

ACT No. XXV OF 1856.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 19th December 1856.)

AN ACT to comprise in one Act the provisions necessary for the assessment and collection of Municipal rates and taxes in the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca.

WHEREAS it is expedient to comprise in one Act the provisions necessary
Preamble. for the assessment and collection of certain rates and taxes to be imposed by special Acts for the Towns of Calcutta, Madras, and Bombay, and the Settlement of Prince of Wales' Island, Singapore, and Malacca, for raising funds for Municipal purposes; it is enacted as follows:—

I. The provisions of this Act, save so far as they may be expressly varied
Application of Act. or excepted by the special Act for any of the said Towns or for the said Settlement, shall apply to the assessment and collection of the rates and taxes imposed by such special Act, and to the Commissioners appointed thereby for the conservancy and improvement of such Town or of any station of the said Settlement; and such special Act and such provisions of this Act as shall not be expressly varied or excepted by the special Act, shall be construed together as forming one Act.

II. The Commissioners may from time to time appoint such officers as they
Appointment of Officers. shall think necessary and proper to assist in the execution of this and the special Act, and may from time to time remove any of such officers, and appoint others in their places, and may, with the sanction of the local Government, pay such salaries and allowances to the said officers respectively as the Commissioners shall think reasonable. Provided that

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that no person shall be appointed to, or removed from any office, the monthly salary of which exceeds two hundred Rupees, without the sanction of the Local Government.

III. The rate or rates imposed upon houses, buildings, and lands according to the annual value thereof in any of the said Towns or in the said Settlement by the special Act shall be assessed in the manner hereinafter provided.

Assessment upon annual value of property.

IV. The estimated gross annual rent at which the houses, buildings, and lands liable to the rate might reasonably be expected to let from year to year shall, for the purposes of the rate, be held and deemed to be the annual value of such houses, buildings, and lands. The value of a house or building so estimated shall not include the value of any machinery contained therein.

Annual value how to be ascertained.

V. For the purpose of such assessment as aforesaid, the Commissioners shall from year to year cause a valuation to be made of all houses, buildings, and lands liable to the rate. Such valuation, estimated as in hereinbefore provided, shall be entered in a book to be kept at the Office of the Commissioners wherein shall also be written in distinct columns the name of the owner of the property; or, if the the occupier, and not the owner, is the person liable to pay the rate, the name of the occupier; a designation of the property either by name or number sufficient to identify the same, together with the name of the street or district in which such property is situate, and the amount of the rate assessed thereon.

Valuation to be made and entered in a book.

VI. When the name of the owner or occupier is not known, it shall be sufficient to designate him in the said book, and also in any notice or other proceeding under this Act, as "the owner" or "the occupier" of the property on which the rate is assessed without further description.

Description of owner or occupier if name unknown.

VII. In order to enable the Commissioners to arrive at a fair valuation of any houses, buildings, or lands liable to the rate, it shall be lawful for the Commissioners to require the owner or occupier of such houses, buildings, or lands to furnish them with returns of the rent or annual value thereof; and for the like purpose,

Returns may be required for purpose of valuation.

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purpose, it shall be lawful for the Commissioners, or any person or persons appointed by them for that purpose, at any time to enter and inspect such houses, buildings, or lands after having given forty-eight hours' previous notice of such their intention to the occupier thereof; and whoever refuses or fails to furnish any such return for the space of one week from the day on which he shall have been required so to do, or knowingly makes a false or incorrect return; and whoever hinders, obstructs, or prevents, any one of the Commissioners, or any person appointed by them as aforesaid, from entering or inspecting any such houses, buildings, or lands, shall be liable, on conviction before a Magistrate, to a penalty not exceeding two hundred Rupees.

VIII. When the valuation has been completed, the Commissioners shall give public notice thereof, and of the place where the said book containing the valuation and the rate assessed, or a copy of the said book, may be inspected, in the *Government Gazette* (if any), and by advertisement in some newspaper circulating within the Town or station, and also by placards posted up in conspicuous places throughout the same; and the person in whose custody such book may be shall permit every person claiming to be the owner or occupier of property included in the assessment, or the agent of such owner or occupier, to inspect the book and to make extracts therefrom without payment of any fee; and any such person who wilfully neglects or refuses to permit the same, shall be liable, on conviction before a Magistrate, to a penalty of fifty Rupees.

IX. The Commissioners shall, at the time and in the manner in the preceding Section mentioned, give public notice of a day not being less than fifteen days from the publication of such notice, when they will proceed to revise the said valuation and assessment; and in all cases in which any property is for the first time assessed or in which the valuation of any property previously assessed is increased, shall give special notice thereof to the owners or occupiers of such property. All complaints against such valuation and assessment shall be made on or before the day fixed in the notice; and all complaints so made shall be enquired into by the Commissioners, and such amendments shall thereupon be made in the said book as to the Commissioners shall appear just and proper.

X. After

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X. After the complaints have been enquired into and after the revision of the valuation and assessment has been completed, the amendments made in the said book shall be authenticated by the signatures of two of the Commissioners, who shall at the same time certify under their signatures that no valid objection has been made to the valuation and assessment in the said book entered, except in the cases in which amendments have been made as shown therein; and thereupon, and subject to such alterations and amendments as may thereafter be duly made, the rate so assessed shall be deemed to be the rate for the whole year in and for which the assessment is made, and such year shall commence on the 1st day of January.

After revision, assessment book to be signed.

Rate assessed to be deemed the rate for the whole year.

XI. Provided always, that the Commissioners, upon the representation of parties or other information, may at any time amend the said book by inserting therein the name of any person whose name ought to be so inserted, or any property liable to the rate; or by striking out the name of any person or any property not liable to the rate, or by reducing the amount of the rate: and in all cases in which any property is inserted as liable to the rate, the amendment shall be considered to have been made at the time when the person interested first received notice thereof.

Alteration or amendment of assessment.

XII. It shall not be necessary to prepare a new book every year, but the Commissioners may adopt the valuation and assessment contained in the book for the preceding year, with such alterations as may, in particular cases, be deemed necessary, as the valuation and assessment for the year following. Provided always that public notice of such valuation and assessment shall be given in the manner prescribed in Section VIII of this Act; and the provisions of the said Section and of the three following Sections shall be applicable to the said valuation and assessment, and to the book or books in which it is contained.

New assessment book need not be prepared yearly.

Proviso.

XIII. The taxes imposed upon vehicles and animals in any of the said Towns or in the said Settlement by the special Act, shall be assessed in the manner hereinafter provided.

Taxes upon vehicles and animals.

XIV. The

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XIV. The Commissioners shall, from time to time, cause to be prepared and entered in distinct columns in a book to be kept at the Office of the Commissioners and to be open to the inspection of any person interested therein, a list of the persons liable to the payment of such taxes, a description of the vehicles and animals in respect of which they are liable, and the amount of the taxes assessed thereon.

List of persons liable to the tax to be entered in a book.

XV. In order to enable the Commissioners to make such list, the Commissioners, or any Officer authorized by them, may send to all persons supposed to be liable to the payment of such taxes a Schedule to be filled up with such information respecting the vehicles and animals kept by them as the Commissioners may judge necessary for the assessment of the taxes. The Schedule shall be filled up in writing and signed, and dated, and returned to the Office of the Commissioners by every person to whom it is sent, whether or not liable to the payment of such taxes; and whoever refuses, neglects, or omits, duly to fill up and return such Schedule within one week from the receipt thereof, or knowingly gives therein any incorrect or false return, shall be liable, on conviction before a Magistrate, to a penalty not exceeding two hundred Rupees.

Returns may be required for purpose of making list.

XVI. The Commissioners may summon any person supposed to be liable to the payment of such taxes, or any servant of such person, and may examine such person or his servant as to the number and description of the horses and carriages in respect of which such person is liable to be assessed. If the person summoned shall, without lawful excuse, fail to appear in pursuance of the summons, or shall refuse to answer any lawful question of the Commissioners, or knowingly give an incorrect answer, he shall be liable, on conviction before a Magistrate, to a penalty not exceeding two hundred Rupees.

Power to summon persons liable to the payment of the taxes.

XVII. Appeals against any rate or tax assessed under the provisions of this or the special Act, shall be heard and determined, in the Towns of Calcutta and Madras by two Magistrates, in the Town of Bombay by the Court of Petty Sessions, and in the said Settlement by Her Majesty's Court of Judicature. But no such appeal shall be heard unless the amount of the rate or tax has been deposited with the Commissioners; and

Hearing of appeals.

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no appeal against a rate assessed by the Commissioners under Section X shall be heard unless complaint has been previously made to the Commissioners as hereinbefore provided. The mode of proceeding in such appeals shall be the same as that prescribed for the determination of matters referred to two Magistrates by Act XIV of 1856, or as near thereto as may be. Provided that such Magistrates, and such Court of Petty Sessions, may, if they shall think fit, state a case for the opinion of the Supreme Court.

XVIII. Every such appeal shall be commenced within ten days after the
Time of appeal. accrual of the cause of complaint; which shall in respect of any rate, be deemed to accrue on the date of the certificate of the Commissioners in the said book, or, in case of any subsequent amendment of the said book under the provisions of Section XI, upon the receipt by the person aggrieved of notice of such amendment; and in respect of any tax the cause of complaint shall be deemed to accrue upon the receipt by the person aggrieved of a bill for the sum claimed from him.

XIX. The assessment by the Commissioners of any rate or tax, when no
Assessment by Commis- appeal therefrom is made as hereinbefore provided, and
sioners when to be final. the adjudication of any appeal under Section XVII, shall be final and conclusive.

XX. When any rate or tax is due, the Commissioners shall cause to be
Form of bill to be presented. presented to the person liable to the payment thereof a bill for the sum due, which shall also contain a statement of the period and a description of the property or thing for which the rate or tax is charged. If the bill be for any tax, it shall also contain a notice of the time within which an appeal against such tax may be preferred.

XXI. If the bill is not paid by the person liable to pay the same within
Notice of demand. five days from the presentation thereof, the Commissioners may cause to be served upon such person a notice of demand in the form (A) contained in the Schedule to this Act, or to the like effect; and if he shall not, within five days from the service of such notice of demand, pay the sum due, or show sufficient cause for non-payment of the same to the satisfaction of the Commissioners, and if no appeal shall have been preferred, such sum with all costs may be levied by distress and sale of the goods and chattels
Distress. of the defaulter, or if the defaulter be the occupier of any house, building, or land in respect of which a rate
is

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is due, by distress and sale of any goods and chattels found on the premises, under a warrant in the form (B) in the Schedule, or to the like effect, to be issued for that purpose by the Commissioners.

XXII. The officer charged with the execution of the warrant of distress shall make an inventory of the goods and chattels seized under any such warrant, and shall at the same time give a notice in writing, in the form (C) contained in the Schedule annexed to this Act, to the person in possession thereof at the time of the seizure, that the said goods and chattels will be sold as therein mentioned.

XXIII. If the warrant is not in the meantime discharged or suspended by the Commissioners, the goods and chattels seized shall be sold under the orders of the Commissioners, who shall apply the proceeds, or such part thereof as may be necessary, in discharge of the said arrears and costs ; and the surplus, if any, shall be returned on demand to the person in possession of the goods and chattels at the time of the seizure.

The fees payable upon distraints under this Act shall be such as are set forth in the Table of Fees in the said Schedule.

XXIV. The goods and chattels of any person from whom any rate or tax is due may be distrained, wherever the same may be found for default in the payment of the money due from such person.

XXV. If the sum due on account of any rate from the owner of any house, building, or land remains unpaid, after notice of demand has been duly served, the Commissioners may demand the amount from the occupier for the time being of such house, building, or land, and on non-payment thereof, may recover the same by distress and sale of any goods and chattels found on the premises ; and, in such case, the occupier may deduct from the next and following payments of his rent the amount which may be so paid by or recovered from him. Provided that no arrear of rate which has remained due from the owner of any house, building, or land, for more than one year, shall be so recovered from the occupier thereof.

XXVI. No

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XXVI. No distress levied by virtue of this or the special Act shall be deemed Distress not unlawful for want of form. unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the notice, Schedule, summons, notice of demand, warrant of distress, inventory or other proceeding relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him ; but all persons aggrieved by such irregularity, may recover full satisfaction for the special damage in any Court of competent jurisdiction.

XXVII. Instead of proceeding by distress and sale, or in case of failure to Commissioners may sue instead of proceeding by distress. realize by distress the whole or any part of the sum due in respect of any rate or tax, the Commissioners may sue the person liable to pay the same in any Court of competent jurisdiction.

XXVIII. Every notice, Schedule, summons, or notice of demand regarding Service of notices. any assessment, rate, or tax, or any money due in respect of the same, may be served personally upon the person to whom the same is addressed, or be left at his usual place of abode with some adult male member or servant of his family, or, if it cannot be so served, may be put up on some conspicuous part of such place of abode, and shall thereby be deemed to be duly served. Proviso. Provided that, if the place of abode of the owner of any house, building, or land, in respect of which a rate is assessed be unknown, or if the owner of any such house, building, or land be not resident within the limits of the Town or Station, every such notice, summons, or notice of demand shall be deemed to be duly served if put up on some conspicuous part of the house, building, or land in respect of which the rate is assessed.

XXIX. No assessment and no charge or demand of rate or tax, made under Assessment not to be impeached if the directions of the Act are in substance complied with. the authority of this or the special Act, shall be impeached or affected by reason of any mistake in the name of any person liable to pay the rate or tax or in the description of any property or thing liable to rate or tax or any mistake in the amount of assessment, provided the directions of this Act and of the special Act be in substance and effect complied with ; and no proceedings under this or the special Act shall be quashed or set aside for want of form in any Court of Justice.

XXX. Whoever

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is due, by distress and sale of any goods and chattels found on the premises, under a warrant in the form (B) in the Schedule, or to the like effect, to be issued for that purpose by the Commissioners.

XXII. The officer charged with the execution of the warrant of distress shall make an inventory of the goods and chattels seized under any such warrant, and shall at the same time give a notice in writing, in the form (C) contained in the Schedule annexed to this Act, to the person in possession thereof at the time of the seizure, that the said goods and chattels will be sold as therein mentioned.

XXIII. If the warrant is not in the meantime discharged or suspended by the Commissioners, the goods and chattels seized shall be sold under the orders of the Commissioners, who shall apply the proceeds, or such part thereof as may be necessary, in discharge of the said arrears and costs ; and the surplus, if any, shall be returned on demand to the person in possession of the goods and chattels at the time of the seizure.

The fees payable upon distraints under this Act shall be such as are set forth in the Table of Fees in the said Schedule.

XXIV. The goods and chattels of any person from whom any rate or tax is due may be distrained, wherever the same may be found for default in the payment of the money due from such person.

XXV. If the sum due on account of any rate from the owner of any house, building, or land remains unpaid, after notice of demand has been duly served, the Commissioners may demand the amount from the occupier for the time being of such house, building, or land, and on non-payment thereof, may recover the same by distress and sale of any goods and chattels found on the premises ; and, in such case, the occupier may deduct from the next and following payments of his rent the amount which may be so paid by or recovered from him. Provided that no arrear of rate which has remained due from the owner of any house, building, or land, for more than one year, shall be so recovered from the occupier thereof.

XXVI. No

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[XXX. Whoever wilfully obstructs or molests the Commissioners, or any of them, or any of their officers or servants, in the performance of their respective duties under this Act, shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty Rupees.

Obstruction of Commissioners
or their servants.

XXXI. Every officer employed by the Commissioners to assist in the execution of this and the special Act, who accepts, or obtains, or attempts to obtain, any fee or gratuity whatsoever, other than his authorized salary or allowances, for doing or forbearing to do any official act; or who shall be in any wise concerned or interested in any bargain or contract made by the Commissioners, shall be removed from his office, and shall be incapable of being afterwards employed by the Commissioners, and shall be liable, on conviction before a Magistrate, to a penalty not exceeding five hundred Rupees.

Penalty on officer taking fees
or being interested in contracts.

XXXII. No action shall be brought against the Commissioners, or any of their officers, or any person acting under the direction of the Commissioners, for any thing done or intended to be done under the powers of this or the special Act, until the expiration of one month next after notice in writing shall have been delivered or left at the office of the Commissioners, or at the place of abode of such person, explicitly stating the cause of action, and the name and place of abode of the intended plaintiff, and of his attorney or agent in the cause; and upon the trial of any such action, the plaintiff shall not be permitted to go into evidence of any cause of action, except such as is stated in the notice so delivered; and unless such notice be proved, the Court shall find for the defendant; and every such action shall be commenced within three months next after the accrual of the cause of action, and not afterwards; and if any person to whom any such notice of action is given shall, before action brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover in any such action when brought; and if no such tender shall have been made, it shall be lawful for the defendant in such action, by leave of the Court where such action shall be pending, at any time before issue joined, to pay into Court such sum of money as he shall think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into Court.

No action to be brought
against Commissioners or their
officers until after one month's
notice of cause of action.

XXXIII. The

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XXXIII. The Commissioners shall, as soon after the first day of January in every year as may be practicable, prepare a detailed statement showing the nature and amount of the receipts and disbursements on account of the Municipal Fund for the past year, and also a report of their proceedings during that year; and such statement and report shall be printed and published for general information. The accounts of the said funds shall be audited annually by such person as the Local Government shall appoint.

Commissioners to publish annual statements.

Audit of accounts.

XXXIV. For better enabling the Commissioners to ascertain the amount of fines and penalties payable to them on account of the Municipal Fund under the provisions of Act XIV of 1856, or of the special Act, or of any other law, there shall in every month, be furnished to them by the authority adjudicating the same, a summary of all convictions under the said Acts, or under any such other law during the preceding month.

Summary of convictions to be furnished to the Commissioners.

XXXV. It shall be lawful for the Commissioners, with the sanction of the Local Government, to borrow and take up at interest, on the credit of the rates and taxes imposed and levied on account of the Municipal Fund under the special Act or any other Act passed in that behalf, or of a portion of them, any sums of money necessary for defraying any expenses incurred or to be incurred by them in the execution of any such Act or of Act XIV of 1856; and for the purpose of securing the re-payment of any sums so borrowed, together with such interest as aforesaid, the Commissioners may mortgage and assign over, to the person by or on behalf of whom such sums shall be advanced, the rates and taxes or the portion of them upon the credit of which such sums shall be borrowed. Provided always, that the money borrowed under the authority of this Act shall be borrowed only for works of a permanent nature, and shall not at any time exceed in the whole ten times the average annual sum received and collected on account of the Municipal Fund.

Mortgage of rates.

XXXVI. The following words and expressions in this and the special Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction:—

Interpretation.

The word "Magistrate" shall mean any Magistrate of Police acting for the place where the matter requiring the cognizance of a Magistrate arises.

"Magistrate."

The

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- The word "Town" shall include all places within the local limits of the jurisdiction of Her Majesty's Supreme Courts of Judicature at Calcutta, Madras, and Bombay.
- "Town."
- The word "Station" shall mean any one of the Stations of Prince of Wales' Island, Singapore, and Malacca, and the dependencies thereof.
- "Station."
- The word "Owner" shall mean the person for the time being receiving the rent of the land or premises in connexion with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if such land or premises were let to a tenant.
- "Owner."
- Words importing the singular number shall include the plural number; and words importing the plural number shall include the singular number.
- Number.
- Words importing the masculine gender shall include females.
- Gender.
- The word "person" shall include a corporation.
- "Person."

SCHEDULE.

A

NOTICE OF DEMAND.

TAKE notice that the Municipal Commissioners demand from you the sum of _____ due from * [you] as owner (or occupier) (here describe the property or thing upon which the rate or tax is imposed) for the months of _____ 185 ; and that, if the sum due is not paid into the said Commissioners' Office at _____ or if sufficient cause for the non-payment of the sum is not shown to the Commissioners within five days from the service of this notice, a warrant of distress will be issued for the recovery of the same with costs.

(Signature of one of the
Municipal Commissioners.)

Date _____

* In the case of a demand under Section XXV state that notice of demand has been served upon the owner, and that the sum due remains unpaid,

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