suits.

191. No suit or other legal proceeding shall lie against a Union Board, or any member or officer thereof acting under the direction of such Board, in respect of anything done lawfully and in good faith and with due care and attention under this part or any rule made thereunder.

No suit to be brought until after two months' notice of cause of action.

192. (1) No suit nor any legal proceeding shall be brought against any Union Board or any of its members or officers or any person acting under its direction, for anything done under this part until the expiration of two months next after notice in writing has been delivered or left at the office of such Board and also (if the suit is intended to be brought against any member or officer of the said Board, or any person acting under its direction) at the place of abode of the persons against whom such suit is intended to be brought stating the cause of action and the name and place of abode of the person who intends to bring the suit; and unless such notice be proved, the court shall find for the defendant.

(2) Every such action shall commence within six months after the accrual of the cause of action, and not afterwards.

(3) If any Union Board or person to whom a notice under sub-section (1) is given shall before a suit is brought tender sufficient amends to the plaintiff, such plaintiff shall not recover.

Membership not
a bar to trial of
cases.

193. A Judge or a Magistrate shall not be deemed to be a party to, or personally interested in, any case under this part within the meaning of section 556 of the Code of Criminal Procedure, 1898, merely because he is ^{Act. V of 1898.} a member of the Union Board.

Declaration of a
member of a Union
Board to be a
public servant.

194. Every member of a Union Board shall be deemed to be a public servant within the meaning of section 21 of the ^{Act XLV of 1860.} Indian Penal Code.

Power of Provincial
Government to
make rules.

195. (1) The Provincial Government may, after previous publication, make rules to carry out the purposes of this part.

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

- (a) prescribing the qualifications of voters and members and regulating all elections of members of Union Board under this Chapter and determining the authority to decide disputes regarding such elections;
- (b) regulating an election of a President of a Union Board and an election to fill a casual vacancy in this office;
- (c) regulating the power of Union Boards to transfer property;
- (d) prescribing the power to be exercised by the President or Vice-President;

- (e) regulating the conduct of proceedings of a Union Board and panchayat and the method of forming a quorum;
- (f) prescribing the accounts, registers, returns and records to be kept by Union Board;
- (g) regulating the powers and duties of Union Boards in respect of the matters entrusted to their control;
- (h) prescribing the method in which the assessment under section 178 is to be made and under section 181 the method and time of payment of the tax;
- (i) prescribing the method in which the distraint and sale of movable property is to be made and the exception of movable property from distraint;
- (j) prescribing the particulars of petitions to be entered in the registers of panchayats;
- (k) regulating the procedure to be followed by panchayats and the method of forming a quorum;
- (l) regulating the service of summons by panchayats;
- (m) prescribing the fees to be charged by panchayats for copies of documents or records and the procedure to be followed in the supply of copies;
- (n) regulating the assessment and collection of any tax or charges imposed under section 177 (1), the exemptions, if any, to be granted, the safe custody and application of the proceeds and the maintenance and audit of the accounts thereof;

- (o) regulating conservancy arrangements and define and prohibit public nuisances;
- (p) regulating the licensing of brokers, commission agents, weighmen or measurers practising their calling within the local area, fixing the fee leviable by them and the conditions on which licences may be granted or revoked;
- (q) making provision for the appointment of persons to register sales of animals and for fixation of fees leviable by them;
- (r) prohibiting slaughter of animals for sale at any other place within the area except in a slaughter-house, maintained by the Union Board and fix the fees leviable from butchers for the use of the slaughter-house.

(3) In making any rules under this section, the Provincial Government may direct that the breach of any provision thereof shall be punishable with fine which may extend to Rs. 10.

CHAPTER II.

POWERS, DUTIES AND PROCEDURE OF PANCHAYATS.

Local
jurisdiction of
panchayats.

195. (1) The local limits of the jurisdiction of a panchayat established under clause (a) of sub-section (1) of section 158 shall be the whole area of the Union constituted under section 157.

(2) The local limits of the jurisdiction of a panchayat established under clause (b) of sub-section (1) of section 158 shall be the whole area of the panchayati circle constituted under that section.

Criminal
jurisdiction of
panchayats.

197. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, a panchayat constituted under section 158 shall have jurisdiction concurrent with that of the criminal court within the local limits of whose jurisdiction the panchayati circle is situated, to take cognizance of and to try the following offences as well as abetments of and attempts to, commit any such offence if committed within the local limits of its jurisdiction:—

Act V of
1898.

(a) Under the Indian Penal Code— Act XLV of
1860.

Offence.	Section.
Committing affray	160
Refusing oath or affirmation when duly required by a public servant to make it.	178
Refusing to answer public servant authorised to question.	179
Fouling the water of a public spring or reservoir.	277
Negligent conduct with respect to any animal.	289
Punishment for public nuisance in cases not otherwise provided for.	290
Obscene acts and songs	... 294
Voluntarily causing hurt	... 323
Wrongfully restraining any person	... 341
Assault by the use of criminal force otherwise than on grave and sudden provocation.	352
Theft, when the value of the property stolen in the opinion of the panchayat does not exceed Rs. 50.	379
Dishonestly receiving stolen property knowing it to be stolen when the value of the property in the opinion of the panchayat does not exceed fifty rupees.	411
Mischief, when the damage or loss caused in the opinion of the panchayat does not exceed fifty rupees in value.	426

Offence.	Section.
Insult intended to provoke a breach of the peace.	504
Uttering any word or making any gesture intending to insult the modesty of a woman, etc.	509
Appearing in a public place, etc., in a state of intoxication and causing annoyance to any person.	510

(b) Under the Cattle Trespass Act, Act I of 1871, 1871—

Forcibly opposing the seizure of cattle or rescuing the same.	24
Causing damage to land or crops or public roads by pigs.	26
Failure of pound-keeper to perform duties	27

(c) Offences under this part or under any rule or bye-laws made thereunder or under enactments (other than the Indian Penal Code) which are punishable with fine only up to a limit of fifty rupees. Act XLV of 1860.

(d) Offences under section 34 of the Police Act, 1861. Act V of 1861.

(2) A panchayat may try any of the following offences if the case is transferred to the panchayat by the District Magistrate, Subdivisional Magistrate, or any other Magistrate, empowered to transfer cases under section 192 of the Code of Criminal Procedure, 1898. Act V of 1898.

Under the Indian Penal Code:— Act XLV of 1860.

Offence.	Section.
Danger or obstruction in public way	283
Dishonest misappropriation of movable property, or converting it to one's own use, when the value of the property in the opinion of the Magistrate is not over Rs. 50.	403
Mischief by killing, poisoning, maiming or rendering useless any animals of the value of ten rupees and upwards.	423

Offence.	Section.
Mischief by causing diminution of supply of water for agricultural purposes.	430
Criminal intimidation	... 506
Criminal trespass	... 447
House trespass	... 448

Provided as follows:—

(a) a Magistrate before whom a complaint of any offence cognizable by a panchayat is brought shall, unless reason to the contrary be shown to his satisfaction, transfer the complaint to the panchayats;

(b) the District Magistrate or Subdivisional Magistrate may transfer any case from one panchayat to another or to any other court subordinate to him.

(3) Nothing in this section shall be deemed to authorize a panchayat to try any case in which a European British subject is concerned whether as complainant or accused.

Certain persons
not to be
tried by panchayat
for theft.

198. No panchayat shall take cognizance of any offence under section 379 or 411 of the Indian Penal Code in which the accused—
Act XLV of 1860.

(a) has been previously convicted of an offence punishable under Chapter XVII of the Indian Penal Code with imprisonment of either description for a term of three years or upwards, or

(b) has been previously fined for theft by any panchayat, or

(c) is a registered member of a criminal tribe under section 4 of the Criminal Tribes Act, 1911, or
Act III of 1911.

(d) has been bound over to be of good behaviour in proceedings instituted under section 109 or section 110 of the Code of Criminal Procedure, 1898.

Act V of
1898.

Punishments.

199. (1) A panchayat may sentence any offender convicted by it to a fine not exceeding fifty rupees or double the value of the damage or loss caused, whichever is greater, or in default to imprisonment for a period not exceeding fourteen days, provided, that the panchayat may, in lieu of sentencing an offender convicted by it to a fine, pass the order "convicted and discharged with a warning".

(2) If a panchayat is satisfied after inquiry that a complaint made before it or transferred to it for trial is vexatious or frivolous, the panchayat may order the complainant to pay to the accused such compensation not exceeding twenty-five rupees as it thinks fit, or in default may sentence the complainant to simple imprisonment for a period not exceeding seven days.

(3) If a fine is inflicted under subsection (1), the panchayat may order the whole or any portion of the fine recovered to be applied—

(a) in defraying expenses properly incurred in the case by the complainant;

(b) in compensation for any material damage or loss caused by the offence committed:

Provided that notwithstanding anything contained in the Indian Penal Code—

Act XLV
of 1860.

(a) the fine imposed or compensation awarded by a panchayat shall not be realized from any person

who has served his term of imprisonment in default ;

- (b) the person serving his term of imprisonment shall be forthwith released if the fine or compensation is paid before the expiry of the term of imprisonment.

Enhanced powers of selected panchayats.

200. Panchayats which are specially empowered by the Provincial Government in this behalf shall exercise the following enhanced powers:—

- (a) to take cognizance of and to try cases under sections 379, 411 ^{Act XLV of 1860.} and 426 of the Indian Penal Code, when the value of the property stolen or of the amount of the damage or loss caused does not exceed one hundred rupees, and under such other sections of the Indian Penal ^{Act XLV of 1860.} Code as the Provincial Government may direct ;
- (b) to sentence any offender convicted before it to a fine not exceeding one hundred rupees or double the damage or loss caused, whichever is greater, or in default to imprisonment not exceeding one month.

Exclusive civil jurisdiction of panchayats.

201. (1) Notwithstanding anything contained in the Bengal, Agra and Assam ^{Act XII of 1887.} Civil Courts Act, 1887, the Provincial ^{Act IX of 1887.} Small Cause Courts Act, 1887, and the ^{Act V of 1908.} Code of Civil Procedure, 1908, and subject to the provisions of sections 203 and 204 a panchayat constituted under section 158 shall have jurisdiction to hear and determine the following classes of suits, namely:—

- (a) suits for money due on contracts,

- (b) suit for the recovery of movable property or the value of such property, and
- (c) suits for compensation for wrongfully taking or injuring movable property

when the value of the suit does not exceed twenty-five rupees :

Provided that a panchayat which is specially empowered in this behalf by the Provincial Government may hear and determine such suits when the value of the suit exceeds twenty-five rupees, but does not exceed one hundred rupees.

(2) No court other than a panchayat shall take cognizance of any suit of the class or value specified in sub-section (1) unless and until the District Judge has passed an order under section 221 or unless and until the panchayat has passed an order under clause (c) of sub-section (2) of section 208.

Concurrent
jurisdiction of
panchayats.

202. Notwithstanding anything contained in the Bengal, Agra and Assam Civil Courts Act, 1887, the Provincial Small Cause Courts Act, 1887, and the Code of Civil Procedure, 1908, and subject to the provisions of sections 203 and 204 a panchayat and the ordinary civil court within the local limits of whose jurisdiction the panchayati circle is situated shall have concurrent jurisdiction to try—

- (1) the classes of suits specified in section 201 when the value of the suit exceeds the limit fixed under that section but does not exceed two hundred rupees,
- (2) suits for the recovery of the rent of immovable property when the value of the suit does not exceed twenty-five rupees, and

- (3) if the Provincial Government shall by notification so direct, suits for the recovery of money or movable property other than those specified in section 201 and of higher value than that fixed under sub-section (1) of that section:

Provided as follows :—

- (a) in suits instituted before a panchayat if the defendant objects to the trial of the suit by the panchayat, the panchayat shall transfer the same to the other panchayat with the consent of the parties, or direct the petitioner to the proper court;
- (b) in suits instituted before the civil court, the court may, unless reason be shown to the contrary, transfer the suit to the panchayat for disposal.

Certain suits not to be tried by panchayat.

203. No suit shall lie in any panchayat—

- (1) on a balance of partnership account, or
- (2) for a share or part of a share under an intestacy or for a legacy or part of a legacy under a will, or
- (3) by or against Crown or public officers in their official capacity,
- (4) by or against minors or persons of unsound mind, unless represented by a guardian recognized by the panchayat, or
- (5) for the assessment, enhancement, reduction, abatement, or apportionment of rent of immovable property, or

(6) by a mortgagee of immovable property for the enforcement of the mortgage by foreclosure or sale of the property or otherwise or by a mortgagor of immovable property for the redemption of the mortgage.

Local limits of jurisdiction of panchayat.

204. No suit shall lie in any panchayat unless at least one of the defendants reside within the limits of its jurisdiction at the time of the institution of the suit and the cause of action has arisen wholly or in part within those limits.

Limitation of suits.

205. No suit shall be entertained by a panchayat after the expiration of three years from the date when the right to sue first accrued :

Provided that the period of limitation for suits specified in Schedule III when instituted before a panchayat shall be the period prescribed in the same Schedule in respect of such suits :

Provided further that for a period of one year after the first establishment of a panchayat, if a suit in regard to which a panchayat has exclusive jurisdiction under section 201, is barred by the provisions of this section but is not barred by the Indian Limitation Act, 1908, the suit may be instituted before the ordinary civil court.

Res judicata and pending suits.

206. No panchayat shall try any suit in which the matter directly and substantially in dispute has been heard and decided by a court of competent jurisdiction in a former suit between the same parties, or between parties under whom they or any of them claim, or is pending for decision in the same court or in any other court in a previously instituted

suit between the same parties or between parties under whom they or any of them claim.

How case or suit may be instituted.

207. A case or suit before a panchayat may be instituted by petition made orally or in writing. If the petition is made orally, the panchayat shall record such particulars as may be prescribed, and in the case of suits, the stated value of the claim.

Power of panchayat to dismiss or to refuse to entertain petition.

208. (1) If upon the face of the petition or on examining the petitioner, the panchayat is of opinion that the petition is frivolous, or vexatious, or that the suit is barred by limitation it shall dismiss the case or suit by an order in writing.

(2) If at any time it appears to the panchayat—

(a) that it has no jurisdiction to try the case or suit,

(b) that the offence is one for which the sentence which the panchayat is competent to pass would be inadequate,

(c) that the case or suit is of such a nature or of such difficulty that it ought to be tried by a regular court,

it shall direct the petitioner to the proper court.

(3) The panchayat may at any time for the purpose of trying any suit, with the consent of the parties thereto co-opt any person approved by the parties in this behalf and the person so co-opted shall for the aforesaid purpose be deemed to be a member of the panchayat.

Dismissal of case or suit for default.

209. If in any case or suit before a panchayat, the petitioner fails to appear on the date fixed, or if in the opinion of

the panchayat he shows negligence in prosecuting his case or suit, the panchayat may dismiss the case or suit for default, and such order of dismissal in a case shall operate as an acquittal :

Provided that a panchayat may restore a suit dismissed for default if, within fifteen days from the date of such dismissal, the plaintiff satisfies the panchayat that he was prevented by sufficient cause from appearing.

Proceedings preliminary to trial.

210. (1) If the petition be not dismissed the panchayat shall by summons require the accused or the defendant to appear and answer the petition either orally or in writing.

(2) Such summons shall ordinarily be served by any of the chaukidars of the panchayati circle, but the panchayat may in its discretion have it served by any other person.

(3) If the accused or the defendant resides at the time of the issue of the summons outside the panchayati circle, the panchayat may, if it thinks fit, forward the summons to the nearest Magistrate who shall cause it to be served as it were a summons from his own court.

(4) If the accused fails to appear or cannot be found, the panchayat shall report the fact to the nearest Magistrate who may issue a warrant with bail for the arrest of the accused, and may forward him, when appearing before him, for trial to the panchayat or release him on bail to appear before it.

Objection by accused.

211. If the accused appears and claims to be tried by a Magistrate, the panchayat shall direct the complainant to file a complaint before the proper court.

Ex parte decision.

212. If the defendant fails to appear and the panchayat is satisfied that he

has received notice of the date fixed for the hearing, the panchayat may decide the suit *ex parte*:

Provided that any defendant against whom a suit has been decided *ex parte* may within 30 days from the date of executing any process for enforcement of the decision, apply, orally or in writing, to the panchayat to set aside the order and the panchayat, if satisfied that the defendant did not receive due notice of the date of hearing or was prevented from appearing by any sufficient cause, shall set aside the decision and shall appoint a day for proceeding with the suit.

No order to be set aside without notice to opposite party.

213. No decision or order of a panchayat shall be set aside under section 209 or section 212 unless notice in writing has been served by the panchayat on the opposite party.

Power of panchayat to determine necessary parties.

214. (1) Subject to the provisions of clauses (3) and (4) of section 203 the panchayat shall add as parties to a suit any persons whose presence as parties it considers necessary for a proper decision thereof, and shall enter the names of such parties in the register of suits and the suit shall be tried as between the parties whose names are entered in the said register:

Provided that when any party is added notice shall be given to him and he shall be given an opportunity of appearing before the trial of the suit is proceeded with.

(2) In all cases where a new party appears under the proviso to sub-section (1) during the trial of a suit, he may require that the trial shall begin *de novo*.

(3) If the petitioner or defendant in any suit dies before a decree has been passed and the right to sue still accrues, the suit shall, subject to the provisions of clause (4) of section 203, be proceeded

with at the instance of, or against the legal representatives of the deceased petitioner or the deceased defendant, as the case may be.

Prompt disposal
of cases.

215. The panchayat shall dispose of all cases or suits before it as promptly as possible, and shall if possible, try the case and pass orders on the day on which the accused appears or is brought before it, but if that is not possible shall release him on his executing a bond for a sum not exceeding Rs. 25 to appear before the panchayat on any subsequent day or days to which the trial may be adjourned.

Attendance of
witnesses.

216. (1) Subject to the provisions of sub-sections (2), (3) and (4) of this section and of section 231 a panchayat may, by summons send for any person to appear and give evidence or to produce or cause the production of any document.

(2) No person who is exempted from personal appearance in court under section 133, sub-section (1) of the Code of Civil Procedure, 1908, shall be required to appear in person before a panchayat in a suit. ^{Act V of 1908.}

(3) A panchayat shall refuse to summon a witness or to enforce a summons already issued against a witness, wherein the opinion of the panchayat, the attendance of the witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances, would be unreasonable.

(4) A panchayat shall not require any person living outside the panchayati circle to give evidence, or to produce a document unless such a sum of money be paid to him as appears to the panchayat to be sufficient to defray his reasonable expenses.

(5) If any person whom a panchayat summons by written order to appear or give evidence, or to produce any document before it wilfully fails to obey such summons the panchayat may take cognizance of such offence and may sentence any person convicted thereof to a fine not exceeding Rs. 25.

Decision of
panchayat.

217. When in any case or suit the parties or their agents have been heard and the evidence on both sides has been considered, the panchayat shall by written order pass sentence or decree as may seem just, and equitable according to good conscience. In so doing it shall be bound by no laws of evidence or procedure other than the procedure prescribed by or under this Chapter. Every decree or order shall contain such particulars as may be prescribed by rules under this part.

Opinion of
majority to prevail.

218. In the event of the members of a panchayat disagreeing, the decision of the majority shall prevail. Should the opinions be equally divided, the Sarpanch shall have a second or casting vote.

Compromise.

219. Notwithstanding anything contained in this part or in any other law for the time being in force, it shall be lawful for a panchayat to decide any case or suit within its jurisdiction in accordance with any compromise agreed to by the parties.

No appeal in
criminal cases
but power to
order retrial.

220. Notwithstanding anything contained in the Code of Criminal Procedure, ^{Act V of 1898.} 1898, there shall be no appeal by a convicted person in any case tried by a panchayat:

Provided that the District Magistrate or Subdivisional Magistrate, if satisfied that a failure of justice has occurred, may of his own motion or on a petition presented by the convicted person by an

order in writing cancel or modify any order of conviction or compensation made by a panchayat or direct the retrial of any case by a court of competent jurisdiction subordinate to him.

Decision of
panchayat
in civil suits
to be final.

221. The decision of a panchayat in every suit shall be final as between the parties to the suit :

Provided that the District Judge may of his own motion or on a petition presented by the aggrieved party cancel or modify the order of the panchayat or direct the retrial of the suit by the same or any other panchayat or by any other court subordinate to him if he is satisfied that there has been failure of justice.

Payment by instal-
ments.

222. A panchayat when inflicting a fine or in ordering the payment of a sum of money or the delivery of any movable property may direct that the money be paid or the movable property be delivered by instalments.

Payment of fees.

223. Notwithstanding anything contained in the Court Fees Act, 1870,—

Act VII of
1870.

- (1) No fees shall be payable in criminal cases.
- (2) In suits the following fees shall be payable:—
 - (i) if the value does not exceed five rupees, two annas ;
 - (ii) an additional fee of two annas for every additional five rupees or portion thereof.
- (3) The fee shall be paid by the petitioner at the time of the institution of the suit.
- (4) If the claim is decreed in full, the fee shall be realized from the defendant together with the amount decreed, and paid to the petitioner.

- (5) If the claim is decreed in part, a proportionate amount of the fee shall be realized from the defendant and paid to the petitioner.

Realization of fees and fines, etc.

224. All fees and fines imposed and all sums due on bonds and all sums decreed and compensation awarded, under this part by a panchayat may be realized by the panchayat by the distraint and sale of movable property subject to the conditions and in the manner prescribed in sections 181, 182, 183 and 184 for realisation of arrears of the tax.

Credit of fees and fines.

225. All fees and fines realized under this part shall be credited to the Union Fund of the Union in which the panchayat is situated.

Place of sitting of panchayat.

226. A panchayat shall sit on such dates and at such place or places within the limits of its jurisdiction as may be fixed by it with the approval of the District Magistrate.

Sarpanch of the panchayat.

227. (1) Each panchayat shall be presided over by a Sarpanch.

(2) The President of the Union Board, if he is a member of the panchayat, shall be Sarpanch of the panchayat.

(3) If the President of the Union Board is not a member of the panchayat the panchayat shall elect its own Sarpanch.

(4) If the Sarpanch is absent from a sitting of the panchayat, the panchayat shall elect one of their number to be Sarpanch.

(5) No business shall be transacted at any sitting by the panchayat unless a member able to record the proceedings is present.

Member of panchayat not to try case or suit in which he is personally interested.

228. No member of a panchayat shall try any case or suit or other proceedings to or in which he is a party or personally interested.

Explanation.—A member of a panchayat shall not be deemed to be a party or personally interested within the meaning of this section in any case or suit by reason only that he is a member of the Union Board.

Appearance of parties.

229. (1) The parties to cases triable by a panchayat shall appear personally before such panchayat:

Provided that the panchayat if it sees reason so to do, may dispense with the personal attendance of an accused and permit him to appear by agent.

(2) The parties to suits triable by a panchayat may appear by agent.

'Agent' in sub-sections (1) and (2) means a full time servant or a partner or a relative of the party, whom the panchayat may admit as a fit person to represent a party and who is authorised to appear and plead for such party:

Provided that no advocate, legal practitioner or person declared to be a tout under section 36 of the Legal Practitioners Act, 1879, or person known to the panchayat to be a tout shall be permitted to appear as an agent. Act XVIII of 1879.

Legal Practitioners not to appear.

230. Notwithstanding anything contained in the Legal Practitioners Act, 1879, advocates or legal practitioners shall not be permitted to appear before a panchayat. Act XVIII of 1879.

Appearance of women.

231. No woman shall, against her will, be compelled to appear in person before a panchayat as an accused or as a witness.

Control of Provincial Government.

232. (1) The District Judge and the District Magistrate shall have power at

all times to inspect the proceedings and records of a panchayat.

(2) The Provincial Government by an order in writing, may suspend or dissolve any panchayat constituted under section 158 and may remove any member of a panchayat for misconduct, incapacity, neglect of duty or other sufficient cause:

Provided that the member of the panchayat so removed will continue to be a member of the Union Board unless an order has been passed by the District Board under section 164.

Procedure of
panchayats.

233. The Provincial Government shall prescribe—

- (a) the procedure to be followed by a panchayat in any case, suit or proceeding and in the enforcement of its decisions and orders;
- (b) the method of forming a quorum;
and
- (c) the records and registers to be maintained.

Power not to be
exercised without
direction.

234. No powers under this chapter shall be exercised by the panchayats of any Union Board unless and until a direction to that effect is given by the Provincial Government under section 157(c).

ACT REPEALED.

FIRST SCHEDULE.

(See section 3.)

Repeal of Enactment.

No. and year.	Subject.	Extent of repeal.
Act I of 1883 ...	An Act to make better provisions for local self-government in Central Provinces.	The whole.

ACTS REPEALED.

SECOND SCHEDULE.

(See section 154.)]

Repeal of Enactments.

No. and year.	Subject.	Extent of repeal.
Central Provinces Act XI of 1902.	To make provision for sanitation of villages.	The whole.
Bihar and Orissa Act II of 1935.	To amend the Central Provinces Act XI of 1902.	The whole.
Central Provinces Act V of 1920.	To establish village panchayats to assist in the development of local self-government in rural areas and in the administration of Civil and Criminal Justice.	The whole.

THIRD SCHEDULE.

*Period of limitation for certain suits.**(See section 205.)*

Description of suit.	Period of limitation.	Time from which period begins to run.
1. For the wages of a household servant, artisan or labourer.	One year ...	When the wages accrue due.
2. For the price of food or drink supplied by a keeper of a hotel, tavern or lodging-house.	Do. ...	When the food or drink is delivered.
3. For the price of lodging ...	Do. ...	When the price becomes payable.

ACT AMENDED.

FOURTH SCHEDULE.

(See section 3.)

Amendment of Enactments.

No. and year.	Subject.	Extent of amendment.
Act XVII of 1878.	An Act to regulate ferries in Northern India.	(i) Existing section 17 shall be numbered as sub-section (1) of section 17 and to the said sub-section the following proviso shall be added, namely :— “ Provided that, where the ferry is entrusted to the management of a local authority under section 7 or section 7A, the receipts from tolls, rents, fines, and compensation received under this Act shall not be revenues of the province and shall be disposed of as provided in sub-section (2) ”. (ii) The following shall be inserted as sub-section (2) of section 17, namely :— “ The sums received as tolls, rents, fines and compensation under this Act by a local authority entrusted with the management of a ferry under section 7 or section 7A shall, in the first instance, be applied to defraying all charges incurred by it in carrying out this Act and shall then be credited to the funds of the said local authority. ”
Act I of 1871	The Cattle Trespass Act, 1871.	1. In section 3 for the definition of “ local authority ” the following shall be substituted :— “ Local authority ” means any person or body of persons for the time being invested by law with

No. and year.	Subject.	Extent of amendment.
Act I of 1871 — <i>contd.</i>	The Cattle Trespass Act, 1871— <i>contd.</i>	the control and administration of any matter within a specified local area and entrusted by Provincial Government under section 31 with any function under this Act in that area. 2. For section 6, the following shall be substituted:— “6. The Magistrate of the district shall appoint for each pound a pound-keeper. Every pound-keeper appointed by the Magistrate of the district may be suspended and removed by such Magistrate. Any pound-keeper may hold simultaneously any office under the Crown. Every pound-keeper shall be deemed to be a public servant within the meaning of Indian Penal Code”. 3. In section 12— (i) for the words “the pound-keeper shall levy a fine” the words “the local authority exercising jurisdiction within the area in which the pound is situated shall impose a fine” shall be substituted. (ii) the second paragraph beginning with the words “all fines so levied” and ending in the words “may direct” shall be omitted. 4. In section 17, for the words “be deemed to hold them as part of the revenues of the province” the following shall be substituted:— “dispose of them as hereinafter provided”.

No. and year.	Subject.	Extent of amendment.
Act I of 1871 —concl'd.	The Cattle Trespass Act, 1871—concl'd.	5. The following shall be inserted as section 18 :— “ 18. All sums received on account of fines and the unclaimed proceeds of the sale of cattle shall be sent to the local authority concerned and out of that there shall be paid— (a) the remuneration of the pound-keepers ; (b) the expenses incurred for the construction and maintenance of pounds, or for any other purposes connected with the execution of this Act ; and the surplus (if any) shall be credited to the fund of the said local authority ”.
Act I of 1919	The Bihar and Orissa Primary Education Act, 1919.	1. To sub-section (3) of section 2 the following shall be added at the end :— “And in an area constituted a Union under Part II of the Sambalpur Local Self-Government Act, 1939, the Union Board of such Union subject to the control of the District Board ”. 2. To section 13, the following shall be added at the end :— “In a Union constituted under Part II of the Sambalpur Local Self-Government Act, 1939, be such percentage not exceeding 50 of the assessment imposed under section 177 (1) (a) of the Sambalpur Local Self-Government Act, 1939, as the Local Authority may fix and shall be recoverable in the same manner as if it were such assessment.”

STATEMENT OF OBJECTS AND REASONS.

The existing constitution of the District Council and of Local Boards in the district of Sambalpur under the Central Provinces Local Self-Government Act, 1883, which is in force there is radically different from the constitution of similar institutions in the rest of the Province. There is no direct election to the District Council. The Local Boards consist of makadams or village headmen, the representatives of mercantile classes and of certain other professions and persons appointed by Government. Similar is the case with the District Council which consists of representatives of Local Boards and of certain classes and interests usually nominated by Government. The tenants have no voice at all at the elections of either Local Boards or the District Council. The Sanitation Committees (the Panchayats) under the Central Provinces Village Sanitation Act, 1902, are not constituted on representative basis and their scope of activities is extremely limited. The Panchayats constituted under the Central Provinces Village Panchayats Act, 1920, in the ex-Central Provinces area are practically defunct and are unpopular with the public. The existing system of local administration in the district of Sambalpur has thus grown obsolete and is not in keeping with the progress made by the district in several other spheres of activities. These self-governing institutions have long since been repealed in the province of their origin in the Central Provinces where under the Central Provinces Local Self-Government Act, 1920, and the Central Provinces Village Sanitation and Public Management Act, 1920, local bodies have been given wider powers and have been constituted by election on wider franchise. It is considered highly desirable that the existing institutions in the district of Sambalpur should be brought into line with similar institutions in the districts of North Orissa of which it has formed a part for a very long time. A self-contained Bill has therefore been prepared on the lines of the Bihar and Orissa Local Self-Government Act, 1885, and the Bihar and Orissa Village Administration Act, 1922, which are in force in the coastal districts of North Orissa with such additions and omissions as are considered necessary to suit the local conditions of the district of Sambalpur.

Act I of 1883.

Act XI of 1902.

Act V of 1920.

Act IV of 1920.

Act II of 1920.

Bengal Act III of 1835.

B. and O. Act III of 1922.

CUTTACK:

14th August 1939.

B. DUBE,

Member-in-charge.

NOTES ON CLAUSES.

Clause 1.—The Bill consists of two parts. Part I contains provision with regard to constitution of District Board and Part II that of Union Boards.

All the provisions relating to District Board are to be brought into force in the district by a notification to be made in the Gazette except clause 52 which requires a special notification for bringing it into effect. All or some of the provisions of Part II regarding Union Boards and Panchayats are to be brought into force with reference to a particular Union Board at different times if necessary.

Clause 2.—This contains definition of terms used in the Bill. The definitions of 'market', 'public market', 'private market', 'cattle registration', etc., have been taken from the Central Provinces Local Self-Government Act, 1920.

Act IV of 1920.

Clauses 3 to 8.—These clauses contain provisions of a transitory nature. These transitional provisions have been incorporated on the basis of sections 391 to 395 of the Bihar and Orissa Municipal Act, 1922, and sections 3 to 11 of the Bihar and Orissa (Central Provinces Municipal) Repealing Act, 1924.

B. and O. Act VII of 1922.

B. and O. Act I of 1924.

Clause 9.—This clause corresponds to sections 41 and 42 of the Central Provinces Local Self-Government Act, 1883, and provides for confirmation and recovery of the existing taxes and for keeping an account of the same.

Act I of 1883.

Clauses 10 to 39.—These correspond to sections 6 to 35 of the Bihar and Orissa Local Self-Government Act, 1885, excluding references to the constitution of Local Boards, and provide for constitution of District Board, election and appointment of members, election of Chairman and Vice-Chairman, appointment of establishment, etc.

Bengal Act III of 1885.

Clauses 40 to 133.—These correspond to the different sections of the Bihar and Orissa Local Self-Government Act, 1885. The provisions regarding Union Committees contained in sections 37 to 44, 56 to 58 and 104 to 119 of the Bihar and Orissa Local Self-Government Act, 1885, have been omitted. Throughout the Bill, the Northern India Ferries Act, 1878, has been substituted in place of the Bengal Ferries Act, 1885, which is not in force in that district. Other insertions and corrections have been made in the body of the Bill to make it suitable for application to the district of Sambalpur. Provision has been made in clause 47 to meet delegation fees and subscriptions to recognised associations from the District Fund.

Act XVII of 1878.

Bengal Act I of 1885.

Clauses 134 to 151.—These are new to the Bihar and Orissa Local Self-Government Act, 1885. They have been taken from the Central Provinces Local Self-Government Act, 1920. They confer certain additional powers of taxation on the District Board.

Act IV of 1920.

Clause 152.—Members of the District Board have been declared to be public servants within the meaning of section 21 of Indian Penal Code.

Clauses 153 to 234.—These clauses relate to formation of Union Boards and are embodied in Part II of the Bill. They correspond to the provisions of the Bihar and Orissa Village Administration Act, 1922, except that powers under Chapter III of the Act regarding control over daffadars and chaukidars have been omitted as the Bengal Village Chaukidari Act, 1870, is not in force in the district of Sambalpur. Provisions of Chapter V of the Bihar and Orissa Village Administration Act, 1922, have been reproduced in Chapter II of Part II of this Bill and it has been expressly provided in clause 234 that these powers shall not be exercised by any Panchayat until directed by the Provincial Government under clause 157 (c). Clauses 154 to 156 contain transitional provisions necessary for converting the existing Sanitation Committees under the Central Provinces Village Sanitation Act, 1902, into Union Boards under this Bill. Clause 177 of the Bill authorises the Union Boards to levy taxes, fees or tolls as in the Central Provinces Village Sanitation and Public Management Act, 1920. Provisions have been made for realization of these taxes, fees or tolls, etc., by levy of distress as in the Bihar and Orissa Village Administration Act, 1922. Clause 189 deals with grants-in-aid by the District Board to the Union Boards. The provisions of this clause have been taken from section 51 of the Bihar and Orissa Village Administration Act, 1922, except that the District Board has been put under obligation to make a suitable grant to the Union Boards during the first year of their establishment and not for the first two years as in section 51 of the Bihar and Orissa Village Administration Act, 1922.

Powers have been given to District Magistrate either to direct a second election or appoint members to the Panchayat if the members of the Union Boards fail to elect any member or members. Powers have been given to Union Boards to create Provident Funds for their employees. Union Boards also have been given power to issue notification under section 3 of the Bihar and Orissa Primary Education Act, 1919, declaring primary education compulsory in the area within their jurisdiction.

C. G. NAIR,

Secretary to Government.

Published by order of His Excellency the Governor.

C. G. NAIR,

*Secretary, Law, Commerce and
Labour Department.*