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 Separate paging is given to this Part, in order that it may be filed as a separate compilation.

PART V.

Acts of the Indian Legislature assented to by the Governor General.

GOVERNMENT OF INDIA. LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor-General on the 26th September, 1939, and is hereby promulgated for general information :—

ACT No. XXIV of 1939.

An Act to provide for certain matters in connection with the taking of the census.

WHEREAS it has been determined to take a census of British India during the year

1941, and whereas it is expedient to provide for certain matters in connection with the taking of such census ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Census Act, 1939.

Short title and extent.

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

2. (1) The Central Government may appoint a Census Commissioner to supervise the taking of the census throughout British India,

and Superintendents of Census Operations to supervise the taking of the census within the several Provinces.

(2) The Provincial Government may appoint persons as census-officers to take, or aid in, or supervise the taking of, the census within any specified local area.

(3) A declaration in writing, signed by any authority authorised by the Provincial Government in this behalf, that any person has been duly appointed a census-officer for any local area shall be conclusive proof of such appointment.

(4) The Provincial Government may delegate to such authority as it thinks fit the power of appointing census-officers conferred by sub-section (2).

3. The Census Commissioner, all Superintendents of Census Operations and all census-officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

XLV of 1860.

4. (1) (a) Every officer in command of any body of men belonging to His Majesty's naval, military or air forces or of any vessel of war,

Discharge of duties of census-officer in certain cases.

(b) every person (except a pilot or harbour-master) having charge or control of a vessel,

(c) every person in charge of a lunatic asylum, hospital, workhouse, prison, reformatory or lock-up or of any public, charitable, religious or educational institution,

(d) every keeper, secretary or manager of any *sarai*, hotel, boarding-house, lodging-house, emigration depot or club,

(e) every manager or officer of a railway or any commercial or industrial establishment, and

(f) every occupant of immovable property wherein at the time of the taking of the census persons are living,—

shall, if so required by the District Magistrate or by such authority as the Provincial Government may appoint in this behalf, perform such of the duties of a census-officer in relation to the persons who at the time of the taking of the census are under his command or charge, or are inmates of his house, or are present on or in such immovable property, or are employed under him, as such Magistrate or authority may, by written order, direct.

(2) All the provisions of this Act relating to census officers shall apply, so far as may be, to all persons while performing such duties under this section, and any person refusing or neglecting to perform any duty which under this section he is directed to perform shall be deemed to have committed an offence under section 187 of the Indian Penal Code.

XLV of 1860.

5. The District Magistrate, or such authority as the Provincial Government may appoint in this behalf for any local area, may, by written order which shall have effect throughout the extent of his district or of such local area, as the case may be, call upon—

(a) all owners and occupiers of land, tenure-holders, and farmers and assignees of land-revenue, or their agents, and

(b) all members of district, municipal, *panchayat* and other local authorities and officers and servants of such authorities,

to give such assistance as shall be specified in the order towards the taking of a census of the persons who are, at the time of the taking of the census, on the lands of such owners, occupiers, tenure-holders, farmers and assignees, or within the areas for which such local authorities are established, as the case may be, and the persons to whom an order under this section is directed shall be bound to obey it and shall, while acting in pursuance of such order, be deemed to be public servants within the meaning of the Indian Penal Code.

XLV of 1860.

6. (1) A census-officer may ask all such questions of all persons within the limits of the local area for which he is appointed as, by instructions issued in this behalf by the Provincial Government and published in the official Gazette, he may be directed to ask.

(2) Every person of whom any question is asked under sub-section (1) shall be legally bound to answer such question to the best of his knowledge or belief:

Provided that no person shall be bound to state the name of any female member of household, and no woman shall be bound to state the name of her husband or deceased husband or of any other person whose name she is forbidden by custom to mention.

7. Every person occupying any house, enclosure, vessel or other place shall allow census-officers such access thereto as they may require for

Occupier to permit access and affixing of numbers.

the purposes of the census and as, having regard to the customs of the country, may be reasonable, and shall allow them to paint on, or affix to, the place such letters, marks or numbers as may be necessary for the purposes of the census.

8. (1) Subject to such orders as the Provincial Government may issue in this behalf, a census-officer may, within the local area for which he is appointed, leave or cause to be left a schedule at any dwelling-house or with the manager or any officer of any commercial or industrial establishment, for the purpose of its being filled up by the occupier of such house or of any specified part thereof or by such manager or officer with such particulars as the Provincial Government may direct regarding the inmates of such house or part thereof, or the persons employed under such manager or officer, as the case may be, at the time of the taking of the census.

(2) When such schedule has been so left, the said occupier, manager or officer, as the case may be, shall fill it up or cause it to be filled up to the best of his knowledge or belief so far as regards the inmates of such house or part thereof or the persons employed under him, as the case may be, at the time aforesaid, and shall sign his name thereto and, when so required, shall deliver the schedule so filled up and signed to the census-officer or to such person as the census-officer may direct.

9. (a) Any census-officer or any person lawfully required to give assistance towards the taking of a census who refuses or neglects to use reasonable diligence in performing any duty imposed upon him or in obeying any order issued to him in accordance with this Act or any rule made thereunder, or any person who hinders or obstructs another person in performing any such duty or in obeying any such order, or

(b) any census-officer who intentionally puts any offensive or improper question or knowingly makes any false return or, without the previous sanction of the Central Government or the Provincial Government, discloses any information which he has received by means of, or for the purposes of, a census return, or

(c) any person who intentionally gives a false answer to, or refuses to answer to the best of his knowledge or belief, any question asked of him by a census-officer which he is legally bound by section 6 to answer, or

(d) any person occupying any house, enclosure, vessel or other place who refuses to allow a census-officer such reasonable access thereto as he is required by section 7 to allow, or

(e) any person who removes, obliterates, alters or damages before the 31st day of March, 1941 any letters, marks or numbers which have been painted or affixed for the purposes of the census, or

(f) any person who, having been required under section 8 to fill up a schedule, knowingly and without sufficient cause fails to comply with the provisions of that section, or makes any false return thereunder,— shall be punishable with fine which may extend to two hundred rupees.

10. No prosecution under this Act shall be instituted except with the previous sanction of the Provincial Government or of an authority authorised in this behalf by the Provincial Government.

11. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence under this Act:

Provided that no such prosecution shall be instituted except with the previous sanction referred to in section 10.

12. No Court inferior to that of a Presidency Magistrate or a Magistrate of the second class shall try, whether under this Act or under any other law, anything which constitutes an offence under this Act.

13. No person shall have a right to inspect any book, register or record made by a census-officer in the discharge of his duty as such, or any schedule delivered under section 8, and notwithstanding anything to the contrary in the Indian Evidence Act, 1872, no entry in any such book, register, record or schedule shall be admissible as evidence in any civil proceeding whatsoever or in any criminal proceeding other than a prosecution under this Act or any other law for any act or omission which constitutes an offence under this Act.

14. Notwithstanding anything in any enactment or rule with respect to the mode in which a census is to be taken in any municipality, the municipal authority, in consultation with the Superintendent of Census Operations or with such other authority as the Provincial Government may authorise in this behalf, shall, at the time appointed for the taking of the census of British India during the year 1948, cause the census of the municipality to be taken wholly or in part by any method authorised by or under this Act.

15. Notwithstanding anything in any

Power in regard to ex-
penses.

enactment or rule in regard to municipal, local, union or village funds, the Provincial Government may direct that the whole or any part of any expenses incurred for anything done in accordance with this Act or the rules made thereunder may be charged to any municipal, local, union or village fund constituted for, and on behalf of, the area within which such expenses were incurred.

16. The Census Commissioner for British

Grant of statistical
abstract.

India or any Superintendent of Census Operations or such person as the Provincial Government may authorise in this behalf may, if he so thinks fit, at the request and cost (to be determined by him) of any local authority or person, cause abstracts to be prepared and supplied containing any such statistical information as can be derived from the census returns for British India or the Province, as the case may be, being information which is not contained in

any published report and which in his opinion it is reasonable for that authority or person to require.

17. (1) The Central Government may

Power to make rules.

make rules for carrying out the purposes of this Act.

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

- (a) for the appointment of census-officers and of persons to perform any of the duties of census-officers or to give assistance towards the taking of a census, and for the general instructions to be issued to such officers and persons;
- (b) for the enumeration of persons employed on railways and their families and of other classes of the population for which it may be necessary or expedient to make special provision.

G. H. SPENCE,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 26th September 1939, and is hereby promulgated for general information:—

ACT No. XXV OF 1939.

An Act further to amend the Indian Salt Act, 1882 for certain purposes.

WHEREAS it is expedient further to amend the Indian Salt Act, 1882 for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Salt (Amendment) Act, 1939.
Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

2. In section 1 of the Indian Salt Act, 1882 (hereinafter referred to as the said Act), for the words and figures "sections 2, 7 and 8," the word and figure "section 7," shall be substituted.
Amendment of section 1 of Act XII of 1882.

3. In section 3 of the said Act,—
Amendment of section 3.

(a) in the definition of "Assistant Commissioner" the words "an

Assistant Commissioner of Northern India Salt-revenue, and also includes" shall be omitted;

(b) in the definition of "Salt-revenue-officer" the words "any officer of the Northern India Salt Department and also includes" shall be omitted.

4. For section 5 of the said Act the following section shall be substituted, namely:—
Substitution of new section for section 5.

"5. The Central Government may, by notification in the official Gazette, appoint with such designation as may be specified therein, one or two officers to control the administration of salt-revenue under this Act, and where two officers are so appointed, may, by like notification, from time to time define the territorial limits of their respective jurisdictions."
Appointment of officers to control administration of salt-revenue.

5. In the last paragraph of section 22 of the said Act, for the words "Commissioner of Northern India Salt-revenue" the words and figure "officer appointed under section 5" shall be substituted.
Amendment of section 22.

6. In section 30 of the said Act, for the words "the Commissioner of Northern India Salt-revenue" the words and figure "an officer appointed under section 5" shall be substituted.
Amendment of section 30.

G. H. SPENCE,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 26th September, 1939, and is hereby promulgated for general information :—

ACT No. XXVI OF 1939.

An Act further to amend the Code of Civil Procedure, 1908 for a certain purpose.

WHEREAS it is expedient further to amend the Code of Civil Procedure, 1908 for the purpose hereinafter appearing ;

It is hereby enacted as follows :—

1. This Act may be called the Code of Civil Procedure (Amendment) Act, 1939.

2. In sub-rule (1) of rule 48 of Order XXI of the First Schedule to the Code of Civil Procedure, 1908, for the words "in this behalf, the officer or other person whose duty it is to disburse such salary or allowances shall withhold and remit to the Court the amount due under the order, or

the monthly instalments, as the case may be." the following shall be substituted, namely :—

"in this behalf,—

- (a) where such salary or allowances are to be disbursed within the local limits to which this Code for the time being extends, the officer or other person whose duty it is to disburse the same shall withhold and remit to the Court the amount due under the order, or the monthly instalments, as the case may be ;
- (b) where such salary or allowances are to be disbursed beyond the said limits, the officer or other person within those limits whose duty it is to instruct the disbursing authority regarding the amount of the salary or allowances to be disbursed shall remit to the Court the amount due under the order, or the monthly instalments, as the case may be, and shall direct the disbursing authority to reduce the aggregate of the amounts from time to time to be disbursed by the aggregate of the amounts from time to time remitted to the Court."

G. H. SPENCE,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 26th September, 1939, and is hereby promulgated for general information :—

ACT No. XXVII of 1939

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

IX of 1903. WHEREAS it is expedient further to amend the Indian Tea Cess Act, 1903 for the purpose hereinafter appearing :

It is hereby enacted as follows :—

Short title and commencement. 1. (1) This Act may be called the Indian Tea Cess (Amendment) Act, 1939.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

2. In clause (d) of sub-section (2) of section 4 of the Indian Tea Cess Act, 1903, for the words

“two on the recommendation of the Government of Bengal of which one is to represent the Tea Planters in North Bengal and one” the words “one on the recommendation of the Terai Indian Planters’ Association, one on the recommendation of the Government of Bengal” shall be substituted.

G. H. SPENCE,

Secy. to the Govt. of India.

**GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.**

The following Act of the Indian Legislature received the assent of the Governor-General on the 26th September, 1939, and is hereby promulgated for general information:—

ACT No. XXVIII OF 1939.

An Act to make the provision referred to in sub-section (1) of section 120 of the Government of India Act, 1935.

WHEREAS it is expedient to make the provision relating to medical diplomas granted in the United Kingdom or Burma which is referred to in sub-section (1) of section 120 of the Government of India Act, 1935;

It is hereby enacted as follows:—

1. (1) This Act may be called the Medical Diplomas Act, 1939.

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

Definitions.

2. In this Act—

(a) "diploma" has the meaning assigned to it in sub-section (7) of section 120 of the Government of India Act, 1935;

(b) "United Kingdom" means the United Kingdom of Great Britain and Northern Ireland.

3. So long as the condition set out in sub-section (3) of section 120 of the Government of India Act, 1935, continues to be fulfilled, a British subject domiciled in the United Kingdom or India who, by virtue of a medical diploma granted to him in the United Kingdom, is, or is entitled to be, registered in the United Kingdom as a qualified medical practitioner shall not, by or under any law for the time being in force, be excluded from practising medicine, surgery or midwifery in British India or in any part thereof, or from being

Conditions for excluding from practice British subjects domiciled in the United Kingdom or India who hold medical diplomas granted in the United Kingdom on the ground of inadequacy of such diplomas.

registered as qualified so to do, on the ground that such diploma does not furnish a sufficient guarantee of his possession of the requisite knowledge and skill for the practice of medicine, surgery and midwifery, except in accordance with the following conditions, namely:—

(a) Notice of every proposal for excluding the holders of any such diploma from practice or registration shall be given in such form and in such manner as the Central Government may by rules made in this behalf prescribe, to the university or other body granting that diploma, and where such proposal is not made by the Central Government, to the Central Government also.

(b) No such proposal shall become operative until the expiration of twelve months after the notices referred to in clause (a) have been given.

(c) Such a proposal shall not become operative or, as the case may be, shall cease to operate, if His Majesty's Privy Council, on an application made to them under sub-section (2) of section 120 of the Government of India Act, 1935, determine that the diploma in question ought to be recognised as furnishing such a sufficient guarantee as aforesaid.

4. A British subject domiciled in Burma

Conditions for excluding from practice British subjects domiciled in Burma who hold medical diplomas granted in the United Kingdom or Burma on a similar ground.

who, by virtue of a medical diploma granted to him in the United Kingdom or Burma, is, or is entitled to be, registered in the United

Kingdom as a qualified medical practitioner shall not, by or under any law for the time being in force, be excluded from practising medicine, surgery or midwifery in British India or in any part thereof, or from being registered as qualified so to do, on the ground that such diploma does not furnish a sufficient guarantee of his possession of the requisite knowledge and skill for the practice of medicine, surgery and midwifery, except in accordance with conditions such as are set out in clauses (a), (b) and (c) of section 3.

G. H. SPENCE,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 26th September, 1939, and is hereby promulgated for general information:—

ACT No. XXIX OF 1939.

An Act further to amend the Indian Tariff Act, 1934 for a certain purpose, and to validate the levy and collection of certain duty under that Act.

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1934. WHEREAS it is expedient further to amend the Indian Tariff Act, 1934 for the purpose hereinafter appearing, and to validate the levy and collection of duty on the import of wood pulp during the period commencing the 1st day, and ending the 20th day, of April, 1939:

It is hereby enacted as follows:—

Short title. 1. This Act may be called the Indian Tariff (Fourth Amendment) Act, 1939.

2. In the First Schedule to the Indian Tariff Act, 1934, in paragraph (c) of Item No. 22 (5), to the entry in the fourth column the words and figure "or 25 per cent. *ad valorem*, whichever is higher" shall be added.

3. The declaration inserted, in exercise of the power conferred by section 3 of the Provisional Collection of Taxes Act, 1931, in the Indian Tariff (Second Amendment) Bill, 1939 shall be deemed always to have applied to the provision in the said Bill relating to the duty on the import of wood pulp, notwithstanding that the said provision purported to impose a revenue, and not a protective, duty; and all duty levied and collected on the import of wood pulp during the period commencing the 1st day, and ending the 20th day, of April, 1939 is hereby declared to have been as validly levied and collected as if the said declaration had always applied to the said provision.

G. H. SPENCE,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 26th September, 1939, and is hereby promulgated for general information:—

ACT NO. XXX OF 1939.

An Act to amend the Law of Evidence with respect to certain commercial documents.

WHEREAS it is expedient to amend the Law of Evidence with respect to certain commercial documents;

It is hereby enacted as follows:—

Short title and extent. 1. (1) This Act may be called the Commercial Documents Evidence Act, 1939.

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

2. Notwithstanding anything contained in the Indian Evidence Act, 1872, statements of relevant facts in scheduled documents to be themselves relevant facts. statements of facts in issue or of relevant facts made in any document included in the Schedule as to matters usually stated in such document shall be themselves relevant facts within the meaning of that Act.

Presumption as to genuineness of documents. 3. For the purposes of the Indian Evidence Act, 1872, and notwithstanding anything contained therein, a Court—

(a) shall presume, within the meaning of that Act, in relation to documents included in Part I of the Schedule, and

(b) may presume, within the meaning of that Act, in relation to documents included in Part II of the Schedule,—

that any document purporting to be a document included in Part I of Part II of the Schedule, as the case may be, and to have been duly made by or under the appropriate authority, was so made and that the statements contained therein are accurate.

4. In the Schedule the expression “recognised Chamber of Commerce” means a Chamber of Commerce recognised by the Government of its country as being competent to issue certificates of origin, and includes any other association similarly recognised.

THE SCHEDULE.

(See sections 2 and 3.)

PART I.

Documents in relation to which the Court “SHALL presume”.

1. Lloyd's Register of Shipping.
2. Lloyd's Daily Shipping Index.
3. Lloyd's Loading List.
4. Lloyd's Weekly Casualty Reports.
5. Certificate of delivery of goods to the Manchester Ship Canal Company.
6. Official log book, Supplementary Official log book and official wireless log kept by a British ship.
7. Certificate of Registry, Safety Certificate, Safety Radio-Telegraphy Certificate, Exemption Certificate, Certificate of Survey, Declaration of Survey, International Load Line Certificate, British India Load Line Certificate, Report of Survey of a ship provisionally detained as unsafe, Report of Survey to be served upon the master of a ship declared unsafe upon survey, Docking Certificate, Memorandum issued under Article 56 of the International Convention for the Safety of Life at Sea, 1929.
8. Certificates A and B issued under the Indian Merchant Shipping Act, 1923.
9. The following documents relating to marine insurance, namely, insurance policy, receipt for premium, certificate of insurance and insurance cover note.
10. Certificate concerning the loss of country craft issued by the appropriate authority under Department of Commerce, Mercantile Marine Department Circular No. 2 1938.
11. Protest made before a Notary Public or other duly authorised official by a master of a ship relating to circumstances calculated to affect the liability of the ship-owner.
12. Licence or permit for radio-telegraph apparatus carried in ships or aircraft.
13. Certificate of registration of an aircraft granted by the Government of the country to which the aircraft belongs.
14. Certificate of airworthiness of an aircraft granted or validated by, or under the authority of, the Government of the country to which the aircraft belongs.
15. Licences and certificates of competency of aircraft personnel granted or validated by, or under the authority of, the Government of the country to which the personnel belongs.
16. Ground Engineer's Licence issued by a competent authority authorised in this behalf by Government.

17. Consular Certificate in respect of goods shipped or shut out, consular certificates of origin, and consular invoice.

18. Certificate of origin of goods issued (but not merely attested) by a recognised Chamber of Commerce, or by a British Consular officer or British or Indian Trade Commissioner or Agent.

19. Receipt for payment of customs duty issued by a Customs authority.

20. Schedule issued by a Port, Dock, Harbour, Wharfage or Warehouse authority, or by a Railway company, showing fees, dues, freights or other charges for the storage, transport or other services in connection with goods.

21. Tonnage schedule and schedule of fees, commission or other charges for services rendered, issued by a recognised Chamber of Commerce.

22. The publication known as the Indian Railway Conference Association Coaching and Goods Tariffs.

23. Copy, certified by the Registrar of Companies, of the memorandum or the articles of association of a company, filed under the Indian Companies Act, 1913.

24. Protest, noting and certifying the dishonour of a bill of exchange, made before a Notary Public or other duly authorised official.

PART II.

Documents in relation to which the Court "MAY presume".

1. Survey Report issued by a competent authority—

- (i) in respect of cargo loaded; or
- (ii) certifying the quantity of coal loaded;
- (iii) in respect of the security of batches.

2. Official log book, Supplementary Official log book and official wireless log kept by a foreign ship.

3. Dock certificate, dock chalan, dock receipt or warrant, Port Warehouse certificate or warrant, issued by, or under the authority of, a Port, Dock, Harbour or Wharfage authority.

4. Certificate issued by a Port, Dock, Harbour, Wharfage or other authority having control of acceptance of goods for shipping transport or delivery, relating to the date or time of shipment of goods, arrival of goods for acceptance, arrival of vessels or acceptance or delivery of goods, or to the allocation of berthing accommodation to vessels.

5. Export Application issued by a Port authority showing dues paid, weight and measurement and the shutting out of a consignment.

6. Certificate or receipt showing the weight or measurement of a consignment issued by the official measurer of the Conference Lines, or by a sworn or licensed measurer, or by a recognised Chamber of Commerce.

7. Reports and publications issued by a Port authority showing the movement of vessels, and certificates issued by such authority relating to such movements.

8. Certificate of safety for flight signed by a licensed Ground Engineer.

9. Aircraft Log Book, Journey Log Book and Log Book, maintained by the owner or operator in respect of aircraft.

10. Passenger List or Manifest of Goods carried in public transport aircraft.

11. Passenger ticket issued by a steamship company or air transport company.

12. Air Consignment Note and Baggage Check, issued by an air transport company in respect of goods carried by air, and the counterfoil or duplicate thereof retained by the carrier.

13. Aircraft Load Sheet.

14. Storage warrant of a warehouse recognised by a Customs, Excise, Port, Dock, Harbour or Wharfage authority.

15. Acknowledgment receipt for goods granted by a Port, Dock, Harbour, Wharfage or Warehouse authority or by a Railway or Steamship company.

16. Customs or Excise pass and Customs or Excise permit or certificate, issued by a Customs or Excise authority.

17. *Force majeure* certificate issued by a recognised Chamber of Commerce.

18. Receipt of a Railway or Steamship company granted to a consignor in acknowledgment of goods entrusted to the company for transport.

19. Receipt granted by the Posts and Telegraphs Department.

20. Certificate or survey award issued by a recognised Chamber of Commerce relating to the quality, size, weight or valuation of any goods, count of yarn or percentage of moisture in yarn and other goods.

21. Copy, certified by the Registrar of Companies, of the Balance Sheet, Profit and Loss Account, and audit report of a company, filed with the said Registrar under the Indian Companies Act, 1913, and the rules made thereunder.

G. H. SPENCE,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 28th September, 1939, and is hereby promulgated for general information :—

Act No. XXXI of 1939.

An Act to amend the Indian Carriage by Air Act, 1934, for a certain purpose.

WHEREAS it is expedient to amend the Indian Carriage by Air Act, 1934, for the purpose hereinafter appearing ;

It is hereby enacted as follows :—

1. This Act may be called the Indian Carriage by Air (Amendment) Act, 1939.

2. In section 2 of the Indian Carriage by Air Act, 1934, after sub-section (3) the following sub-section shall be inserted, namely :—

“(3A) Any reference in the First Schedule to agents of the carrier shall be construed as including a reference to servants of the carrier.”

G. H. SPENCE,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 28th September, 1939, and is hereby promulgated for general information:—

ACT No. XXXII of 1939.

An Act further to amend the Indian Rubber Control Act, 1934.

WHEREAS the Agreement between the Governments of France, the United Kingdom, India, the Netherlands, and Siam to regulate production and export of rubber, signed in London on the 7th day of May, 1934, as amended by the Protocols of the 27th day of June, 1935, the 22nd day of May, 1936 and the 5th day of February, 1937, has been revised in accordance with the recommendation, accepted by all the said Governments, of the International Rubber Regulation Committee of the 29th day of March, 1938 and has come into force as so revised on the 1st day of January, 1939;

XXVIII of 1934. AND WHEREAS it is expedient further to amend the Indian Rubber Control Act, 1934 for the purpose of implementing the said Agreement as so revised, and for certain other purposes hereinafter appearing;

It is hereby enacted as follows:—

Short title and commencement. 1. (1) This Act may be called the Indian Rubber Control (Amendment) Act, 1939.

(2) It shall be deemed to have come into force on the 1st day of January, 1939.

2. In sub-section (4) of section 1 of the Indian Rubber Control Act, 1934 (hereinafter referred to as the said Act), for the figure "1938" the figure "1943" shall be substituted.

3. In section 2 of the said Act,—

(a) clause (a) shall be renumbered as clause (ca), and before the said clause as so renumbered, the following clause shall be inserted, namely:—

(a) "Agreement" means the Agreement between the Governments of France, the United Kingdom, India, the Netherlands and Siam to regulate production and export of rubber, signed in London on the 7th day of May, 1934, as amended by the Protocols of the 27th day of June, 1935, the 22nd day

of May, 1936 and the 5th day of February, 1937, and as revised in accordance with the recommendation, accepted by all the said Governments, of the International Rubber Regulation Committee of the 29th day of March, 1938;';

(b) in clause (b)—

- (i) for the words "by sea or by land" the words "by land, sea or air" shall be substituted;
- (ii) the words "and Burma" shall be omitted;

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

(cc) "International Rubber Regulation Committee" means the Committee referred to in Article 15 of the Agreement;';

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

(d) "net exports" of rubber means the difference between the total exports of rubber during a period and the total imports of crude rubber during the same period exclusive of rubber imported from Burma;';

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

(g) "to plant" means to propagate a rubber plant from seed or any living portion of the rubber plant that may be used to propagate it; "new planting" means planting in an area which has not since the 1st day of June, 1934 carried any rubber plants or substituting in an area carrying rubber plants and other growths, rubber growths for those other growths; "to plant" means to plant, in such circumstances as not to constitute new planting, on any one acre of an area carrying rubber plants on the 1st day of June, 1934 more than thirty rubber plants; and "to supply" means so to plant on any one acre of such an area thirty rubber plants or less;';

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

(h) "rubber" means—

(i) crude rubber, that is to say, rubber prepared from the leaves, bark or latex of any rubber plant,

(ii) the latex of any rubber plant, whether fluid or coagulated, in any stage of the treatment to which it is subjected during the process of conversion into rubber, and

(iii) latex in any state of concentration, and includes, for the purpose of determining net exports and regulating export, the rubber content of any article manufactured wholly or partly from crude rubber in India; ;

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

(i) "rubber plant" includes plants, trees, shrubs and vines, and any leaves, flowers, seeds, buds, twigs, branches, roots and any living portion thereof, that may be used to propagate any of the following, namely:—

(i) *Hevea Brazilensis* (Para rubber),

(ii) *Manihot Glaziovii* (Ceara rubber),

(iii) *Gastilloa elastica*,

(iv) *Ficus elastica* (Rambong),

(v) any other plant, tree, shrub or vine which the Committee may, by notification in the Gazette of India, declare to be a rubber plant for the purposes of this Act; ;

Amendment of section 3. 4. To sub-section (1) of section 3 of the said Act the following shall be added, namely:—

"and such Committee shall be a body corporate and have perpetual succession and a common seal, and shall by the said name sue and be sued".

Amendment of section 8. 5. In section 8 of the said Act,—

(a) sub-sections (1) and (2) shall be renumbered as sub-sections (2) and (3) respectively, and the following shall be inserted as sub-section (1), namely:—

"(1) The Committee shall publish Annual report and an annual accounts. report on the working of this Act." ;

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

"(4) If any item of expenditure is disallowed under sub-section (3), an appeal shall lie to the Central Government whose decision in the matter shall be final."

6. In section 10 of the said Act, after clause (a) the following clause shall be inserted, namely:—

"(aa) regulating the term of office of members of the Committee, and the circumstances in which, and the authority by which, members may be removed;".

Substitution of new section for section 11. 7. For section 11 of the said Act the following section shall be substituted, namely:—

"11. Nothing in this Act shall apply to Limitation of applica- the export tion of Act. of rubber by parcel post or to the re-export of rubber contained in imported manufactured articles."

Amendment of section 12. 8. In section 12 of the said Act,—

(a) in sub-section (1), the words "or Burma" shall be omitted;

(b) in sub-section (2), for the words "grown, produced or contained in an article manufactured in a country other than India and Burma" the words "grown or produced in any country other than India" shall be substituted.

Amendment of section 15. 9. In sub-section (2) of section 15 of the said Act, for the word "twelve" the word "ten" shall be substituted.

Amendment of section 16. 10. In sub-section (1) of section 16 of the said Act,—

(a) after the words "for any period shall" the words, figures and brackets " , subject to the provisions of sub-section (2) of section 17, " shall be inserted;

(b) the proviso shall be omitted.

Amendment of section 17. 11. To sub-section (2) of section 17 of the said Act the following proviso shall be added, namely:—

"Provided that the Committee may refuse, either absolutely or for such period as it thinks fit, to grant such licence and certificate—

(a) in respect of rubber under attachment by order of a competent Court, or

(b) where a *bona fide* dispute exists as to the person entitled to receive the quota,

and where such refusal is absolute, may cancel the unexhausted balance of the quota."

Amendment of section 18. 12. In sub-section (1) of section 18 of the said Act, the words "or British Burma" and the words "and Burma" shall be omitted.

Amendment of section 19. 13. In section 19 of the said Act,—

(a) in sub-section (1), after the words "licences issued against it" the words, figures and brackets " , the amount, if any, thereof transferred under sub-section (2) of section 16 " shall be inserted;

(b) in sub-section (2), the words "and Burma" shall be omitted.

Amendment of section 20. 14. In sub-section (1) of section 20 of the said Act,—

(a) for the words "from a port in British India" the words "or shall be exported" shall be substituted;

(b) after the words "quantity to be shipped" the words "or exported" shall be inserted.

Amendment of section 21. 15. In section 21 of the said Act,—

(a) in sub-section (1), for the words commencing "relating to the area" and ending "manufactured in the factory" the following shall be substituted, namely:—

"and documents relating to the area planted with rubber, or to the production (including cost of production), manufacture, sale or export of rubber produced on the estate or manufactured in the factory, or to the ownership of the estate or factory, or to any other matter";

(b) in sub-section (2),—

(i) after the words "any return" the words "or document" shall be inserted;

(ii) after the words "may cancel" the words "or suspend for such period as it thinks fit" shall be inserted;

(iii) for the word and figure "section 15" the word and figure "section 17" shall be substituted.

Amendment of section 22. 16. In section 22 of the said Act,—

(a) in sub-section (1),—

(i) In clause (a), for the words "per hundred pounds" the words "for every hundred pounds or part thereof" shall be substituted;

(ii) in clause (b), after the words "accounts of quotas" the words "or other documents relating thereto" shall be inserted;

(b) sub-section (2), for the word "international" the words "institution or" shall be substituted.

Omission of section 23. 17. Section 23 of the said Act shall be omitted.

Amendment of section 24. 18. In clause (b) of section 24 of the said Act, the words "or British Burma" and the words "and Burma" shall be omitted.

Amendment of section 25. 19. In section 25 of the said Act, after the words "no order" the words "cancelling or suspending the unexhausted balance of any quota or" shall be inserted.

Substitution of new sections for sections 26, 27 and 28. 20. For sections 26, 27 and 28 of the said Act the following sections shall be substituted, namely:—

"26. So long as this Act remains in force no person shall, save in pursuance of a written permission granted by or on behalf of the Committee under this Act,—

(a) carry out new planting of rubber plants on any land except for the purpose of supply, or

(b) after the expiry of the year 1940 replant any land with rubber plants where any limitations on such replanting have been imposed under sub-section (1) of section 27.

27. (1) The total area in British India in respect of which permission for new planting otherwise than for the purpose of supply may be granted in the years 1939 and 1940 shall be such area, being as nearly as may be five per centum of the total area which was planted with rubber plants on the 31st day of December, 1938, as the Committee may, by notification in the Gazette of India, specify in this behalf, or such larger area as the Committee may, by like notification, designate as being fixed in this behalf for those years by the International Rubber Regulation Committee, and shall not thereafter in any period except such area as the Committee may; in like manner, designate as so fixed for that period:

Provided that such area may be modified to provide for such transfers of permissions for new plantings between British India

and an Indian State as may be consented to by the Committee under this Act and under any law or order having the force of law of the Indian State concerned.

(2) A permission granted for new planting during the years 1939 and 1940 shall cease to be of effect at the end of the year 1940, and any such permission granted thereafter shall cease to be of effect at the end of the particular period referred to in sub-section (1) within which it was granted.

(3) Until the end of the year 1940 there shall be no restrictions upon replanting, but thereafter replanting shall be subject to such limitation, if any, as the Committee may, by notification in the Gazette of India, designate as imposed in the behalf by the International Rubber Regulation Committee.

(4) Where under sub-section (3) any limitations have been imposed on replanting, the provisions of sections 28, 28A, 29 and 30 shall apply to permissions to replant as they apply to permissions for new planting.

Transfer of permission for new planting. 28. With the consent of the Committee—

(a) a permission for new planting under section 26 may be transferred within British India, wholly or in part, and

(b) where provision in this behalf is made by or under any law or order having the force of law of an Indian State, a permission for new planting granted under this Act or under such law or order may be transferred, wholly or in part, to or from that Indian State, as the case may be.

28A. The Committee shall make by-laws to regulate the principles and procedure to be followed in granting permissions for new planting and for giving consent to transfers of such permissions.

Amendment of section 29. 21. In sub-section (1) of section 29 of the said Act,—

(a) for the words "to plant rubber plants or to replant" the words "for new planting of" shall be substituted;

(b) after the words "the Committee" the words "in such form as the Committee may specify" shall be inserted.

Amendment of section 31.

22. In section 31 of the said Act,—

(a) in sub-section (1), for the words "such returns" the words "such documents, plans or returns" shall be substituted;

(b) in sub-section (3), for the words "to plant rubber plants on that estate or to replant any part of that estate" the words "for new planting of rubber plants on that estate or may cancel any such permission already given" shall be substituted.

23. In section 32 of the said Act, for the words "by sea or by land" the words "by land, sea or air" shall be substituted.

Substitution of new sections for section 33. 24. For section 33 of the said Act the following sections shall be substituted, namely:—

"33. (1) No person shall export rubber plants except to a territory specified in the Schedule (being a territory to which the Agreement applies).

Provided that the export of rubber plants to such territories shall be subject to such conditions as the Central Government may think fit to prescribe.

(2) Every person exporting rubber plants to, or importing rubber plants from, a territory specified in the Schedule shall, within such time and in such manner as may be prescribed, submit to the Committee a return showing the particulars of such exportation or importation.

(3) The Committee shall compile from such returns and submit to the Central Government at such times and in such form as may be prescribed consolidated statements of the total quantities and descriptions of rubber plants so exported and imported.

33A. If while this Act remains in force, the Government of any country accedes to the Agreement, the Central Government may, by notification in the official Gazette, amend the Schedule by the insertion of the descriptions of the territories by virtue of which accession the Agreement will thereafter apply."

Amendment of section 36. **25.** In section 36 of the said Act,—

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

“(a) prescribing the conditions under which rubber plants may be exported to territories specified in the Schedule, and the times within which and the form in which returns of imports and exports of rubber plants from and to such territories shall be submitted to the Committee;”;

- (b) in clause (c), after the word “stocks” the words “of rubber and of imports and exports of rubber plants from and to territories specified in the Schedule” shall be inserted.

Amendment of section 37. **26.** In section 37 of the said Act, for the words and figure “of section 33” the words, figures and brackets “of sub-section (1) of section 33” shall be substituted.

Amendment of section 38. **27.** In section 38 of the said Act,—

- (a) after the words “as required by” the words, figures and brackets “sub-section (2) of section 33 or” shall be inserted;

- (b) after the word and figure “section 34” the words “the person importing or exporting rubber plants or” shall be inserted.

Amendment of section 39. **28.** In section 39 of the said Act,—

- (a) for the words “holding stocks of rubber” the words “importing or exporting rubber plants or holding stocks of rubber, as the case may be” shall be substituted;

- (b) for the words, figures and brackets “sub-section (1) of section 31” the words, figures and brackets “sub-section (2) of section 33” shall be substituted;

- (c) after the word and figure “section 34” the words, figures and brackets “or any document, plan or return under sub-section (1) of section 31” shall be inserted.

Amendment of section 42. **29.** In section 42 of the said Act, for the words “plants rubber plants or causes rubber plants to be planted” the words “carries out new planting of rubber plants or causes such new planting to be carried out” shall be substituted.

Insertion of new Chapter. **30.** After section 44 of the said Act the following Chapter shall be inserted, namely :—

“CHAPTER VI.

SUSPENSION OF OPERATION OF ACT.

45. (1) If the Central Government is satisfied that an emergency has arisen rendering it necessary for the security of India that certain of the restrictions imposed by this Act should cease to be imposed, the Central Government may, by notification in the official Gazette, suspend, either indefinitely or for such period as may be specified in the notification, the operation of all the provisions of this Act except those relating to the planting and export of rubber plants.

(2) If partial suspension of the Agreement under paragraph (c) of Article 21 thereof is intimated to the Central Government, the Central Government shall, by notification in the official Gazette, suspend indefinitely the operation of all the provisions of this Act except those relating to the planting and export of rubber plants.

(3) Where the operation of certain provisions of this Act has under sub-section (1) or sub-section (2) been suspended indefinitely, such suspension may at any time while this Act remains in force be removed by the Central Government by notification in the official Gazette in this behalf.”

31. To the said Act the following Schedule shall be added, namely :—

“THE SCHEDULE.

(See sections 33 and 33A.)

List of territories outside India to which the Agreement applies.

1. French Indo-China.
2. Burma, Ceylon, the Federated Malay States, the Unfederated Malay States, the Straits Settlements, the State of North Borneo, Brunei and Sarawak.
3. The Netherlands Indies.
4. Siam.”

G. H. SPENCE,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor-General on the 28th September, 1939, and is hereby promulgated for general information :—

ACT No XXXIII OF 1939.

An Act further to amend the Indian Railways Act, 1890, for a certain purpose.

IX of 1890. WHEREAS it is expedient further to amend the Indian Railways Act, 1890, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

1. This Act may be called the Indian Railways (Amendment) Act, 1939.

Short title.

2. In the Indian Railways Act, 1890, after section 42A, the following section shall be inserted, namely :—

Insertion of new section 42B in Act IX of 1890.

“42B. (1) The Federal Railway Authority may by general or special order fix maximum and minimum rates for whole or any part of a railway, other than a minor railway, and prescribe the conditions in which such rates will apply.

(2) Any complaint that a railway administration is contravening any order issued by the Federal Railway Authority in accordance with the provisions of this section shall be determined by that Authority.”

G. H. SPENCE,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor-General on the 28th September, 1939, and is hereby promulgated for general information:—

ACT No XXXIV OF 1939.

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

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

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

It is hereby enacted as follows:—

1. This Act may be called the Repealing and Amending Act, 1939.
Short title.

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

3. The enactments specified in the Second Schedule are hereby repealed to the extent mentioned in the fourth column thereof.
Repeal of certain enactments.

4. The repeal by this Act of any enactments shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to; and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand or any indemnity already granted, or the proof of any past act or thing; nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognised or derived by, in or from any enactment hereby repealed;
Savings.

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

THE FIRST SCHEDULE.

AMENDMENTS.

(See section 2.)

Year.	No.	Short title.	Amendments.
1	2	3	4
		<i>Act of the Governor of Bombay in Council.</i>	
1879	VI	The Bombay Port Trust Act, 1879.	In the second paragraph of section 39, for the words "the said purposes" the words "the general purposes of this Act" shall be substituted.
		<i>Acts of the Governor-General in Council.</i>	
1882	XIX	The Punjab University Act, 1882.	In sub-section (1) of section 2, for the words "Central Government for the time being" the words "Governor-General" shall be substituted.
1890	IX	The Indian Railways Act, 1890.	In Chapter V,— (i) for the heading "RAILWAY COMMISSIONS AND TRAFFIC FACILITIES" the following heading shall be substituted, namely:— "TRAFFIC FACILITIES"; (ii) the sub-headings "Railway Commissions" and "Traffic Facilities" shall be omitted; (iii) in section 98, for the words "in those provisions" the words "in the foregoing provisions of this Chapter" shall be substituted.
1903	X	The Victoria Memorial Act, 1903.	In clause (c) of sub-section (1) of section 2, for the words "the Secretary to the Government of India in the Foreign Department" the words "the Political Secretary" shall be substituted.
1903	XIV	The Indian Foreign Marriage Act, 1903.	In sub-section (2) of section 1, the words "the Shan States" shall be omitted.
1904	VIII	The Indian Universities Act, 1904.	In sub-section (1) of section 6, for the words "Universities of Calcutta and" the words "University of Calcutta" shall be substituted. In sub-section (1) of section 8, for the words "and by notification" the words "by notification" shall be substituted. In the First Schedule, in the first entry under the heading " <i>The University of the Punjab</i> ", for the words "Chief Judge" the words "Chief Justice" shall be substituted.

Year.	No.	Short title.	Amendments.
1	2	3	4
1908	IX	The Indian Limitation Act, 1908.	In article 7 of the First Schedule, the words and figure "not provided for by this Schedule, article 4" shall be omitted.
1911	II	The Indian Patents and Designs Act, 1911.	In sub-section (12) of section 21A, the words "the Secretary of State for India in Council or", in both places where they occur, shall be omitted.
1913	VII	The Indian Companies Act, 1913.	In sub-section (6) of section 83, for the words "a further fine to twenty-five rupees" the words "a further fine not exceeding twenty-five rupees" shall be substituted. In proviso (3) of section 107, for the words "such Central Government" the words "the Central Government" shall be substituted. In sub-section (1) of section 207, the word "to" between the words "sent out" and "make a declaration" shall be omitted.
1920	V	The Provincial Insolvency Act, 1920.	In section 20, for the words "this sub-section" the words "this section" shall be substituted.
<i>Acts of the Indian Legislature.</i>			
1922	XI	The Indian Income-tax Act, 1922.	In sub-section (1) of section 17, for the word and figures "section 17" the word and figures "section 27" shall be substituted.
1923	XIV	The Indian Cotton Cess Act, 1923.	In clause (ia) of section 4, for the words "Expert Adviser to the Imperial Council of Agricultural Research" the words "Agricultural Commissioner with the Government of India" shall be substituted.
1924	II	The Cantonments Act, 1924.	In Chapter III, for the heading "BOARDS AND CANTONMENT BOARDS" the following heading shall be substituted, namely :— "CANTONMENT BOARDS". In clause (a) of sub-section (3) of section 119, and in sub-section (1) of section 233, for the words "that Authority" the word "it" shall be substituted. In sub-section (2) of section 131, for the words "that Authority" the words "that Board" shall be substituted. In the second column of Schedule V, opposite the entry relating to section 126, after the words "Board's notice to" the word "remove," shall be inserted.

Year.	No.	Short title.	Amendments.
1	2	3	4
1929	VII	The Trade Disputes Act, 1929.	In sub-section (1) of section 18A, (i) for the word "them" the word "it", for the word "their", where it first occurs, the word "its", and where it occurs for the second time, the word "the" shall be substituted; and (ii) for the words "or by a railway company" the words "or by the Federal Railway Authority or a railway company operating a Federal Railway" shall be substituted.
<i>Acts of the Central Legislature.</i>			
1938	VIII	The Indian Tea Control Act, 1938.	In sub-section (4) of section 27, for the words, brackets and figure "up to a total area in each province as may be determined under sub-clause (3)" the words, brackets and figure "up to such total area in each province as may be notified under sub-section (3)" shall be substituted.
1939	VII	The Indian Income-tax (Amendment) Act, 1939.	In sub-clause (iv) of clause (a) of section 36, for the words 'after the words "made by an Income-tax officer"' the words, figures and brackets 'after the word and figure "section 46" inserted by sub-clause (iii) of this clause' shall be substituted.

THE SECOND SCHEDULE.

REPEALS.

(See section 3.)

Year.	No.	Short title.	Extent of repeal.
1	2	3	4
		<i>Act of the Governor-General in Council.</i>	
1850	V	The Indian Coasting Trade Act, 1850.	The whole.
		<i>Acts of the Indian Legislature.</i>	
1922	VII	The Indian Emigration Act, 1922.	Section 32.
1923	V	The Indian Boilers Act, 1923.	The second proviso to section 6.
1924	IV	The Central Board of Revenue Act, 1924.	Section 4 and the Schedule.
1929	XXI	The Transfer of Property (Amendment) Supplementary Act, 1929.	The Schedule.
1933	XIII	The Safeguarding of Industries Act, 1933.	The whole.

G. H. SPENCE,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor-General on the 29th September, 1939, and is hereby promulgated for general information :—

ACT No. XXXV OF 1939.

An Act to provide for special measures to ensure the public safety and interest and the defence of British India and for the trial of certain offences.

WHEREAS an emergency has arisen which renders it necessary to provide for special measures to ensure the public safety and interest and the defence of British India and for the trial of certain offences ;

AND WHEREAS the Governor-General in his discretion has declared by Proclamation under sub-section (1) of section 102 of the Government of India Act, 1935, that a grave emergency exists whereby the security of India is threatened by war ;

It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Defence of India Act, 1939.

Short title, extent, commencement and duration.

(2) It extends to the whole of British India, and it applies also—

- (a) to British subjects and servants of the Crown in any part of India ;
- (b) to British subjects who are domiciled in any part of India wherever they may be ;
- (c) in respect of the regulation and discipline of any naval, military or air force raised in British India, to members of, and persons attached to, employed with, or following, that force, wherever they may be ; and
- (d) to, and to persons on, ships and aircraft registered in British India wherever they may be.

(3) This section shall come into force at once, and the remaining provisions of this Act shall come into force in such areas and on such date or dates as the Central Government may, by notification in the official Gazette, appoint.

(4) It shall be in force during the continuance of the present war and for a period of six months thereafter.

CHAPTER II.

EMERGENCY POWERS.

2 (1) The Central Government may, by notification in the official Gazette, make such rules as appear to it to be necessary or expedient for securing the defence of British India, the public safety, the maintenance of public order or the efficient prosecution of war, or for maintaining supplies and services essential to the life of the community.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), the rules may provide for, or may empower any authority to make orders providing for, all or any of the following matters, namely :—

- (i) ensuring the safety and welfare of His Majesty's forces, ships and aircraft, and preventing the prosecution of any purpose likely to prejudice the operations of His Majesty's forces or the forces of His Majesty's allies ;
- (ii) prohibiting anything likely to prejudice the training, discipline or health of His Majesty's forces ;
- (iii) preventing any attempt to tamper with the loyalty of persons in, or to dissuade (otherwise than with advice given in good faith to the person dissuaded for his benefit or that of any member of his family or any of his dependents) persons from entering, the service of His Majesty ;
- (iv) preventing anything likely to assist the enemy or to prejudice the successful conduct of war, including—
 - (a) communications with the enemy or agents of the enemy,
 - (b) acquisition, possession without lawful authority or excuse and publication of information likely to assist the enemy,
 - (c) contribution to, participation in, or assistance in, the floating of loans raised by or on behalf of the enemy, and
 - (d) advance of money to, or contracts or commercial dealings with, the enemy, enemy subjects or persons residing, carrying on business, or being, in enemy territory ;
- (v) preventing the spreading without lawful authority or excuse of false reports or the prosecution of any purpose likely to cause disaffection or alarm, or to prejudice His

Majesty's relations with foreign powers, or to promote feelings of enmity and hatred between different classes of His Majesty's subjects;

Explanation.—To point out, without malicious intention and with an honest view to their removal, matters which are producing, or have a tendency to produce, feelings of enmity or hatred between different classes of His Majesty's subjects does not amount to promoting such feelings within the meaning of this clause.

- (vi) requiring the publication of news and information;
- (vii) regulating the conduct of persons in respect of areas the control of which is considered necessary or expedient, and the removal of persons from such areas;
- (viii) requiring any person or class of persons to comply with a scheme of defence;
- (ix) ensuring the safety of ports, dockyards, lighthouses, lightships, aerodromes, railways, telegraphs, post offices, signalling apparatus and all other means of communication, sources of water-supply, works for the supply of water, gas or electricity and any other place or thing the protection of which is necessary for the defence of British India;
- (x) the apprehension and detention in custody of any person reasonably suspected of being of hostile origin or having acted, acting or being about to act, in a manner prejudicial to the public safety or interest or to the defence of British India, the prohibition of such person from entering or residing or remaining in any area, and the compelling of such person to reside and remain in any area, or to do, or abstain from doing, anything;
- (xi) the control of persons entering, departing from, or travelling in, British India, and of foreigners residing or being in British India;
- (xii) prohibiting or regulating traffic, and the use of vessels, buoys, lights and signals, in ports and territorial, tidal and inland waters;
- (xiii) restricting the charter of foreign vessels;
- (xiv) regulating the structure and equipment of vessels used or likely to be used by the Central Government, for the purpose of ensuring the safety thereof and of persons therein;
- (xv) regulating work in dockyards and shipyards in respect of the construction and repairs of vessels;
- (xvi) prohibiting or regulating the sailings of vessels from ports, traffic at aerodromes and the movement of aircraft, and traffic on railways, tramways and roads, and reserving and requiring to be adapted, for the use of the Central Government, all or any accommodation in vessels, aircraft, railways, tramways or road vehicles for the carriage of persons, animals or goods;
- (xvii) impressment of vessels, aircraft, vehicles and animals for transport;
- (xviii) prohibiting or regulating the use of postal, telegraph or telephonic services, including the taking possession of such services and the delaying, seizing, intercepting or interrupting of postal articles or telegraphic or telephonic messages;
- (xix) regulating the delivery otherwise than by postal or telegraphic service of postal articles and telegrams;
- (xx) the control of any trade or industry for the purpose of regulating or increasing the supply of, and the obtaining of information with regard to, articles or things of any description whatsoever which can be used in connection with the conduct of war or for maintaining supplies and services essential to the life of the community;
- (xxi) ensuring the ownership and control of mines by British subjects;
- (xxii) controlling the use or disposal of, or dealings in, coin, bullion, securities or foreign exchange;
- (xxiii) the control of any road or pathway, waterway, ferry or bridge, river, canal or other source of water-supply;
- (xxiv) the requisitioning of any property, movable or immovable, including the taking possession thereof and the issue of any orders in respect thereof;

(xxv) prohibiting or regulating the possession, use or disposal of—

- (a) explosives, inflammable substances, arms and ammunitions of war,
- (b) vessels,
- (c) wireless telegraphic apparatus,
- (d) aircraft, and
- (e) photographic and signalling apparatus and any means of recording information;

VIII of 1878.

(xxvi) applying the provisions of the Sea Customs Act, 1878 and in particular section 19 thereof, to the prohibition or restriction of the import or export of goods to a particular person or a particular class of persons;

(xxvii) prohibiting or regulating the bringing into, or taking out of, British India and the possession, use or transmission of ciphers and other secret means of communicating information;

(xxviii) prohibiting or regulating the publication of inventions and designs;

(xxix) preventing the disclosure of official secrets;

(xxx) prohibiting or regulating meetings, assemblies, fairs and processions;

(xxxi) preventing or controlling any use, calculated to prejudice the public safety, the maintenance of public order, the defence of British India or the prosecution of war, of uniforms, flags and insignia and of anything similar thereto;

(xxxii) ensuring the accuracy of any report or declaration legally required of any person;

(xxxiii) preventing the unauthorised change of names;

(xxxiv) preventing anything likely to cause misapprehension in respect of the identity of any official person, official document or official property or in respect of the identity of any person, document or property purporting to be, or resembling, an official person, official document or official property;

(xxxv) entry into, and search of, any place reasonably suspected of being used for any purpose prejudicial to the public safety or interest, to the defence of British India or to the efficient prosecution of war, and for the seizure and disposal of

anything found there and reasonably suspected of being used for such purpose.

(3) The rules made under sub-section (1) may further—

(i) provide for the arrest and trial of persons contravening any of the rules;

(ii) provide that any contravention of, or any attempt to contravene, and any abetment of, or attempt to abet, the contravention of any of the provisions of the rules, or any order issued under any such provision, shall be punishable with imprisonment for a term which may extend to seven years or with fine or with both;

(iii) provide for the seizure, detention and forfeiture of any property in respect of which such contravention, attempt or abetment as is referred to in the preceding clause has been committed;

(iv) confer power and impose duties—

(a) upon the Central Government or officers and authorities of the Central Government as respects any matter, notwithstanding that that matter is one in respect of which the Provincial Legislature also has power to make laws, and

(b) upon any Provincial Government or officers and authorities of any Provincial Government as respects any matter notwithstanding that that matter is one in respect of which the Provincial Legislature has no power to make laws;

(v) prescribe the duties and powers of public servants and other persons as regards preventing the contravention of, or securing the observance of, the rules;

(vi) provide for preventing obstruction and deception of, and disobedience to, any person acting, and interference with any notice issued, in pursuance of the rules;

(vii) prohibit attempts by any person to screen from punishment any one, other than the husband and wife of such person, contravening any of the rules;

(viii) empower or direct any authority to take such action as may be specified in the rules or as may seem necessary to such authority for the purpose of ensuring the public safety or interest or the defence of British India;

- (ix) provide for charging fees in respect of the grant or issue of any licence, permit, certificate or other document for the purposes of the rules.

(4) The Central Government may by order direct that any power or duty which by rule under sub-section (1) is conferred or imposed upon the Central Government shall in such circumstances and under such conditions, if any, as may be specified in the direction be exercised or discharged—

(a) by any officer or authority subordinate to the Central Government, or

(b) whether or not the power or duty relates to a matter with respect to which a Provincial Legislature has power to make laws, by any Provincial Government or by any officer or authority subordinate to such Government, or

(c) by any other authority.

(5) A Provincial Government may by order direct that any power or duty which by rule made under sub-section (1) is conferred or imposed on the Provincial Government, or which, being by such rule conferred or imposed on the Central Government, has been directed under sub-section (4) to be exercised or discharged by the Provincial Government, shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by any officer or authority, not being an officer or authority subordinate to the Central Government.

3. Any rule made under section 2, and any order made under any such rule, shall have effect notwithstanding

Effect of rules, etc., inconsistent with other enactments.

anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

4. The Central Government may, by notification in the official Gazette, direct by general or special order that

Special powers to control civilian personnel employed in connection with His Majesty's forces.

any persons who, not being members of His Majesty's forces, are attached to, or employed with, or following, those forces, shall be subject to naval, military or air force law, and thereupon such persons shall be subject to discipline, and liable to punishment for offences, under the Indian Navy (Discipline) Act, 1934, the Indian Army Act, 1911, or the Indian Air Force Act, 1932, as the case may require, as if they were included in such class of persons subject to any of those Acts as may be specified in the notification.

5. (1) If any person, with intent to wage war against His Majesty or to assist any State at war with His Majesty, contravenes any provision of the rules made under section 2 or any order issued under any such rule, he shall be punishable with death, or transportation for life, or imprisonment for a term which may extend to ten years, and shall also be liable to fine.

(2) If any person—

(a) contravenes any such provision of, or any such rule or order made under, the Indian Aircraft Act, 1934, as may be notified in this behalf by the Central Government, or

(b) in any area notified in this behalf by a Provincial Government, contravenes any such provision of, or any such rule made under, the Indian Arms Act, 1878, the Indian Explosives Act, 1884, or the Explosive Substances Act, 1908, as may be notified in this behalf by the Provincial Government,

he shall, notwithstanding anything contained in any of the aforesaid Acts or rules made thereunder, be punishable with imprisonment for a term which may extend to five years, or, if his intention is to assist any State at war with His Majesty or to wage war against His Majesty, with death, transportation for life, or imprisonment for a term which may extend to ten years, and shall in either case also be liable to fine.

(3) For the purposes of this section, any person who attempts to contravene, or abets or attempts to abet, or does any act preparatory to, a contravention of, a provision of any law, rule or order, shall be deemed to have contravened that provision.

6. During the continuance of this Act,—

(1) section 1 of the Geneva Convention Act, 1911, shall have effect in British India as if, in sub-section (1) thereof, for the words “shall be liable on summary conviction to a fine not exceeding ten pounds”, the words “shall be punishable with imprisonment for a term which may extend to six months and shall also be liable to a fine” had been substituted;

(2) section 5 of the Indian Official Secrets Act, 1923, shall have effect as if—

(a) in sub-section (1) thereof, after the words “in his possession or control” the words “any information likely to assist the enemy, as defined in the rules made under the Defence of India Act, 1939, or” had been inserted, and after

the words "in such a place" the words "or which relates to, or is used in, a protected area, as defined in the rules made under the Defence of India Act, 1939, or relates to anything in such an area," had been inserted; and

- (b) for sub-section (4) thereof, the following sub-section had been substituted, namely:—

"(4) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to five years, or, if such offence is committed with intent to assist any State at war with His Majesty, or to wage war against His Majesty, with death, or transportation for life, or imprisonment for a term which may extend to ten years, and shall in either case also be liable to fine." ;

XXIII of
1931.

(3) the Indian Press (Emergency Powers) Act, 1921, shall have effect as if in sub-section (1) of section 4 thereof, after clause (b), the following word and clause had been inserted, namely:—

"or

(bb) directly or indirectly convey any 'confidential information', any 'information likely to assist the enemy' or any 'prejudicial report', as defined in the rules made under the Defence of India Act, 1939, or are calculated to instigate the contravention of any of those rules," ;

XXII of
1934.

(4) the Indian Aircraft Act, 1934, shall have effect as if—

(a) at the end of clause (r) of sub-section (2) of section 5 the following words had been inserted, namely:—

"including the taking of steps necessary to secure compliance with, or to prevent contravention of, the rules regulating such matters, or, where any such rule has been contravened, to rectify, or to enable proceedings to be taken in respect of, such contravention";

(b) in clause (b) of sub-section (1) of section 8, for the words, brackets, letters and figures "clause (h) or clause (i) of sub-section (2) of section 5", the words, brackets, letters and figures "clauses (d), (e), (h), (i), (k) or (l) of sub-section (2) of section 5, or the commission of an offence punishable under section 11," had been substituted;

(c) in section 11, after the words "in the air" the words "or in such a manner as to interfere with any of His Majesty's forces, ships or aircraft" had been inserted;

(d) in section 13, for the words, brackets, figures and letters "clause (i) or clause (l) of sub-section (2) of section 5" the words, brackets, figures and letters "clauses (c), (d), (e), (h), (i), (j), (k) or (l) of sub-section (2) of section 5, or punishable under section 11" had been substituted; and

(e) section 14 had been omitted; and

(5) the Indian Navy (Discipline) Act, XXXIV of 1934, shall have effect as if for section 90 of the Naval Discipline Act as set forth in the First Schedule to the first named Act the following section had been substituted, namely:—

"90. (1) If any person who would not otherwise be subject to this Act enters into an engagement with the Central Government to serve His Majesty—

(a) in a particular ship, or

(b) in such particular ship or in such ships as the Officer Commanding the Indian Navy, or an officer empowered in this behalf by the Officer Commanding the Indian Navy, may from time to time determine,

and agrees to become subject to this Act upon entering into the engagement, that person shall, so long as the engagement remains in force, and notwithstanding that for the time being he may not be serving in any ship, be subject to this Act, and the provisions of this Act shall apply in relation to that person, as if, while subject to this Act, he belonged to His Majesty's navy and were borne on the books of one of His Majesty's ships in commission.

(2) The Central Government may by order direct that, subject to such exceptions as may in particular cases be made by or on behalf of the Officer Commanding the Indian Navy, persons of any such class as may be specified in the order shall, while subject to this Act by virtue of this section, be deemed to be officers or petty officers, as the case may be, for the purposes of this Act or of such provisions of this Act as may be so specified; and any such order may be varied or revoked by a subsequent order."

7. (1) Notwithstanding anything contained

Saving and temporary amendment of Act VIII of 1938.

in the Indian Tea Control Act, 1938, the Central Government may appoint any person to be an additional member of, and to act as Chairman of, the Indian Tea Licensing Committee during the continuance of this Act, and on such appointment being

VIII of 1938.

made and until this Act ceases to be in force, the Chairman of the said Committee elected under section 5 of that Act shall cease to exercise the functions of Chairman.

(2) If in pursuance of any scheme for the control of import of Indian tea into the United Kingdom, the Central Government considers it necessary or expedient so to do, it may by order direct the Indian Tea Licensing Committee to apportion the requirement of the United Kingdom among the tea estates in accordance with such principles as may be laid down in the order, and the said Committee shall comply with such order.

VIII of 1938. (3) If at any time during the continuance of this Act, the agreement referred to in the preamble to the Indian Tea Control Act, 1938 is determined or otherwise ceases to be valid as between the parties thereto, the provisions of that Act shall, notwithstanding the said determination or invalidity of the agreement, continue in force:

Provided that nothing in this sub-section shall be construed as continuing the Indian Tea Control Act, 1938 in force after the 31st day of March, 1943.

CHAPTER III.

SPECIAL TRIBUNALS.

8. (1) The Provincial Government may for the whole or any part of the Province constitute Special Tribunals which shall consist of three members appointed by the Provincial Government.

(2) No person shall be appointed as a member of a Special Tribunal unless he—

(a) is qualified under sub-section (3) of section 220 of the Government of India Act, 1935, for appointment as a Judge of a High Court; or

(b) has for a total period of not less than three years exercised, whether continuously or not, the powers under the Code of Criminal Procedure, 1898 (hereafter in this Chapter referred to as the Code) of any one or more of the following, namely:—

(i) Sessions Judge, Additional Sessions Judge, Chief Presidency Magistrate, Additional Chief Presidency Magistrate,

(ii) District Magistrate, Additional District Magistrate.

(3) At least one member of a Special Tribunal shall be qualified for appointment thereto under clause (a) of sub-section (2),

and where only one member is so qualified under that clause, at least one other member shall be qualified for appointment under clause (b) of that sub-section by virtue of having exercised powers exclusive of those specified in sub-clause (ii) of the said clause (b).

9. The Provincial Government may, by general or special order, direct that a Special Tribunal shall try any offence—

(a) under any rule made under section 2, or

(b) punishable with death, transportation or imprisonment for a term which may extend to seven years,—

triable by any Court having jurisdiction within the local limits of the jurisdiction of the Special Tribunal, and may in any such order direct the transfer to the Special Tribunal of any particular case from any other Special Tribunal or any other Criminal Court not being a High Court.

10. (1) A Special Tribunal may take cognizance of offences without the accused being committed to it for trial.

(2) Save in cases of trials of offences punishable with death or transportation for life, it shall not be necessary in any trial for a Special Tribunal to take down the evidence at length in writing, but the Special Tribunal shall cause a memorandum of the substance of what each witness deposes to be taken down in the English language, and such memorandum shall be signed by a member of the Special Tribunal and shall form part of the record.

(3) A Special Tribunal shall not be bound to adjourn any trial for any purpose unless such adjournment, is in its opinion, necessary in the interests of justice.

(4) A Special Tribunal shall not, merely by reason of a change in its members, be bound to recall and rehear any witness who has given evidence, and it may act on the evidence already recorded by or produced before it.

(5) After an accused person has once appeared before it, a Special Tribunal may try him in his absence if, in its opinion, his absence has been brought about by the accused himself for the purpose of impeding the course of justice, or if the behaviour of the accused in Court has been such as, in the opinion of the Special Tribunal, to impede the course of justice.

(6) In the event of any difference of opinion among the members of a Special Tribunal, the opinion of the majority shall prevail.

(7) The Provincial Government may, by notification in the official Gazette, make rules providing for—

(i) the times and places at which Special Tribunals may sit; and

(ii) the procedure to be adopted in the event of any member of a Special Tribunal being prevented from attending throughout the trial of any accused person.

(8) A Special Tribunal shall, in all matters in respect to which no procedure has been prescribed by this Act or by rules made thereunder, follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates.

11. In addition, and without prejudice, to any powers which a Special Tribunal may possess by virtue of any law for the time being in force to order the exclusion of the public from any proceedings, if at any stage in the course of a trial of any person before a Special Tribunal application is made by the prosecution, on the ground that the publication of any evidence to be given or of any statement to be made in the course of the trial would be prejudicial to the safety of the State, that all or any portion of the public shall be excluded during any part of the hearing, the Special Tribunal may make an order to that effect, but the passing of sentence shall in any case take place in public.

Exclusion of public from proceedings of Special Tribunals.

12. A Special Tribunal shall have all the powers conferred by the Code on a Court of Session exercising original jurisdiction.

Powers of Special Tribunals.

13. (1) A special Tribunal may pass any sentence authorised by law.

Sentences of Special Tribunals.

(2) A person sentenced by a Special Tribunal—

(a) to death or transportation for life, or

(b) to imprisonment for a term extending to ten years under section 5 of this Act or under sub-section (4) of section 5 of the Indian Official Secrets Act, 1923, as amended by section 6 of this Act—

shall have a right of appeal to the High Court within whose jurisdiction the sentence has been passed, but save as aforesaid and notwithstanding the provisions of the Code, or of any other law for the time being in force, or of any thing having the force of law by whatsoever authority made or done, there shall be no appeal from any order or sentence of a

Special Tribunal, and no Court shall have authority to revise such order or sentence, or to transfer any case from a Special Tribunal, or to make any order under section 491 of the Code, or have any jurisdiction of any kind in respect of any proceedings of a Special Tribunal.

(3) The powers conferred upon the Provincial Government and the Governor General by Chapter XXIX of the Code shall apply in respect of a person sentenced by a Special Tribunal.

CHAPTER IV.

SUPPLEMENTAL.

14. Save as otherwise expressly provided by or under this Act, the ordinary criminal and civil Courts shall continue to exercise jurisdiction.

Jurisdiction of ordinary Courts.

15. Any authority or person acting in pursuance of this Act shall interfere with the ordinary avocations of life and the enjoyment of property as little as may be consonant with the purpose of ensuring the public safety and interest and the defence of British India.

Ordinary avocations of life to be interfered with as little as possible.

16. (1) No order made in exercise of any power conferred by Savings as to orders. or under this Act shall be called in question in any Court.

(2) Where an order purports to have been made and signed by any authority in exercise of any power conferred by or under this Act, a Court shall, within the meaning of the Indian Evidence Act, 1872, I of 1872, presume that such order was so made by that authority.

17. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

Protection of action taken under the Act.

(2) Save as otherwise expressly provided under this Act, no suit or other legal proceeding shall lie against the Crown for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

18. Every provision of law for the time being in force which gives protection, whether specifically or otherwise, to members of His Majesty's military forces or of the police forces in British India from any prosecution

Protection from prosecution, etc., of members of military and police forces of Indian States while serving His Majesty.

or other legal proceedings or from any other liability shall apply also to members of the military or police forces respectively of any Indian State, while attached to, operating with or assisting any of His Majesty's military forces or any police force in British India.

19. (1) Where by or under any rule made under this Act any action is taken of the nature described in sub-section (2) of section 299 of the Government of India Act, 1935, there shall be paid compensation, the amount of which shall be determined in the manner, and in accordance with the principles, hereinafter set out, that is to say:—

Compensation to be paid in accordance with certain principles for compulsory acquisition of immovable property, etc.

- (a) Where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement.
- (b) Where no such agreement can be reached, the Central Government shall appoint as arbitrator a person qualified under sub-section (3) of section 220 of the above-mentioned Act for appointment as a Judge of a High Court.
- (c) The Central Government may, in any particular case, nominate a person having expert knowledge as to the nature of the property acquired, to assist the arbitrator, and where such nomination is made, the person to be compensated may also nominate an assessor for the said purpose.
- (d) At the commencement of the proceedings before the arbitrator, the Central Government and the person to be compensated shall state what in their respective opinions is a fair amount of compensation.
- (e) The arbitrator in making his award shall have regard to—
 - (i) the provisions of sub-section (1) of section 23 of the Land

Acquisition Act, 1894, so far as I of 1894. the same can be made applicable; and

- (ii) whether the acquisition is of a permanent or temporary character.
- (f) An appeal shall lie to the High Court against an award of an arbitrator except in cases where the amount thereof does not exceed an amount prescribed in this behalf by rule made by the Central Government.
- (g) Save as provided in this section and in any rules made thereunder, nothing in any law for the time being in force shall apply to arbitrations under this section.

(2) The Central Government may make rules for the purpose of carrying into effect the provisions of this section.

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

- (a) the procedure to be followed in arbitrations under this section;
- (b) the principles to be followed in apportioning the costs of proceedings before the arbitrator and on appeal;
- (c) the maximum amount of an award against which no appeal shall lie.

20. In this Act, unless there is anything repugnant in the subject or context, the expression "Provincial Government" means, in relation to a Chief Commissioner's Province, the Chief Commissioner.

21. The Defence of India Ordinance, 1939 is hereby repealed; and any rules made, anything done and any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been made, done or taken in exercise of powers conferred by or under this Act as if this Act had commenced on the 3rd day of September, 1939.

Repeal and saving.

G. H. SPENCE,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 29th September, 1939, and is hereby promulgated for general information :—

ACT No. XXXVI OF 1939.

An Act to provide for the discipline of members of the Indian Air Force Volunteer Reserve raised in British India on behalf of His Majesty.

WHEREAS it is expedient to provide for the discipline of members of the Indian Air Force Volunteer Reserve raised in British India on behalf of His Majesty ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Air Force Volunteer Reserve (Discipline) Act, 1939.

(2) It extends to the whole of British India and applies to members of the Indian Air force Volunteer Reserve wherever they may be.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

2. The Central Government may make rules for the government, discipline and regulation of the Indian Air Force Volunteer Reserve.

3. Every member of the Indian Air Force Volunteer Reserve, while undergoing training in any unit, or otherwise, in pursuance of rules made under section 2, or when called into actual service in the Indian Air Force, in pursuance of the said rules, shall be subject to the Indian Air Force Act, 1932 in the same manner as a person belonging to His Majesty's Indian Air Force, and shall continue to be so subject until duly released from such training or service, as the case may be.

4. (1) If any member of the Indian Air Force Volunteer Reserve, when required, in pursuance of rules made under section 2, to join a unit or attend at any place for the purpose of undergoing training, fails without reasonable excuse to join or attend in accordance with such requirement, he shall be punishable with fine which may extend to two hundred rupees.

(2) If any member of the Indian Air Force Volunteer Reserve, when called into actual service in the Indian Air Force, and required by such call to join any unit or attend at any place, fails without reasonable excuse to comply with such requirement at or within such time as the Central Government may, by order, direct, he shall be liable to be apprehended and punished in the same manner as a person in or belonging to the Indian Air Force deserting or improperly absenting himself from duty, except that the punishment shall not exceed imprisonment which may extend to two years.

5. When any member of the Indian Air Force Volunteer Reserve is required, in pursuance of the rules made under section 2, to join any unit or attend at any place for the purpose of undergoing training, or is called into actual service in the Indian Air Force, a certificate purporting to be signed by an officer appointed in this behalf under the said rules and stating that the said member failed to join or attend in accordance with such requirement or call shall, without proof of the signature or appointment of such officer, be evidence of the matter stated therein.

6. No Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall try an offence punishable under sub-section (1) of section 4.

7. The Indian Air Force Volunteer Reserve (Discipline) Ord. No. VII of 1939 is hereby repealed; and any rules made, anything done and any action taken under the said Ordinance shall be deemed to have been made, done or taken under this Act as if this Act had commenced on the 16th day of September, 1939.

G. H. SPENCE,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor-General on the 29th September, 1939, and is hereby promulgated for general information:—

ACT No. XXXVII of 1939.

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

XXII of 1934. WHEREAS it is expedient further to amend the Indian Aircraft Act, 1934 for the purposes hereinafter appearing;

It is hereby enacted as follows:—

Short title. 1. This Act may be called the Indian Aircraft (Amendment) Act, 1939.

2. To sub-section (2) of section 1 of the Indian Aircraft Act, 1934 (hereinafter referred to as the said Act) the following shall be added, namely:—

“and applies also—

- (a) to British subjects and servants of the Crown in any part of India;
- (b) to British subjects who are domiciled in any part of India wherever they may be;
- (c) to, and to persons on, aircraft registered in British India wherever they may be”.

3. In section 3 of the said Act, for the words “the provisions of this Act and of the rules made thereunder, or from any of such provisions,” the words “all or any of the provisions of this Act” shall be substituted.

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

“(j) the installation and maintenance of lights on private property in the neighbourhood of aerodromes or on or in the neighbourhood of air-routes, by the owners or occupiers of such property; the payment by the Central Government for such installation and maintenance, and the supervision and control of such installation and maintenance, including the right of access to the property for such purposes;”.

5. In sub-section (1) of section 7 of the said Act, for the words “air navigation in or over British India” the following shall be substituted, namely:—

“the navigation —

- (a) in or over British India of any aircraft, or
- (b) anywhere of aircraft registered in British India”.

G. H. SPENCE,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor-General on the 29th September, 1939, and is hereby promulgated for general information:—

ACT No. XXXIX of 1939.

An Act further to amend the Indian Oaths Act, 1873, for a certain purpose.

WHEREAS it is expedient further to amend the Indian Oaths Act, 1873, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Oaths (Amendment) Act, 1939.

Short title.

2. In section 5 of the Indian Oaths Act, Amendment of section 1873, after the word "jurors" the following proviso shall be inserted, namely:—

"Provided that where the witness is a child under twelve years of age, and the Court or person having authority to examine such witness is of opinion that, though he understands the duty of speaking the truth, he does not understand the nature of an oath or affirmation, the foregoing provisions of this section and the provisions of section 6 shall not apply to such witness, but in any such case the absence of an oath or affirmation shall not render inadmissible any evidence given by such witness nor affect the obligation of the witness to state the truth."

G. H. SPENCE,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor-General on the 29th September, 1939, and is hereby promulgated for general information:—

Act No. XL of 1939.

An Act to amend the Motor Vehicles Act, 1939, for certain purposes.

WHEREAS it is expedient to amend the Motor Vehicles Act, 1939, for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. (1) This Act may be called the *Motor Vehicles (Amendment) Act, 1939.*

(2) It shall come into force at once; but sections 2 and 3 shall be deemed to have taken effect on the 1st day of July, 1939.

2. In sub-section (3) of section 1 of the Motor Vehicles Act, 1939 (hereinafter referred to as the said Act), after the word "but" the following shall be inserted, namely:—

"section 38 and Chapter IV shall not have effect until the 1st day of April, 1940, or such earlier date as the Provincial Government may, by notification in the official Gazette, appoint, and".

3. In section 134 of the said Act,—

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

"(2) Notwithstanding the repeal of the Indian Motor Vehicles Act, 1914, rules made by any Provincial Government under section 11 of that Act, other than rules prescribing the fees payable in respect of the grant or renewal of licences to drive motor vehicles, shall, whether or not they are consistent with this Act but subject to the provisions of sub-section (3) of this section, continue to be in force for a

period of nine months from the commencement of this Act, unless before the expiry of that period they are cancelled by the Provincial Government by notification in the official Gazette."

(b) after sub-section (4) the following sub-section shall be inserted, namely:—

"(5) While, under the provisions of sub-section (2), any rules made by a Provincial Government under section 11 of the Indian Motor Vehicles Act, 1914, continue to be in force—

(a) section 112 shall be construed as if after the words "any rule made thereunder" there were inserted the words and figure "or of any rule made under the Indian Motor Vehicles Act, 1914 and continuing in force", and

(b) section 113 shall be construed as if after the words "under this Act", wherever they occur, there were inserted the words and figure "or under any rule made under the Indian Motor Vehicles Act, 1914 and continuing in force".

4. In the First Schedule to the said Act,—

(a) in Section III of Form A,—

(i) for question (d) the following questions shall be substituted, namely:—

"(d) Can you readily distinguish the pigmentary colours red and green?

(e) Do you suffer from night blindness?"

(ii) questions (e) and (f) shall be relettered as (f) and (g), respectively;

(b) in Form C, for question (b) in paragraph 4 the following question shall be substituted, namely:—

"(b) Can the applicant readily distinguish the pigmentary colours red and green?

"(c) Does the applicant suffer from night blindness?"

and question (c) shall be relettered as (d).

5. In Part I of the Second Schedule to the said Act, for item 6 the following item shall be substituted, namely :—

“Inability readily to distinguish the pigmentary colours red and green.”

6. In the Sixth Schedule to the said Act, after the entry relating to Ajmer-Merwara the following entry shall be inserted, namely :—

“Andaman and Nicobar Islands...AN.”

7. In Part A of the Ninth Schedule to the said Act, for the entry relating to Sign No. 7 (including the direction as to colour so far as it relates to

Sign No. 7) the following entry shall be substituted, namely :—

“No. 7

USE OF SOUND SIGNALS PROHIBITED.



Cross and border—Red
Background—White
Device—Black.”

G. H. SPENCE,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor-General on the 29th September, 1939, and is hereby promulgated for general information:—

Act No. XLI of 1939.

An Act further to amend the Insurance Act, 1938, for a certain purpose.

WHEREAS it is expedient further to amend the Insurance Act 1938, for the purpose hereinafter appearing;

It is hereby enacted as follows:—

Short title. 1. This Act may be called the Insurance (Second Amendment) Act, 1939.

2. In clauses (a) and (b) of sub-section (2) of section 3 of the Insurance Act, 1938, after the words and figure "incorporated under the Indian Companies Act, 1913," the words and figures "or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby," shall be inserted.

G. H. SPENCE,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor-General on the 29th September, 1939, and is hereby promulgated for general information :—

Act No. XLIII of 1939.

An Act further to amend the Workmen's Compensation Act, 1923, for a certain purpose.

WHEREAS it is expedient further to amend the Workmen's Compensation Act, 1923, for the purpose hereinafter appearing ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Workmen's Compensation (Second Amendment) Act, 1939.

Short title and commencement.

(2) It shall be deemed to have come into force on the 3rd day of September 1939.

2. In section 15 of the Workmen's Compensation Act, 1923, after clause (4) the following clause shall be inserted, namely :—

Amendment of section 15 of Act VIII of 1923.

“(5) No compensation shall be payable under this Act in respect of any

personal injury for which a payment could be obtained under any scheme made under the Personal Injuries (Emergency Provisions) Act, 1931 :—

2 & 3
6., c. 82

Provided that the failure to give a notice or make a claim or commence proceedings within the time required by this Act shall not be a bar to the maintenance of proceedings under this Act in respect of any personal injury, if—

- (a) an application for a payment under any such scheme has been duly made in respect of the injury ; and
- (b) the Commissioner is satisfied that the said application was made in the reasonable belief that the injury was such that a payment could be made under the said scheme ; and
- (c) the Provincial Government certifies that the application was rejected, or that payments made in pursuance of the said application were discontinued, on the ground that the injury was not such an injury ; and
- (d) the proceedings under this Act are commenced within one month from the date of the said certificate of the Provincial Government.”

G. H. SPENCE,

Secy. to the Govt. of India.