

The Second Schedule.

ARBITRATION.

Arbitration in Suits.

1. (1) Where in any suit all the parties interested agree that any matter in difference between them shall be referred to arbitration, they may, at any time before judgment is pronounced, apply to the Court for an order of reference.
- Parties to suit may apply for order of reference.
- (2) Every such application shall be in writing and shall state the matter sought to be referred.
- Appointment of arbitrator.
2. The arbitrator shall be appointed in such manner as may be agreed upon between the parties.
3. (1) The Court shall, by order, refer to the arbitrator the matter in difference which he is required to determine, and shall fix such time as it thinks reasonable for the making of the award, and shall specify such time in the order.
- Order of reference.
- (2) Where a matter is referred to arbitration, the Court shall not, save in the manner and to the extent provided in this schedule, deal with such matter in the same suit.
4. (1) Where the reference is to two or more arbitrators, provision shall be made in the order for a difference of opinion among the arbitrators—
- Where reference is to two or more, order to provide for difference of opinion.
- (a) by the appointment of an umpire; or
- (b) by declaring that, if the majority of the arbitrators agree, the decision of the majority shall prevail; or
- (c) by empowering the arbitrators to appoint an umpire; or
- (d) otherwise, as may be agreed between the parties or, if they cannot agree, as the Court may determine.
- (2) Where an umpire is appointed, the Court shall fix such time as it thinks reasonable for the making of his award in case he is required to act.
5. (1) In any of the following cases, namely:—
- Power of Court to appoint arbitrator in certain cases.
- (a) where the parties cannot agree within a reasonable time with respect to the appointment of an arbitrator, or the person appointed refuses to accept the office of arbitrator, or
- (b) where an arbitrator or umpire—
- (i) dies, or
- (ii) refuses or neglects to act or becomes incapable of acting, or
- (iii) leaves British India in circumstances showing that he will probably not return at a date, or
- (c) where the arbitrators are empowered by the order of reference to appoint an umpire, do so,
- any party may serve the other party or the arbitrators, as the case may be, with a written notice to appoint an arbitrator or umpire.
- (2) If, within seven clear days after such notice has been served or such further time as the Court in each case allow, no arbitrator or no umpire is appointed, as the case may be, the Court may, on application by the party who gave the notice, and after giving the other party an opportunity of being heard, appoint an arbitrator or umpire or make an order superseding the arbitration, and in such case shall proceed with the suit.
6. Every arbitrator or umpire appointed under paragraph 4 or paragraph 5 shall have the like powers as if his name had been inserted in the order of reference.
7. (1) The Court shall issue the same processes to the parties and witness whom the arbitrator or umpire desires to examine, as the Court may issue in suits tried before it.
- Summons to witnesses and default.
- (2) Persons not attending in accordance with such process, or making any other default, or refusing to give their evidence, or guilty of any contempt to the arbitrator or umpire during the investigation of the matters referred, shall be subject to the like disadvantages, penalties and punishments, by order of the Court as if they were parties to the arbitration, and in such case shall proceed with the suit.
8. Where the arbitrators or the umpire cannot complete the award within the period specified in the order, the Court may, if it thinks fit, either allow further time, and from time to time, either before or after the expiration of the period fixed for the making of the award, enlarge such period; or may make an order superseding the arbitration, and in such case shall proceed with the suit.
- Extension of time for making award.
9. Where an umpire has been appointed, he may enter on the reference in the place of the arbitrators,—
- Where umpire may arbitrate in lieu of arbitrators.
- (a) if they have allowed the appointed time to expire without making an award, or
- (b) if they have delivered to the Court or to the umpire a notice in writing stating that they cannot agree.
10. Where an award in a suit has been made, the persons who made it shall sign it, and cause it to be filed in Court, together with any depositions and documents which have been taken and proved before the arbitrators or umpire.
- (1) The award shall be given to the parties.
- (2) The award may be confirmed by an order of the Court, the arbitrator or umpire may, with the leave of the Court, state the award as to the whole or any part thereof in the form of a special case for the Court.

the Court, and the Court shall deliver its opinion thereon, and shall order such opinion to be added to and to form part of the award.

Power to modify or correct award.

12. The Court may, by order, modify or correct an award,—

- (a) where it appears that a part of the award is upon a matter not referred to arbitration and such part can be separated from the other part and does not affect the decision on the matter referred; or
- (b) where the award is imperfect in form, or contains any obvious error which can be amended without affecting such decision; or
- (c) where the award contains a clerical mistake or an error arising from an accidental slip or omission.

13. The Court may also make such order as it thinks fit respecting the costs of the arbitration where any question arises respecting such costs and the award contains no sufficient provision concerning them.

Order as to costs of arbitration.

Where award or matter referred to arbitration may be remitted.

14. The Court may remit the award or any matter referred to arbitration to the re-consideration of the same arbitrator or umpire, upon such terms as it thinks fit,—

- (a) where the award has left undetermined any of the matters referred to arbitration, or where it determines any matter not referred to arbitration, unless such matter can be separated without affecting the determination of the matters referred;
- (b) where the award is so indefinite as to be incapable of execution;
- (c) where an objection to the legality of the award is apparent upon the face of it.

15. (1) An award remitted under paragraph 14 becomes void on failure of the arbitrator or umpire to re-consider it. But no award shall be set aside except on one of the following grounds, namely:—

Grounds for setting aside award.

- (a) corruption or misconduct of the arbitrator or umpire;
- (b) either party having been guilty of fraudulent concealment of any matter which he ought to have disclosed, or of wilfully misleading or deceiving the arbitrator or umpire;
- (c) the award having been made after the issue of an order by the Court superseding the arbitration and proceeding with the suit or after the expiration of the period allowed by the Court, or being otherwise invalid.

(2) Where an award becomes void or is set aside under clause (1), the Court shall make an order superseding the arbitration and in such case shall proceed with the suit.

16. (1) Where the Court sees no cause to remit the award or any of the matters referred to arbitration for re-consideration in manner aforesaid, and no application has been made to set aside the award, or the Court refuses such application, the Court shall, after the time for making such application has expired, pronounce judgment according to the award.

Judgment to be according to award.

Upon the judgment so pronounced a decree shall follow, and no appeal shall lie from such decree so far as the decree is in excess of, or not in accordance with, the award.

Order of reference on agreements to refer.

17. (1) Where any persons agree in writing that any difference between them shall be referred to arbitration, the parties to the agreement, or any of them, may apply to any Court having jurisdiction in the matter to which the agreement relates, that the agreement be filed in Court.

Application to file in Court agreement to refer to arbitration.

(2) The application shall be in writing and shall be numbered and registered as a suit between one or more of the parties interested or claiming to be interested as plaintiff or plaintiffs, and the others or other of them as defendants or defendant, if the application has been presented by all the parties, or, if otherwise, between the applicant as plaintiff and the other parties as defendants.

(3) On such application being made, the Court shall direct notice thereof to be given to all the parties to the agreement, other than the applicants, requiring such parties to show cause, within the time specified in the notice, why the agreement should not be filed.

(4) Where no sufficient cause is shown, the Court shall order the agreement to be filed, and shall make an order of reference to the arbitrator appointed in accordance with the provisions of the agreement or, if there is no such provision and the parties cannot agree, the Court may appoint an arbitrator.

18. Where any party to any agreement to refer to arbitration, or any person claiming under him, institutes any suit against any other party to the agreement, or any person claiming under him, in respect of any matter agreed to be referred, any party to such suit may, at the earliest possible opportunity and in all cases where issues are settled at or before such settlement, apply to the Court to stay the suit; and the Court, if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the agreement to refer to arbitration, and that the applicant was, at the time when the suit was instituted and still remains, ready and willing to do all things necessary to the proper conduct of the arbitration, may make an order staying the suit.

Stay of suit where there is an agreement to refer to arbitration.

(2) The application shall be in writing and shall be numbered and registered as a suit between one or more of the parties interested or claiming to be interested as plaintiff or plaintiffs, and the others or other of them as defendants or defendant, if the application has been presented by all the parties, or, if otherwise, between the applicant as plaintiff and the other parties as defendants.

19. The foregoing provisions, so far as they are consistent with any agreement filed under paragraph 17, shall be applicable to all proceedings under the order of reference made by the Court under that paragraph, and to the award and to the decree following thereon.

Provisions applicable to proceedings under paragraph 17.

(2) The application shall be in writing and shall be numbered and registered as a suit between the applicant as plaintiff and the other parties as defendants.

(3) The Court shall direct notice to be given to the parties to the arbitration, other than the applicant, requiring them to show cause, within a time specified, why the award should not be filed.

21. (1) Where the Court is satisfied that the matter has been referred to arbitration and that an award has been made thereon and where no ground such as is mentioned or referred to in paragraph 14 or paragraph 15 is proved, the Court shall order the award to be filed and shall proceed to pronounce judgment according to the award.

(2) Upon the judgment so pronounced a decree shall follow, and no appeal shall lie from such decree except in so far as the decree is in excess of or not in accordance with the award.

22. The last thirty-seven words of section 21 of the Specific Relief Act, 1877, shall not apply to any agreement to refer to arbitration, or to any award, to which the provisions of this schedule apply. 1 of 37

23. The forms set forth in the Appendix, with such variations as the circumstances of each case require, shall be used for the respective purposes therein mentioned.

Forms.

APPENDIX.

No. 1.

APPLICATION FOR AN ORDER OF REFERENCE.

(Title of suit.)

1. This suit is instituted for (state nature of claim).
2. The matter in difference between the parties is (state matter of difference).
3. The applicants being all the parties interested have agreed that the matter in difference between them shall be referred to arbitration.
4. The applicants therefore apply for an order of reference.

A. B.

C. D.

Dated the day of 19 .

NOTE.—If the parties are agreed as to the arbitrators it should be so stated.

No. 2.

ORDER OF REFERENCE.

(Title of suit.)

Upon reading the application presented on the day of 19 it is ordered that the following matter in difference arising in this suit, namely:—

_____ be referred for determination to X and Y, or in case of their not agreeing then to the determination of Z, who is hereby appointed to be umpire; and such arbitrators are to make their award in writing on or before the day of 19 , and in case of the said arbitrators not agreeing in an award the said umpire is to make his award in writing within months after the time during which it is within the power of the arbitrators to make an award shall have ceased.

Liberty to apply.

Given under my hand and the seal of the Court, this day of 19 .

Judge.

No. 3.

ORDER FOR APPOINTMENT OF NEW ARBITRATOR.

(Title of suit.)

Whereas by an order, dated the day of 19 [state order of reference and refusal, etc., of arbitrator], it is by consent ordered that Z be appointed in the place of

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deceased, or as the case may be) to act as arbitrator with Y, the surviving arbitrator, under the said order; and it is ordered that the award of the said arbitrators be made on or before the _____ day of _____ 19____.

Given under my hand and the seal of the Court, this _____ day of _____ 19____.

Judge.

No. 4.

SPECIAL CASE.

(Title of suit.)

In the matter of an arbitration between A. B. of _____ and C. D. of _____ the following special case is stated for the opinion of the Court :—

[Here state the facts concisely in numbered paragraphs.]

The questions of law for the opinion of the Court are :—

First, whether _____

Secondly, whether _____

X.
Y.

Dated the _____ day of _____ 19____.

No. 5.

AWARD.

(Title of suit.)

In the matter of an arbitration between A. B. of _____ and C. D. of _____ :—

WHEREAS in pursuance of an order of reference made by the Court of _____ and _____ dated the _____ day of _____ 19____ the following matter in difference between A. B. and C. D., namely, _____

has been referred to us for determination ;

Now we, having duly considered the matter referred to us, do hereby make our award as follows :—

We award—

(1) that _____

(2) that _____

Dated the _____ day of _____ 19____.

X.
Y.

The Third Schedule

EXECUTION OF DECREES BY COLLECTORS.

Powers of Collector.

1. Where the execution of a decree has been transferred to the Collector under section 68, he may—

- (a) proceed as the Court would proceed when the sale of immoveable property is postponed in order to enable the judgment-debtor to raise the amount of the decree ; or
- (b) raise the amount of the decree by letting in perpetuity, or for a term, on payment of a premium, or by mortgaging, the whole or any part of the property ordered to be sold ; or
- (c) sell the property ordered to be sold or so much thereof as may be necessary.

2. Where the execution of a decree, not being a decree ordering the sale of immoveable property in pursuance of a contract specifically affecting the same, but being a decree for the payment of money in

Procedure of Collector in special cases.
satisfaction of which the Court has ordered the sale of immoveable property, has been so transferred, the Collector, if, after such inquiry as he thinks necessary, he has reason to believe that all the liabilities of the judgment-debtor can be discharged without a sale of the whole of his available immoveable property, may proceed as hereinafter provided.

3. (1) In any such case as is referred to in paragraph 2, the Collector shall publish a notice, allowing a period of sixty days from the date of its publication for compliance and calling upon—
Notice to be given to decree-holders and to persons having claims on property.

- (a) every person holding a decree for the payment of money against the judgment-debtor capable of execution by sale of his immoveable property and which such decree-holder desires to have so executed, and every holder of a decree for the payment of money in execution of which proceedings for the sale of such property are pending, to produce before the Collector a copy of the decree, and a certificate from the Court which passed or is executing the same, declaring the amount recoverable thereunder ;
- (b) every person having any claim on the said property to submit to the Collector a statement of such claim, and to produce the documents (if any) by which it is evidenced.

(2) Such notice shall be published by being affixed on a conspicuous part of the court-house of the Court which made the original order for sale, and in such other places (if any) as the Collector thinks fit ; and where the address of any such decree-holder or claimant is known, a copy of the notice shall be sent to him by post or otherwise.

4. (1) Upon the expiration of the said period, the Collector shall appoint a day for hearing any representations which the judgment-debtor and the decree-holders or claimants (if any) may desire to make and for holding such inquiry as he may deem necessary for informing himself as to the nature and extent of such decrees and claims and of the judgment-debtor's immoveable property, and may, from time to time, adjourn such hearing and inquiry.

Amount of decrees for payment of money to be ascertained, and immoveable property available for their satisfaction.

(2) Where there is no dispute as to the fact or extent of the liability of the judgment-debtor to any of the decrees or claims of which the Collector is informed, or as to the relative priorities of such decrees or claims, or as to the liability of any such property for the satisfaction of such decrees or claims, the Collector shall draw up a statement, specifying the amount to be recovered for the discharge of such decrees, the order in which such decrees and claims are to be satisfied, and the immoveable property available for that purpose.

(3) Where any such dispute arises, the Collector shall refer the same, with a statement thereof and his own opinion thereon, to the Court which made the original order for sale, and shall, pending the reference, stay proceedings relating to the subject thereof. The Court shall dispose of the dispute if the matter thereof is within its jurisdiction, or transmit the case to a competent Court for disposal, and the final decision shall be communicated to the Collector, who shall then draw up a statement as above provided in accordance with such decision.

5. The Collector may, instead of himself issuing the notices and holding the inquiry required by paragraphs 3 and 4, draw up a statement specifying the circumstances of the judgment-debtor and of his immoveable property so far as they are known to the Collector or appear in the records of his office, and forward such statement to the District Court ; and such Court shall thereupon issue the notices, hold the inquiry and draw up the statement required by paragraphs 3 and 4 and transmit such statement to the Collector.

6. The decision by the Court of any dispute arising under paragraph 4 or paragraph 5 shall, as between the parties thereto, have the force of and be appealable as a decree.

7. (1) Where the amount to be recovered and the property available have been determined as provided in paragraph 4 or paragraph 5, the Collector may,—

Effect of decision of Court as to dispute.

Scheme for liquidation of decrees for payment of money.

- (a) if it appears that the amount cannot be recovered without the sale of the whole of the property available, proceed to sell such property ; or,
- (b) if it appears that the amount, with interest (if any) in accordance with the decree, and, when not decreed, with interest (if any) at such rate as he thinks reasonable, may be recovered without such sale, raise such amount and interest (notwithstanding the original order for sale) —
 - (i) by letting in perpetuity or for a term, on payment of a premium, the whole or any part of the said property ; or
 - (ii) by mortgaging the whole or any part of such property ; or
 - (iii) by selling part of such property ; or
 - (iv) by letting on farm, or managing by himself or another, the whole or any part of such property for any term not exceeding twenty years from the date of the order of sale ; or
 - (v) partly by one of such modes, and partly by another or others of such modes ; or
 - (vi) by any other mode for the purpose of managing the whole or any part of such property, as may be determined by the Collector.

(The Third Schedule.—Execution of Decrees by Collectors.)

- (3) For the purpose of improving the saleable value of the property available or any part thereof, or rendering it more suitable for letting or managing, or for preserving the property from sale in satisfaction of an incumbrance, the Collector may discharge the claim of any incumbrancer which has become payable or compound the claim of any incumbrancer whether it has become payable or not, and, for the purpose of providing funds to effect such discharge or composition, may mortgage, let or sell any portion of the property which he deems sufficient. If any dispute arises as to the amount due on any incumbrance with which the Collector proposes to deal under this clause, he may institute a suit in the proper Court, either in his own name or the name of the judgment-debtor, to have an account taken, or he may agree to refer such dispute to the decision of two arbitrators, one to be chosen by each party, or of an umpire to be named by such arbitrators.
- (4) In proceeding under this paragraph the Collector shall be subject to such rules consistent with this Act as may, from time to time, be made in this behalf by the Local Government.

8. Where, on the expiration of the letting or management under paragraph 7, the amount to be recovered has not been realized, the Collector shall notify the fact in writing to the judgment-debtor or his representative in interest, stating at the same time that, if the balance necessary to make up the said amount is not paid to the Collector within six weeks from the date of such notice, he will proceed to sell the whole or a sufficient part of the said property; and, if on the expiration of the said six weeks the said balance is not so paid, the Collector shall sell such property or part accordingly.

9. (1) The Collector shall, from time to time, render to the Court which made the original order for sale an account of all monies which come to his hands and of all charges incurred by him in the exercise and performance of the powers and duties conferred and imposed on him under the provisions of this schedule, and shall hold the balance at the disposal of the Court.

(2) Such charges shall include all debts and liabilities from time to time due to the Government in respect of the property or any part thereof, the rent (if any) from time to time due to a superior holder in respect of such property or part, and, if the Collector so directs, the expenses of any witnesses summoned by him.

- (3) The balance shall be applied by the Court—
 - (a) in providing for the maintenance of such members of the judgment-debtor's family (if any) as are entitled to be maintained out of the income of the property, to such amount in the case of each member as the Court thinks fit; and,
 - (b) where the Collector has proceeded under paragraph 1, in satisfaction of the original decree in execution of which the Court ordered the sale of immoveable property, or otherwise as the Court may under section 73 direct; or
 - (c) where the Collector has proceeded under paragraph 2,—
 - (i) in keeping down the interest on incumbrances on the property;
 - (ii) where the judgment-debtor has no other sufficient means of subsistence, in providing for his subsistence to such amount as the Court thinks fit; and
 - (iii) in discharging rateably the claims of the original decree-holder and any other decree-holders who have complied with the said notice, and whose claims were included in the amount ordered to be recovered.

(4) No other holder of a decree for the payment of money shall be entitled to be paid out of such property or balance until the decree-holders who have obtained such order have been satisfied, and the residue (if any) shall be paid to the judgment-debtor or such other person as the Court directs.

10. Where the Collector sells any property under this schedule, he shall put it up to public auction in one or more lots, as he thinks fit, and may—

Sales how to be conducted.

- (a) fix a reasonable reserved price for each lot;
- (b) adjourn the sale for a reasonable time whenever, for reasons to be recorded, he deems the adjournment necessary for the purpose of obtaining a fair price for the property;
- (c) buy in the property offered for sale, and re-sell the same by public auction or private contract, as he thinks fit.

11. (1) So long as the Collector can exercise or perform in respect of the judgment-debtor's immoveable property, or any part thereof, any of the powers or duties conferred or imposed on him by paragraphs 1 to 10, the judgment-debtor or his representative in interest shall be incompetent to mortgage, charge, lease or alienate such property or part except with the written permission of the Collector, nor shall any Civil Court issue any process against such property or part in execution of a decree for the payment of money.

Restrictions as to alienation by judgment-debtor or his representative, and prosecution of remedies by decree-holders.

(2) During the same period no Civil Court shall issue any process of execution either against the judgment-debtor or his property in respect of any decree for the satisfaction whereof provision has been made by the Collector under paragraph 7.

(3) The same period shall be excluded in calculating the period of limitation applicable to the execution of any decree affected by the provisions of this paragraph in respect of any remedy of which the decree-holder has been temporarily deprived.

12. Where the property of which the sale has been ordered is situate in more districts than one, the powers and duties conferred and imposed on the Collector by paragraphs 1 to 10 shall be exercised and performed by each one of the Collectors of the said districts or the Local Government may by general order or special order direct.

13. In exercising the powers conferred on him by paragraphs 1 to 10 the Collector shall have the powers of a Civil Court to compel the attendance of parties and witnesses and the production of documents.

Power of Collector to compel attendance and production of documents.

The Fourth Schedule.

(See section 155.)

ENACTMENTS AMENDED.

1	2	3	4
Year.	No.	Short title.	Amendment.
1870	VII	The Court-fees Act, 1870	<p>In article 1 of Schedule I, after the word "plaint" the words "written statement pleading a set-off or counter-claim" and after the word "Act" the words "or of cross-objection" shall be inserted.</p> <p>From article 11 of Schedule II the words "from an order rejecting a plaint or" shall be omitted.</p> <p>For the entry in the first column of Schedule II relating to article 19 the following entry shall be substituted, namely :—</p> <p>"Agreement in writing stating a question for the opinion of the Court under the Code of Civil Procedure, 1908."</p>

The Fifth Schedule.

(See section 156.)

ENACTMENTS REPEALED.

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
<i>Acts of the Governor General in Council.</i>			
1870	VII	The Court-fees Act, 1870 . . .	Section 16, and article 15 of Schedule II.
1882	IV	The Transfer of Property Act 1882	Sections 85 to 90 inclusive, 92 to 94 inclusive, 96, 97, 99 and in section 100 the words "and all the provisions hereinbefore contained as to a mortgagee instituting a suit for the sale of the mortgaged property."
"	XIV	The Code of Civil Procedure . . .	The whole Act.
"	XV	The Presidency Small Cause Courts Act, 1882.	The last paragraph of section 3.
1888	VI	The Debtors Act, 1888 . . .	Sections 2 to 8.
"	VII	The Civil Procedure Code Amendment Act, 1888.	So much as is unrepealed, except section 1, section 65 and section 66, sub-sections (1), (3) and (4).
"	X	The Presidency Small Cause Courts Law Amendment Act, 1888.	So much as is unrepealed.
1890	VIII	The Guardian and Wards Act, 1890.	Section 53.
1891	XII	The Repealing and Amending Act, 1891.	So much as relates to Act XIV of 1882 and Act VII of 1888.
1892	VI	The Indian Limitation Act and Civil Procedure Code Amendment Act, 1892.	In the title and preamble the words "and the Code of Civil Procedure" and sections 2, 3 and 4.
1894	V	The Civil Procedure Code Amendment Act, 1894.	The whole Act.
1895	VII	The Punjab Laws Act Amendment Act, 1895.	Sections 1 and 2.
"	XIII	The Civil Procedure Code Amendment Act, 1895.	The whole Act.
1900	VI	The Lower Burma Courts Act, 1900.	So much of the schedules as relate to Act XIV of 1882.

J. M. MACPHERSON,
Secretary to the Government of India.



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

PART IV.

ACTS PASSED BY THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 8th June, 1908, and is hereby promulgated for general information:—

ACT No. VI OF 1908.

An Act further to amend the law relating to explosive substances.

WHEREAS it is necessary further to amend the law relating to explosive substances; It is hereby enacted as follows:—

1. (1) This Act may be called the Explosive Substances Act, 1908.

Short title, extent and application.

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

(a) all native Indian subjects of His Majesty in any place without and beyond British India;

(b) all other British subjects within the territories of any native prince or chief in India.

2. In this Act the expression "explosive substance" shall be deemed to include any materials for making explosive substance; also any apparatus, machine, implement, or material used, or intended to be used, or adapted for causing, or used in causing, any explosion in or with any explosive substance; also any part of any such apparatus, machine, or implement.

3. Any person who unlawfully and maliciously causes by any explosive substance an explosion of a nature likely to endanger life or to

Punishment for causing explosion likely to endanger life or property.

cause serious injury to property shall, whether any injury to person or property has been

actually caused or not, be punished with transportation for life or any shorter term, to which fine may be added, or with imprisonment for a term which may extend to ten years, to which fine may be added.

Punishment for attempt to cause explosion, or for making or keeping explosive with intent to endanger life or property.

4. Any person who unlawfully and maliciously—

(a) does any act with intent to cause by an explosive substance, or conspires to cause by an explosive substance, an explosion in British India of a nature likely to endanger life or to cause serious injury to property; or

(b) makes or has in his possession or under his control any explosive substance with intent by means thereof to endanger life, or cause serious injury to property in British India, or to enable any other person by means thereof to endanger life or cause serious injury to property in British India;

shall, whether any explosion does or does not take place and whether any injury to person or property has been actually caused or not, be punished with transportation for a term which may extend to twenty years, to which fine may be added, or with imprisonment for a term which may extend to ten years, to which fine may be added.

5. Any person who makes or knowingly has in his possession or under his control any explosive substance, under such circumstances as to give rise to a reasonable suspicion that he is not making it or does not have it in his possession or under his control for a lawful object, shall, unless he can show that he made it or had it in his possession or under his control for a lawful object, be punishable with transportation for a term which may extend to fourteen years, to which fine may be added, or with imprisonment for a term which may extend to five years, to which fine may be added.

Punishment for making or possessing explosives under suspicious circumstances.

6. Any person who by the supply of or solicitation for money, the providing of premises, the supply of materials, or in any manner whatsoever, procures, counsels, aids, abets, or is accessory to, the commission of any offence under this Act shall be punished with the punishment provided for the offence.

Punishment of abettors.

7. No Court shall proceed to the trial of any person for an offence against this Act except with the consent of the Local Government or the Governor-General in Council.

Restriction on trial of offences.

STATEMENT OF OBJECTS AND REASONS.

Recent events have brought prominently to notice the inadequacy of the existing law to deal with crimes committed by means of explosive substances. The Indian Explosives Act, 1884, was framed to prevent accidents rather than to prevent crime and its provisions are clearly inadequate to meet the present emergency. No sentence of imprisonment can be imposed under that Act and the maximum penalty is only a fine of three thousand rupees. The Indian Arms Act, 1878, though it applies to the possession of explosives as well as arms, is also inadequate in respect both of the penalties it allows and the scope of its provisions for dealing promptly with preparations to manufacture bombs and other explosives. The Penal Code provides for the punishment of persons who cause hurt or mischief by means of explosive substances and it also deals with attempts to cause hurt or mischief but only when any act towards the commission of the offence is actually done. But it does not provide any penalty for making or possessing explosive substances with unlawful intent and it does not in other cases always provide such severe penalties as are requisite. The Governor-General in Council therefore considers it necessary to supplement the existing law by an Act on the lines of the English Explosive Substances Act, 1883, which was enacted for the express purpose of dealing with anarchist crimes. The Bill which has been drafted to give effect to this decision provides for the punishment of any person who causes an explosion, likely to endanger life or property, or who attempts to cause such an explosion, or makes or has in his possession any explosive substance with intent to endanger life or property. It further makes the manufacture or possession of explosive substances for any other than a lawful object a substantive offence and throws on the person who makes or is in possession of any explosive substance the onus of proving that the making or possession was lawful. It also provides adequately for the punishment both of principals and accessories.

(Signed) H. ADAMSON.

The 6th June 1908.

J. M. MACPHERSON,
Secretary to the Government of India.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 8th June 1908 and is hereby promulgated for general information:—

ACT No. VII OF 1908.

An Act for the prevention of incitements to murder and to other offences in newspapers.

WHEREAS it is expedient to make better provision for the prevention of incitements to murder and to other offences in newspapers; It is hereby enacted as follows:—

Short title and extent. 1. (1) This Act may be called the Newspapers (Incitements to offences) Act, 1908.

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

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

Definitions.

(a) "Magistrate" means a District Magistrate or Chief Presidency Magistrate:

(b) "newspaper" means any periodical work containing public news or comments on public news:

(c) "printing press" includes all engines, machinery, types, lithographic stones, implements, utensils and other plant or materials used for the purpose of printing.

(2) Save as herein otherwise provided all words and expressions in this Act shall have the same meanings as those respectively assigned to them in the Code of Criminal Procedure, 1898.

3. (1) In cases where, upon application made by order of or under authority from the Local Government,

Power to forfeit printing presses in certain cases.

Magistrate is of opinion that a newspaper printed and published within the Province contains any incitement to murder or to any offence under the Explosive Substances Act, 1908, or to any act of violence, such Magistrate may make a conditional order declaring the printing press used, or intended to be used, for the purpose of printing or publishing such newspaper, or found in or upon the premises where such newspaper is, or at the time of the printing of the matter complained of was, printed and all copies of such newspaper, wherever found, to be forfeited to His Majesty, and shall in such order state the material facts and call on all persons concerned to appear before him, at a time and place to be fixed by order, to show cause why the order should not be made absolute.

A copy of such order shall be fixed on a conspicuous part of the premises specified in the declaration made in respect of such newspaper under section 5 of the Press and Registration of Books Act, 1867, or of any other Act, and the affixing of such copy shall be deemed service of the said order on all persons concerned.

(3) In cases of emergency or in cases where the purposes of the application might be defeated by delay, the Magistrate may, on or after the making of a conditional order under sub-section (1), make a further order *ex parte* for the attachment of the printing press or other property referred to in the conditional order.

(4) If any person concerned appears and shows cause against the conditional order, the Magistrate shall take evidence, whether in support of or in opposition to such order, in manner provided in section 356 of the Code of Criminal Procedure, 1898.

(5) If the Magistrate is satisfied that the newspaper contains matter of the nature specified in sub-section (1), he shall make the conditional order of forfeiture absolute in respect of such property as he may find to be within the terms of the said sub-section.

(6) If the Magistrate is not so satisfied, he shall set aside the conditional order of forfeiture and the order of attachment, if any.

4. (1) The Magistrate may by warrant empower any Police-officer not below the

Power to seize.

rank of a Sub-Inspector to seize and detain any property ordered to be attached under section 3, sub-section (3), or to seize and carry away any property ordered to be forfeited under section 3, sub-section (5), wherever found and to enter upon and search for such property in any premises—

(a) where the newspaper specified in such warrant is printed or published, or

(b) where any such property may be or may be reasonably suspected to be, or

(c) where any copy of such newspaper is kept for sale, distribution, publication or public exhibition or reasonably suspected to be so kept.

(2) Every warrant issued under sub-section (1) so far as it relates to a search shall be executed in manner provided for the execution of search warrants by the Code of Criminal Procedure, 1898.

5. Any person concerned who has appeared and shown cause against a conditional order of forfeiture may appeal to the High Court within fifteen days from the date when such order is made absolute.

Appeal.

6. Save as provided in section 5, no order duly made by a Magistrate under section 3 shall be called in question in any Court.

Bar of other proceedings.

7. Where an order of forfeiture has been made absolute in relation to any newspaper the Local Government may, by notification in the local official Gazette, annul any declaration made by the printer or publisher of such newspaper under section 5 of the Press and Registration of Books Act, 1867, and may by such notification prohibit any further declaration being made or

Power to annul declaration under Press and Registration of Books Act, 1867.

subscribed under the said Act in respect of the said newspaper, or of any newspaper which is the same in substance as the said newspaper, until such prohibition be withdrawn.

8. Any person who prints or publishes any newspaper specified in any prohibition notified under section 7 during the continuance of that prohibition shall be liable, on conviction, to the penalties prescribed by section 15 of the Press and Registration of Books Act, 1867.

Penalty.

9. All proceedings under this Act shall be conducted so far as may be in accordance with the provisions of the Code of Criminal Procedure, 1898.

10. No proceedings taken under this Act shall operate to prevent any person from being prosecuted for any act which constitutes an offence under any other law.

Application of Code of Criminal Procedure.
Operation of other laws not barred.

STATEMENT OF OBJECTS AND REASONS.

The circumstances of the recent outrages by means of explosive substances have disclosed a close connexion between the perpetrators of such outrages and certain newspapers which have from time to time published criminal incitements. Experience has shown that prosecution under the existing law is inadequate to prevent the publication of these incitements. In the case of one newspaper, persons registered as printer and publisher have been within a comparatively short period prosecuted and convicted several times, while the real authors of the incitements have concealed their identity. This newspaper notwithstanding these prosecutions continues to exist and to pursue its criminal course. Nor is it a solitary instance of the kind.

It has therefore become necessary to make better provision for the prevention of such incitements in newspapers. The scope of the present Bill is confined to incitements to murder, to offences under the Explosive Substances Act, 1908, and to acts of violence. It gives power in such cases to confiscate the printing press used in the production of the newspaper, and to stop the lawful issue of the newspaper.

The procedure adopted in the Bill follows the general lines of that provided in the Code of Criminal Procedure for dealing with public nuisances, with the important addition that the final order of the Magistrate directing the forfeiture of the press is appealable to the High Court within fifteen days. It is further provided that no action can be taken against a press save on the application of a Local Government.

When an order of forfeiture has been made by the Magistrate, but only in that case, the Local Government is empowered to annul the declaration made by the printer and publisher of the newspaper under the Press and Registration of Books Act, 1867, and thereafter neither that newspaper nor any other which is the same in substance can be published without a breach of the law.

It is also provided that no proceedings taken under the Bill shall bar the prosecution of any person for any act which constitutes an offence under any other law.

(Signed) H. ADAMSON.

The 6th June 1908.

J. M. MACPHERSON,
Secretary to the Government of India



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PART IV.

ACTS PASSED BY THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of the Governor General on the 10th July 1908, and is hereby promulgated for general information:

ACT No. VIII of 1908.

An Act to amend the Local Authorities Loan Act, 1904.

WHEREAS it is expedient to amend the Local Authorities Loan Act, 1904; It is hereby enacted as follows:—

1. This Act may be called the Local Authorities Loan (Amendment) Act, 1908.
 Short title.
2. In section 2 of the Local Authorities Loan Act, 1904, for the words "bills repayable" the words "bills or promissory notes payable" shall be substituted; and in the proviso to the same section, after the word "bills" the words "or promissory notes" shall be inserted.
 Amendment of section 2, Act III, 1904.

J. M. MACPHERSON,
 Secretary to the Government of India.