

## THE BURMA MUNICIPAL ACT, 1884.

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*(Chapter I.—Preliminary. Secs. 1-2.)*

## ACT No. XVII OF 1884.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor General on the 3rd  
October, 1884.)*

An Act to amend the law relating to Municipalities in British Burma.

WHEREAS it is expedient to amend the law relating to Municipalities in British Burma; It is hereby enacted as follows:—

## CHAPTER I.

## PRELIMINARY.

1. (1) This Act may be called the Burma Municipal Act, 1884.

Short title,  
local extent  
and com-  
mencement.

(2) It extends to the territories for the time being under the administration of the Chief Commissioner of British Burma; and

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

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

Definitions.

“municipality” means a local area declared under Chapter II to be a municipality:

“inhabitant” includes any person ordinarily residing or carrying on business, or owning or occupying immovable property, in any local area which is declared

(Chapter II.—*Constitution of Municipalities.*—Sections 3 & 4).

clared to be a municipality under this Act or which the Local Government has by notification proposed to declare a municipality under this Act; and

“street” means any street, road, thoroughfare, passage or place over which the public have a right of way; and includes the surface-soil and sub-soil of any such street, and the footway and drains of any such street, and any bridge, culvert or causeway forming part of any such street.

## CHAPTER II.

### CONSTITUTION OF MUNICIPALITIES.

Proposal to  
create muni-  
cipality.

3. (1) The Local Government may, by notification published in the official Gazette and in such other manner as the Local Government may determine, propose to declare any town, or any group of towns in the immediate neighbourhood of one another, a municipality under this Act.

(2) Every notification under this section shall define the limits of the town or group of towns to which it refers, and may include within those limits any railway-station, village, building or land in the vicinity of any such town:

Provided that it shall not, without the previous consent of the Governor General in Council, so include any part of a military cantonment.

Creation of  
municipality.

4. (1) Any inhabitant of a local area in respect of which a notification has been published under section 3 may, if he objects to anything therein contained, submit his objection in writing to the Local Government within six weeks from the publication of the notification in the Gazette, and the Local Government shall take his objection into consideration.

(2) When

## (Chapter II.—Constitution of Municipalities.—Section 5.)

(2) When six weeks from the publication of the notification in the Gazette have expired and the Local Government has considered the objections (if any) which have been submitted under sub-section (1), the Local Government may, by a notification in the official Gazette, declare the local area to be a municipality under this Act.

5. (1) The Local Government may, by notification in the official Gazette, declare any local area which is a municipality established under the British Burma Municipal Act, 1874, to be a municipality under this Act, and shall, within three months from the date on which this Act comes into force, so declare every such local area, unless, before the expiration of that period,—

Application of Act to existing municipalities.

II of 1874.

(a) that local area is comprised in some local area declared to be a municipality under section 4; or

(b) the Local Government has declared, by a notification in the official Gazette, that the provisions of this Act are unsuited to that local area.

(2) The Local Government may, by the notification issued under this section in respect of any local area, direct that the members and the president and vice-president of the committee for that local area appointed *ex-officio*, by nomination and by election under the said British Burma Municipal Act, 1874, and then in office, shall, on and from a day fixed by the notification, be deemed respectively to have been appointed by virtue of an office and by name and elected under this Act as members, president and vice-president of a municipal committee for the local area, and shall hold office as such members, president and vice-president for such term as may be fixed by the notification.

I of 1874.

## CHAPTER III.

(Chapter III.—*Organization of Municipal Committees.—Sections 6 & 7.*)

### CHAPTER III.

#### ORGANIZATION OF MUNICIPAL COMMITTEES.

##### *Constitution of Committees.*

Committee to consist of elected and appointed members.

6. There shall be established for each municipality a municipal committee having authority over that municipality; and consisting of—

- (a) so many inhabitants of the municipality as may be determined by the Local Government elected in manner next hereinafter prescribed to represent wards of the municipality or particular classes of the inhabitants; and
- (b) such person or persons (if any), not exceeding in number one fourth of the committee, as the Local Government may appoint by name or by virtue of an office in this behalf:

Provided that—

(1) when the circumstances of the municipality are, in the opinion of the Local Government, such as to require it, the Local Government may appoint a larger proportion of, or all, the members of the committee; and

(2) when any places on a committee are required to be filled by election, and a sufficient number of members is not elected, the Local Government may fill those places by appointment.

Power to Local Government to make rules regarding election.

7. (1) The Local Government shall, for every municipality in which a system of election is introduced, make rules regulating the following matters, namely:—

- (a) the division of the municipality into wards, or of the inhabitants into classes, or both;
- (b) the number of representatives proper for each ward or class;

(c) the

(Chapter III.—Organization of Municipal Committees.—Sections 8 & 9.)

- (c) the qualifications of electors and of candidates for election;
- (d) the registration of electors;
- (e) the nomination of candidates, the time of election and the mode of recording votes; and
- (f) any other matters relating to the system of representation and of election for which it may seem expedient to provide.

(2) The Local Government may, after the municipal committee has come into existence as hereinafter provided, amend, after consulting the committee, the rules made under this section; but any amendment made under this sub-section shall not take effect until six months after it has been published in the official Gazette.

(3) Elective members of the committee shall be elected in accordance with the rules made under this section and for the time being in force.

8. (1) A member of a municipal committee, when appointed by virtue of an office, shall, unless and until the Local Government otherwise directs, continue to be a member of the committee while he continues to hold that office.

Term of office of members.

(2) The term of office of all other elected and appointed members of a committee shall be fixed by the Local Government by rules made under this Act, and may be so fixed as to provide for the retirement of members by rotation, but shall not exceed three years.

(3) An outgoing member may, if otherwise qualified, be again elected or appointed.

9. A member of a municipal committee may resign by notifying in writing to the Local Government his intention to do so, and, on his resignation being accepted by the Local Government, he shall be deemed to have vacated his office.

Resignation of member of committee.

10. (1) The

(Chapter III.—*Organization of Municipal Committees.—Sections 10-12.*)

Removal of  
member.

10. (1) The Local Government may remove any member of a municipal committee who ceases to be an inhabitant of the municipality, or refuses to act, or becomes in the opinion of the Local Government incapable of acting, or is declared insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as implies, in the opinion of the Local Government, a defect of character which unfits him to be a member, or who without sufficient excuse neglects for more than three consecutive months to be present at the meetings of the committee.

(2) A person removed under this section on any ground except that first mentioned shall be disqualified for election until the Local Government otherwise directs.

Filling of  
casual vacancies.

11. (1) When the place of an elected member of a municipal committee becomes vacant by the resignation or removal of the member, or by his death, a new member shall be elected in manner prescribed under section 7 to fill the place.

(2) When the place of a member of a municipal committee appointed by name becomes vacant as aforesaid, the Local Government may, if it thinks fit, appoint a new member to fill the place.

(3) A person elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but may be again elected or appointed.

Incorporation  
of municipal  
committee.

12. Every municipal committee shall be a body corporate by the name of the municipal committee of its municipality, shall have perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire and hold property, both moveable and immoveable, and to transfer any property held by it, and to contract and to do all other things  
necessary

*(Chapter III.—Organization of Municipal Committees.—Sections 13 & 14.)*

necessary for the purposes of its constitution, and may sue and be sued in its corporate name :

Provided that a committee shall not transfer any immoveable property except in pursuance of a resolution passed at a special meeting and approved by the Local Government.

13. A municipal committee shall come into existence at such time as the Local Government may, by notification in the official Gazette, appoint in this behalf :

Time for committees coming into existence.

Provided that a committee constituted under section 5, sub-section (2), shall come into existence on the day fixed under that sub-section.

14. When a municipal committee comes into existence under section 13 for a municipality constituted under this Act, and that municipality is or comprises within its limits a local area which is a municipality under the British Burma Municipal Act, 1874, the following consequences shall ensue, namely :—

Consequences of establishment of municipal committee where municipal committee under Act VII of 1874 exists.

VII of 1874.

- (a) the said Act shall cease to apply to the local area ;
- (b) the municipal committee (if any) constituted under that Act for the local area (herein after called the old committee) shall cease to exist ;
- (c) all property vested in the old committee shall for the purposes of this Act vest in the committee constituted under this Act (herein after called the new committee), subject to all rights (if any) existing over, and all debts, liabilities and obligations (if any) affecting, that property ;
- (d) every right and liability belonging to or incurred by the old committee may be enforced by and against the new committee in like manner as it might have been enforced by  
and



(Chapter III.—Organization of Municipal Committees.—Sections 15-17.)

and against the old committee if this Act had not been passed ;

(e) a Government officer employed by the old committee at the time when the new committee comes into existence shall be deemed to be similarly employed by the new committee and shall not be dismissed from that employment without the sanction of the Local Government; and

(f) the new committee shall be substituted for the old committee in all legal proceedings by or against the old committee pending at the time when the new committee comes into existence.

Member of municipal committee to be municipal commissioner.

15. Every member of a municipal committee constituted under this Act shall be deemed to be a municipal commissioner within the meaning of every enactment for the time being in force.

*President and Vice-president.*

Election of president and vice-president.

16. A municipal committee shall, from time to time, at a special meeting, elect one of its members to be president, and may, from time to time, at a like meeting, elect another of its members to be vice-president :

Provided that in such municipalities, if any, as the Local Government may, by notification in the official Gazette, exempt from the operation of this section, the president shall, until the notification is rescinded by a like notification, be appointed by the Local Government from among the members of the committee.

Term of office of president and vice-president.

17. (1) The term of office of a president or vice-president shall be one year, and on the expiration of that period he may be again elected or appointed.

(2) Nothing in this section shall affect section 5, sub-section (2).

18. (1) If

*(Chapter III.—Organization of Municipal Committees.—Sections 18-21.)*

18. (1) If a president elected by a municipal committee or a vice-president dies, ceases to be a member of the committee or resigns his office, the committee shall, at a special meeting, elect another of its members to be president or vice-president.

Casual vacancies in office of president or vice-president.

(2) If a president appointed by the Local Government dies, ceases to be a member of the committee or resigns his office, the Local Government shall appoint another president.

(3) A person elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but may, if otherwise qualified, be again elected or appointed.

*Notification of Elections, Appointments and Removals.*

19. All elections and appointments of presidents and vice-presidents, and all elections, appointments and removals of members, of municipal committees, shall be notified in the local official Gazette, and no such election or appointment shall take effect until it is so notified.

Notification of appointments, &c.

*Conduct of Business.*

20. (1) A municipal committee shall meet for the transaction of business at least once in every month, at such time as may, from time to time, be fixed by the rules made under section 27.

Time for holding meetings.

(2) The president, or, in his absence, the vice-president, may, whenever he thinks fit, and shall, on a requisition made in writing by not less than one-fifth or two of the members of the committee, convene an ordinary or a special meeting at any other time.

21. (1) A meeting of a municipal committee shall be either ordinary or special.

Ordinary and special meetings.

(2) Any business may be transacted at an ordinary meeting unless it is required by this Act or the rules

(Chapter III.—*Organization of Municipal Committees.—Sections 22-24.*)

rules made under this Act to be transacted at a special meeting.

Quorum.

22. (1) The quorum necessary for the transaction of business at a special meeting of a municipal committee shall be one-half of the whole committee :

Provided that, when the committee consists of less than six members, the quorum shall be three.

(2) The quorum necessary for the transaction of business at an ordinary meeting of a municipal committee shall be such number, not less than three, as may, from time to time, be fixed by the rules made under section 27 :

Provided that, if at any ordinary or special meeting of the committee a quorum is not present, the chairman shall adjourn the meeting to such other day as he thinks fit, and the business which would have been brought before the original meeting if there had been a quorum present shall be brought before and transacted by the adjourned meeting whether there is a quorum present thereat or not.

Chairman of meeting.

23. (1) At every meeting of a municipal committee the president, if present, shall preside as chairman.

(2) If, when any meeting is held, the office of president is vacant, or the president is absent from the meeting and the vice-president is present, he shall preside as chairman.

(3) In any case not provided for in the foregoing portion of this section, the members present shall elect one of their number to be chairman of the meeting.

Vote of majority decisive.

24. (1) Except as otherwise provided by this Act or by any rule made under this Act, all questions coming before any meeting of a municipal committee shall be decided by a majority of the votes of the members present.

(2) In

*(Chapter III.—Organization of Municipal Committees.—Sections 25-27.)*

(2) In case of an equality of votes, the chairman at the meeting shall have a second or casting vote.

25. Every resolution passed by a municipal committee at a meeting shall be recorded in a book kept for the purpose, shall be signed by the chairman of the meeting or of the next ensuing meeting, shall be open to inspection by the public at the municipal office at all reasonable times without charge, and shall be published in some local English or Vernacular newspaper, or in such other manner as the Local Government may direct.

Resolutions to be recorded and published.

26. The discussions and proceedings of a municipal committee shall be conducted and recorded either in English or in Burmese, as the committee at a special meeting may, from time to time, decide :

Language of committee.

Provided that, if the discussions and proceedings are conducted and recorded in English, the committee shall provide for interpreting and translating them into Burmese for the benefit of members who do not understand English.

27. (1) A municipal committee may, from time to time, at a special meeting, make rules consistent with this Act as to—

Power to make rules as to conduct of business.

- (a) the time and place of its meetings ;
- (b) the manner in which notice thereof is to be given ;
- (c) the quorum necessary for the transaction of business at ordinary meetings ;
- (d) the conduct of proceedings at meetings, and the adjournment of meetings ;
- (e) the person or persons to be primarily responsible for the current executive administration and their powers ; that is to say, what portion of the executive authority shall be exercised by the president, by the vice-president, by sub-committees, by individual members

(Chapter III.—*Organization of Municipal Committees.—Sections 28 & 29.*)

members and by officers or servants of the committee;

(f) the persons by whom receipts may be granted on behalf of the committee for money paid under this Act; and

(g) any other similar matters.

(2) A rule made under clause (e) shall not take effect until it has been confirmed by the Local Government, and no rule made under this section shall take effect until it has been published in such manner as the Local Government may direct.

Extraordinary powers of president and vice-president in case of emergency.

28. In cases of emergency the president, or in his absence the vice-president, may direct the execution of any work or the doing of any act, which the committee is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act shall be paid from the municipal fund:

Provided that—

(a) he shall not act under this section in contravention of any order of the committee passed at a meeting; and

(b) where he acts under this section, he shall report his proceedings to the next following meeting of the committee.

*Joint Committees.*

Joint committee of two or more committees or cantonment authorities.

29. A municipal committee may, from time to time, concur with any other municipal committee or cantonment authority, or with more than one such committee or authority, in appointing, out of their respective bodies, a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of the joint committee, and in delegating to any such joint committee any power which might be exercised by either or any of the committees or authorities,

*(Chapter III.—Organization of Municipal Committees.—Sections 30—33.)*

authorities, and in framing and modifying regulations as to the proceedings of any such joint committee, and as to the conduct of correspondence relating to the purpose for which it is appointed.

*Defects in Constitution and Irregularities.*

30. Anything done or any proceeding taken under this Act shall not be questioned on account of any vacancy in a municipal committee or joint committee, or on account of any defect or irregularity not affecting the merits of the case.

Vacancies and irregularities not to invalidate proceedings.

*Officers and Servants.*

31. (1) A municipal committee shall, from time to time, at a special meeting, appoint one of its members or some other person to be its secretary, and may at a like meeting remove any person so appointed.

Appointment of secretary.

(2) If a secretary is a member of the committee, he shall receive no remuneration in respect of his services. If he is not a member of the committee, the committee may, with the previous sanction of the Commissioner, assign to him any such pay as it thinks fit.

32. Subject to the other provisions of this Act, and to such rules as the Local Government may make prescribing the qualifications requisite in the case of persons appointed to offices requiring professional skill, a municipal committee may appoint and remove, in addition to its secretary, such other officers and servants as may be necessary or proper for the efficient execution of its duties, and may assign to those officers and servants such pay as it thinks fit.

Employment of other officers and servants.

33. If, in the opinion of the Commissioner, the number of persons employed by a municipal committee as officers or servants, or whom the committee propose to employ as such, or the remuneration assigned by the committee to those persons or any of them

Power to prevent extravagance in establishments.

## (Chapter III.—Organization of Municipal Committees.—Sections 34 &amp; 35.)

them, is excessive, the committee shall, on the requirement of the Commissioner, reduce the number of those persons or the remuneration, as the case may be :

Provided that the committee may appeal against any such requirement to the Local Government, and the decision of the Local Government on any such appeal shall be final.

Pensions of  
Government  
officials serv-  
ing the  
committee.

**34.** In the case of a Government official, a municipal committee may—

(1) if his services are wholly lent to it, subscribe for his pension or gratuity and leave-allowances in accordance with the rules of the Government Civil Pension and Leave Codes for the time being in force ; and

(2) if he devotes only a part of his time to the performance of duties in behalf of the committee, contribute to his pension or gratuity and leave-allowances in such proportion as may be determined by the Government.

Pensions of  
other officers  
and servants.

**35.** In the case of an officer or servant not being a Government official referred to in section 34, a municipal committee may—

(1) grant him leave-allowances and, if he is employed under the committee appointed under the British Burma Municipal Act, 1874, when this Act comes into force, and is not entitled to pension, or if his monthly pay is less than ten rupees, a gratuity ; and

(2) if empowered in this behalf by the Local Government—

(a) subscribe in his behalf for pension or gratuity under the rules of the Government Civil Pension and Leave Codes for the time being in force ; or

(b) purchase for him from the Government or otherwise an annuity on his retirement :

Provided that no pension, gratuity, leave-allowance or annuity shall exceed the sum to which, under the Government

*(Chapter III.—Organization of Municipal Committees.—Sections 36—38.)*

Government Civil Pension and Leave Codes for the time being in force, the servant would be entitled if the service had been service under Government.

*Contracts and Transfers of Property.*

36. (1) When a contract made by or on behalf of a municipal committee exceeds in value or amount one hundred rupees, it must be in writing, and must be signed by the president or vice-president and at least one other member of the committee.

Mode of executing contracts and transfers.

(2) A transfer of immoveable property belonging to the committee must be made by an instrument in writing, executed by the president or vice-president and by at least two other members of the committee.

(3) If any such contract or transfer is executed or made otherwise than in conformity with the provisions of this section, it shall not be binding on the committee.

37. (1) If any member, officer or servant of a municipal committee is, otherwise than with the permission in writing of the Commissioner, directly or indirectly interested in any contract made with the committee, he shall be deemed to have committed an offence under section 168 of the Indian Penal Code.

Penalty on member, officer or servant of committee being interested in contract made with committee.

CLV of 1860.

(2) A person shall not, by reason of being a shareholder in, or member of, any incorporated or registered company, be held to be interested in any contract entered into between the company and the committee, but he shall not take part in any proceedings of the committee relating to any such contract.

*Acquisition of Land.*

38. Where any land, whether within or without the limits of a municipality, is required by a municipal committee for the purposes of this Act or for any other object which it is empowered to carry out under any other enactment for the time being in force, the Local Government may, at the request of the municipal

Acquisition of land under Act X of 1870.

pal



pal committee, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on payment by the committee of the compensation awarded under that Act and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the committee. X of 187

*Privileges and Liabilities.*

Suits against committee and its officers.

39. No suit shall be instituted against a municipal committee or against an officer of any such committee in respect of an act purporting to be done by him in his official capacity until the expiration of one month next after notice in writing has been, in the case of a committee, delivered to or left at its office, and in the case of an officer, delivered to him or left at his office or place of abode, stating the cause of action and the name and place of abode of the intending plaintiff; and the plaint must contain a statement that such notice has been so delivered or left:

Provided that this section shall not apply to any suit instituted under section 54 of the Specific Relief Act, 1877. I of 18

Liability for loss, waste or misapplication.

40. Every person shall be liable for the loss, waste or misapplication of any money or other property belonging to a municipal committee, if the loss, waste or misapplication is a direct consequence of his neglect or misconduct while a member of the committee, and a suit for compensation may be instituted against him by the committee or by the Secretary of State for India in Council.

CHAPTER IV.

TAXATION.

*General Provisions.*

Taxes which may be imposed for general purposes of Act.

41. (1) Subject to any general rules or special orders which the Governor General in Council may make

## (Chapter IV.—Taxation.—Section 41.)

make in this behalf, a municipal committee may, for the purposes of this Act, impose, with the sanction hereinafter specified in each case, and in manner prescribed by section 45, any of the following taxes, namely:—

(A) with the previous sanction of the Local Government—

(a) a tax on buildings and lands situate within the municipality or any part thereof, not exceeding five per centum of the annual value of the buildings and lands;

(b) a tax on lands covered by buildings and situate as aforesaid, at a rate not exceeding one pie per square foot per annum;

(c) a tax on houses situate as aforesaid, according to the number of posts in each, at rates not exceeding the following, namely:—

For a house having not more Rs. A.	
than 2 posts . . . . .	0 8 per annum.
For a house having	
3 posts . . . . .	1 8 "
For a house having	
4 posts . . . . .	2 8 "
For a house having	
5 posts . . . . .	4 0 "
For a house having	
6 posts . . . . .	7 0 "
For a house having	
7 posts . . . . .	10 0 "

\* and when a house has more than seven posts, four rupees eight annas additional per annum for each post above seven;

(d) a tax on vehicles, boats and animals used for driving, riding, draught or burden, and dogs, kept within the municipality or any part thereof;

(B) with the previous sanction of the Local Government and of the Governor General in Council, any other tax:

Provided as follows:—

(e) only one of the taxes mentioned in clauses (a), (b) and (c) shall be imposed in respect of the same property; and

(f) in

*(Chapter IV.—Taxation.—Section 42.)*

(f) in assessing a house to the tax mentioned in clause (c), only posts facing a road or street shall be counted, except in the case of bázárs or large buildings extending through from street to street, in which case the posts contained in one row from street to street, instead of those facing streets, may, in the discretion of the assessing authority, be counted.

(2) In this section "annual value" means the gross annual rent for which buildings and lands liable to taxation may reasonably be expected to let, and in the case of houses, may be expected to let unfurnished :

Provided that, in the case of land assessed to land-revenue or of which the land-revenue has been wholly or in part released, compounded for, redeemed or assigned, if the Local Government so directs, the annual value shall be deemed to be double the amount of the land-revenue for the time being assessed on the land, whether such assessment is leviable or not; or, when the land-revenue has been wholly or in part compounded for or redeemed, double the amount which, but for such composition or redemption, would have been leviable.

Water-tax.

42. (1) Besides the taxes imposed under section 41, a municipal committee, with the previous sanction of the Local Government, may, for the purpose of constructing or maintaining works for the supply of water to the municipality or any part thereof, or paying the principal or interest of any loan raised for the construction of such works, impose, in manner prescribed by section 45, a tax, to be called the water-tax, upon buildings or lands which are so situated that their occupiers can benefit by the works.

(2) The rate or amount of the tax so imposed on different buildings or lands may be determined with reference, among other considerations, to their distance from the nearest point at which the water is deliverable

*(Chapter IV.—Taxation.—Sections 43—45.)*

deliverable by the works and to their level; but in fixing it regard shall be had to the principle that the total net proceeds of the tax, together with the estimated income from payments for water supplied from the works under special contracts or otherwise, should not exceed the amount required for the said purpose.

43. Besides the taxes imposed under the foregoing sections, a municipal committee, with the previous sanction of the Local Government, may, for the purpose of lighting the public streets throughout the municipality or any part thereof, or paying the principal or interest of any loan raised for the construction of works required for lighting those streets, impose, in manner prescribed by section 45, a tax, to be called the lighting-tax, upon buildings and lands situate within the municipality or that part thereof, as the case may be:

Lighting-tax.

Provided that in fixing the rate or amount of the tax regard shall be had to the principle that the total net proceeds thereof should not exceed the amount required for the said purpose.

44. When a committee has, in exercise of the powers conferred by this Act, provided for the performance, with regard to any buildings or lands, by its agents of the duties usually performed by sweepers, it may, with the previous sanction of the Local Government, impose, in manner prescribed by section 45, upon those buildings and lands, in addition to any other tax imposed upon them under this Act, a tax to be called the scavenging-tax, at such rate or of such amount as it thinks fit:

Scavenging-tax.

Provided that in fixing the rate or amount regard shall be had to the principle that the total net proceeds of the tax should not exceed the cost of the performance of the said duties.

45. (1) A municipal committee may resolve, at a special meeting, to propose the imposition of any tax under section 41, 42, 43 or 44.

Procedure in imposing such taxes.

(2) When

*(Chapter IV.—Taxation.—Section 45.)*

(2) When a resolution has been passed under subsection (1), the committee shall publish a notice defining the persons or property proposed to be taxed, the amount or rate of the tax to be imposed and the system of assessment to be adopted.

(3) Any person likely to be directly affected by the proposed tax and objecting to the same may, within thirty days from the publication of the notice, submit his objection in writing to the committee; and the committee shall, at a special meeting, take his objection into consideration.

(4) If no objection is received within the said period of thirty days, or if the objections received, having been considered as aforesaid, are deemed insufficient, the committee may submit its proposals to the Local Government, with the objections (if any) which have been submitted as aforesaid and its decision thereon.

(5) The Local Government, on receiving such proposals may sanction the same, or refuse to sanction them, or return them to the committee for further consideration.

(6) When the Local Government sanctions any such proposals which require the further sanction of the Governor General in Council, it shall submit those proposals to the Governor General in Council with the objections (if any) received through the committee; and the Governor General in Council may sanction the proposals, or refuse to sanction the same, or return them to the Local Government for further consideration.

(7) When the proposals of a municipal committee in respect of a tax have been sanctioned by the Local Government, or by the Local Government and the Governor General in Council, as the case may be, the committee may, at a special meeting, direct the imposition of the tax in accordance with those proposals.

(8) In giving such direction the committee shall fix a date from which the tax shall come into force :

Provided

*(Chapter IV.—Taxation.—Sections 46—48.)*

Provided that—

- (a) no tax shall come into force until it has been notified;
- (b) no tax leviable by the year shall come into force except at the commencement of the year by which it is leviable; and
- (c) no other tax shall come into force less than six months from the date of the meeting at which its imposition is directed.

(9) A notification of the imposition of a tax under this Act shall be conclusive evidence that the tax has been imposed in accordance with the provisions of this Act.

46. A municipal committee may, at a special meeting, with the sanction of the Local Government, abolish or reduce in amount any tax imposed under the foregoing sections.

Power to abolish or reduce tax.

47. (1) If it at any time appears to the Local Government, on complaint made or otherwise, that any tax imposed under the foregoing sections is unfair in its incidence, or that the levy thereof or of any part thereof is injurious to the interests of the general public, it may require the municipal committee to take, within a specified period, measures to remove the objection; and, if within that period the requirement is not complied with to the satisfaction of the Local Government, the Local Government may, by notification, suspend the levy of the tax or of any part thereof until the objection has been removed.

Power to Local Government to suspend levy of tax.

(2) The Local Government may at any time, by a like notification, rescind any such suspension.

48. (1) The Local Government may make rules for the assessment, collection, and remission of taxes leviable under this Act and preventing evasion of the same:

Power to make rules for assessment, collection and remission of taxes.

Provided that every such rule shall be consistent with the provisions of this Act and with the proposals sanctioned in respect of the tax under section 45.

(2) In

## (Chapter IV.—Taxation.—Sections 49—51.)

(2) In making any rule under this section the Local Government may direct that a breach of any provision thereof shall be punishable with fine which may extend to fifty rupees.

Taxes not invalid for defect of form.

49. No tax imposed under this Act shall be invalid merely for defect of form; and it shall be enough in any such tax on property, or any assessment of value for the purpose of the tax, if the property taxed or assessed is so described as to be generally known; and it shall not be necessary to name the owner or occupier thereof.

Taxes leviable under Act VII of 1874 to be deemed to be taxes under this Act.

50. All taxes leviable in any local area under the British Burma Municipal Act, 1874, at the time when a municipal committee having authority over that local area comes into existence under this Act, shall, so far as their imposition and assessment are consistent with this Act and within the powers conferred thereby, be deemed to have been imposed and assessed under this Act.

*Taxes on Immoveable Property.*

Preparation of assessment-list.

51. (1) The committee shall cause an assessment-list of all buildings and lands on which any tax is imposed to be prepared, containing—

- (a) the name of the street or division in which the property is situate;
- (b) the designation of the property, either by name or by number, sufficient for identification;
- (c) the names of the owner and occupier, if known;
- (d) the annual value, area or number of posts on which the property is assessed; and
- (e) the amount of the tax assessed thereon by the committee.

(2) For the purpose of preparing the list, the committee may require the owners or occupiers of the buildings or lands to furnish it with returns of the measurements

*(Chapter IV.—Taxation.—Sections 52—54.)*

measurements or number of posts or of the rent or annual value.

52. When the assessment-list has been completed, the committee shall give public notice thereof, and of the place where the list or a copy thereof may be inspected; and every person claiming to be either owner or occupier of property included in the list, or the agent of any such person, shall be at liberty to inspect the list and to make extracts therefrom without charge.

Publication  
of notice  
of assess-  
ments.

53. (1) The committee shall at the same time give public notice of a time, not less than one month from the publication of the notice, when it will proceed to revise the assessment; and in all cases in which any property is for the first time assessed, or the assessment thereof is increased, it shall also give notice thereof to the owner or occupier of the property.

Public notice  
of time fixed  
for revising  
assessment-  
list.

(2) All objections to the assessment shall be made in writing before the time fixed in the notice or orally or in writing at that time.

54. (1) After the objections have been enquired into and the persons making them have been allowed an opportunity of being heard either in person or by authorized agent as they think fit and the revision of the assessment has been completed, the amendments made in the list shall be authenticated by the signatures of not less than two members of the committee, who shall at the same time certify that no valid objection has been made to the assessment contained in the list, except in the cases in which amendments have been entered therein; and subject to such amendments as may thereafter be duly made, the tax so assessed shall be deemed to be the tax for the whole year by which it is leviable next following that in which the assessment is made.

Settlement  
of list.

(2) The list when amended under this section shall be deposited in the committee's office, and shall there be open during office-hours to all owners and occupiers



## (Chapter IV.—Taxation.—Sections 55—57.

occupiers of property comprised therein, and a public notice that it is so open shall forthwith be published.

Further  
amendments  
of assess-  
ment-list.

55. (1) The committee may, at any time amend the list by inserting the name of any person whose name ought to be inserted, or by inserting any property which ought to have been inserted, or by altering the assessment on any property which has been insufficiently assessed through mistake, oversight or fraud, after giving notice to any person interested in the amendment of a time, not less than one month from the date of service of such notice, at which the amendment is to be made.

(2) Any person interested in any such amendment may tender his objection to the committee in writing before the time fixed in the notice, or orally or in writing at that time, and shall be allowed an opportunity of being heard in support of the same in person or by authorized agent as he thinks fit.

New list  
need not be  
prepared  
every year.

56. It shall be in the discretion of the committee to prepare a new assessment-list every year; or to adopt the assessment contained in the list for any year, with such alterations as may in particular cases be deemed necessary, as the assessment for the year following, giving the same notice of the assessment as if a new assessment-list had been prepared.

Remission  
of tax on  
unoccupied  
immoveable  
property.

57. When a tax payable under section 41, clause (a), (b) or (c), or under section 42, 43 or 44, is payable in one sum in respect of an entire year, and the property in respect of which it is payable is unoccupied throughout the year, or when such a tax is payable in instalments and the property is unoccupied throughout the period in respect of which an instalment is payable, the amount payable in respect of the property for the year, or the instalment, as the case may be, shall be remitted:

Provided that it shall be in the discretion of the committee to direct that no remission shall be granted unless notice in writing of the vacancy has been given

*(Chapter V.—Funds and Property.—Sections 58—60.)*

given to it within such time from the beginning of the year or of the period as it may, from time to time, fix in this behalf.

58. Every tax payable under section 41, clause (a), (b) or (c), shall be due jointly and severally from all persons who have been in occupation of the building or land assessed at any time during the year of assessment, or, when the tax is payable by instalments, at any time during the period in respect of which the instalment is payable, and from all persons who have held under them as tenants, mortgagees or conditional vendees.

Taxes under section 41, clauses (a), (b) and (c), from whom due.

59. Every tax leviable under section 42, 43 or 44 shall be payable by the occupier of the building or land in respect of which it is payable.

Tax under sections 42, 43 and 44 payable by occupier.

## CHAPTER V.

## FUNDS AND PROPERTY.

60. There shall be formed for each municipality a municipal fund, and there shall, except as by this Act provided, be credited thereto—

Municipal fund constituted.

- (a) all sums received by or on behalf of the committee under this Act or otherwise ;
- (b) all fines realized in cases in which prosecutions are instituted under this Act or the rules made hereunder or under section 34 of Act V of 1861 for offences committed within the municipality ;
- (c) any sums which the Local Government may annually assign, as it is hereby empowered to do, to the municipal fund from the port fund of any port abutting on or within the municipality as being in its opinion a just and reasonable contribution towards the expenditure rendered necessary by the resort

to

## (Chapter V.—Funds and Property.—Section 61.)

to the municipality of seamen from ships lying in the port; and

- (d) when there has been included within the municipality a municipality constituted under the British Burma Municipal Act, 1874, the balance (if any) standing at the credit of the funds of that municipality at the time when the municipal committee came into existence.

Application  
of fund.

61. (1) The committee shall set apart and apply annually out of the municipal fund—

- (a) *first*, such sum as may be required for the payment of any amounts falling due on any loan legally contracted by it;
- (b) *secondly*, such sum as may be required to meet the charges of its own establishment, including such subscriptions and contributions as are referred to in sections 34 and 35;
- (c) *thirdly*, such sum as may be required to pay the expenses of pauper lunatics sent to public asylums from the municipality, the expenses incurred in auditing the accounts of the committee, and such portion of the cost of the Provincial Departments for Education, Sanitation, Vaccination, Medical Relief and Public Works as may be held by the Local Government to be equitably debitable to the committee in return for services rendered to it by these Departments.

(2) Subject to the charges specified in sub-section (1) and to such rules as the Local Government may make with respect to the priority to be given to the several duties of the committee, the municipal fund shall be applicable to the payment, in whole or in part, of the charges and expenses incidental to the following matters within the municipality, and with the sanction of the Commissioner outside the municipality,

*(Chapter V.—Funds and Property.—Section 61.)*

cipality, when such application of the fund is for the benefit of the inhabitants, namely :—

- (a) the construction, maintenance, improvement, cleansing and repair of streets, and of public bridges, embankments, drains, latrines, tanks and water-courses;
- (b) the watering and lighting of the streets or any of them;
- (c) the construction, establishment and maintenance of schools, hospitals and dispensaries, and other institutions for the promotion of education or for the benefit of the public health, and of rest-houses, zayáts, wharves, poor-houses, markets, encamping-grounds, pounds and other works of public utility, and the control and administration of public institutions of any of these descriptions;
- (d) grants-in-aid to schools, hospitals, dispensaries, poor-houses, leper asylums and other educational or charitable institutions;
- (e) the training of teachers and the establishment of scholarships;
- (f) the giving of relief and the establishment and maintenance of relief-works in time of famine or scarcity;
- (g) the supply, storage and preservation from pollution of water for the use of men or animals;
- (h) the planting and preservation of trees;
- (i) the taking of a census, the registration of births, marriages and deaths, public vaccination and any other sanitary measure;
- (j) the holding of fairs and industrial exhibitions; and
- (k) all acts and things likely to promote the safety, health, welfare or convenience of the inhabitants.

62. (1) There

## (Chapter V.—Funds and Property.—Sections 62 &amp; 63.)

School fund.

62. (1) There shall be formed for each municipality a school fund. To this fund shall be credited—

- (a) the fees levied in schools maintained at the cost of the school fund;
- (b) any assignment that may be made to the school fund from provincial funds or from any district or local fund;
- (c) any other funds or income that may be entrusted to the municipality for the promotion of education; and
- (d) any sums assigned for educational purposes from the municipal fund.

(2) The Local Government may fix for any municipality the minimum proportion of the municipal fund that shall be yearly assigned to the school fund under clause (d): Provided that the minimum so fixed shall not exceed 5 per cent. on the gross annual income of the municipality.

(3) No expenditure, except expenditure for the promotion of education, shall be charged against the school fund. In case of doubt, the Commissioner shall decide whether any expenditure is or is not for the promotion of education.

Custody of, and disbursements from, funds.

63. (1) The balances standing to the credit of the municipal fund and school fund, shall, if there is a Government treasury or sub-treasury or a bank to which the Government treasury business has been made over situate within the municipality, be kept in that treasury, sub-treasury or bank. In any other case, the bulk of the funds shall be kept in the nearest Government treasury or sub-treasury or bank as aforesaid, and such money as may be required for current expenditure shall be kept by the committee in a strong box in such place and under such precautions as the committee may, from time to time, direct.

(2) No disbursement of such funds or any part thereof shall be made except under the signature of

(Chapter V.—Funds and Property.—Sections  
64 & 65.)

of the president or vice-president and one other member of the committee.

64. (1) A municipal committee may, from time to time, with the previous sanction of the Local Government, invest any portion of its municipal fund or school fund in securities of the Government of India or such other securities as the Governor General in Council may approve in this behalf, and vary such investments for others of the like nature. Investment of same.

(2) The income resulting from the securities and the proceeds of the sale of the same shall be credited to the municipal fund or school fund, as the case may be.

65. Subject to any special reservation made by the Local Government, all property in a municipality of the nature hereinafter specified shall be vested in and belong to the municipal committee, and shall, with all other property which may become vested in the committee, be under its direction, management and control, and shall be held and applied by it for the purposes of this Act, that is to say:— Property vested in municipality.

(a) all public town-halls, gates, markets, slaughter-houses, manure and night-soil depôts and public buildings of every description which have been constructed or are maintained out of municipal funds;

(b) all public streams, tanks, reservoirs, cisterns, wells, springs, aqueducts, conduits, tunnels, pipes, and other waterworks, and all bridges, buildings, engines, works, materials and things connected therewith or appertaining thereto, and also any adjacent land (not being private property) appertaining to any public tank or well;

(c) all public sewers and drains, and all sewers, drains, tunnels, culverts, gutters and water-courses in, alongside or under any street,  
and

## (Chapter V.—Funds and Property.—Sections 66 &amp; 67.)

and all works, materials and things appertaining thereto;

- (d) all dust, dirt, dung, ashes, refuse, animal-matter or filth, or rubbish of any kind, collected by the committee from the streets, houses, privies, sewers, cesspools or elsewhere;
- (e) all public lamps, lamp-posts and apparatus connected therewith or appertaining thereto;
- (f) all land or other property transferred to the committee by the Government or by gift or otherwise for local public purposes; and
- (g) all streets, and the pavements, stones and other materials thereof, and also all trees, erections, materials, implements and things, provided for such streets.

Management of public institutions.

66. (1) The management, control and administration of every public institution maintained out of municipal funds shall vest in the committee.

Provided that the extent of the independent authority of the committee in respect of any such institution may be prescribed by the Local Government.

(2) When any public institution is placed under the direction, management and control of the committee, all property, endowments and funds belonging thereto shall be held by the committee in trust for the purposes to which such property, endowments and funds were lawfully applicable at the time when the institution was so placed.

Transfer to Crown of property vesting in committee.

67. The committee may, with the sanction of the Local Government, transfer to Her Majesty any property vesting in the committee under section 65 or section 66, but not so as to affect any trusts or public rights subject to which the property is held.

CHAPTER VI.

(Chapter VI.—Powers for Sanitary and other Purposes.—Sections 68—72.)

## CHAPTER VI.

### POWERS FOR SANITARY AND OTHER PURPOSES.

#### *Streets and Buildings.*

68. When any land is required for a new street or for the improvement of an existing street, the committee may proceed to acquire, in addition to the land to be occupied by the street, the land necessary for the sites of the buildings to be erected on the sides of the street.

Power to acquire land for building sites adjoining new streets.

69. The committee may close temporarily any street vested in it or any part thereof for the purpose of repairs, or for the purpose of constructing or repairing any sewer, drain, culvert or bridge, or for any other public purpose; and may divert, discontinue or permanently close any such street, and sell the land or such part thereof as is not required for the purposes of this Act.

Power to close streets.

70. The committee may grant permission in writing for the temporary occupation of any street or land vested in it for the purpose of depositing any building materials or making any temporary excavation therein or erection thereon, subject to such conditions as it may prescribe for the safety or convenience of persons passing by or dwelling or working in the neighbourhood, and may charge fees for such permission, and may at its discretion withdraw the permission.

Power to permit temporary occupation of streets, &c.

\* 71. The committee may attach to the outside of any building brackets for lamps in such manner as not to occasion any injury thereto or inconvenience.

Power to attach brackets for lamps.

72. (1) The committee at a meeting may cause a name to be given to any street, and to be affixed on any building in such place as it thinks fit, and may also cause a number to be affixed to any building;

Names of streets and numbers of buildings.

and



(Chapter VI.—Powers for Sanitary and other Purposes.—Sections 73 & 74.)

and in like manner may, from time to time, cause such names and numbers to be altered.

(2) Whoever destroys, pulls down or defaces any such name or number, or puts up any different name or number from that put up by order of the committee, shall be punishable with fine which may extend to twenty rupees.

Roofs and external walls not to be made of inflammable materials.

73. The committee at a meeting may direct that, within certain limits, to be fixed by it, the external roofs and walls of huts or other buildings shall not be made or renewed of bamboos, grass, mats, leaves or other highly inflammable materials unless with the permission of the committee in writing; and the committee may, by written notice, require any person who has disobeyed any such direction to remove or alter the roofs or walls so made or renewed as it may think fit.

Power to regulate line of buildings.

74. (1) If any building or part of a building projects beyond the regular line of a public street, either existing or determined on for the future, or beyond the front of the building on either side thereof, the committee may, whenever the building or part has been either entirely or in greater part taken down or burnt down, or has fallen down, by notice require the building or part, when being rebuilt, to be set back to or towards the said regular line or the front of the adjoining buildings; and the portion of the land added to the street by such setting back or removal shall become part of the public street and shall vest in the committee:

Provided that the committee shall make full compensation to the owner for any damage he may sustain in consequence of his building or any part thereof being set back.

(2) The committee may, on such terms as it thinks fit, allow any building to be set forward for the improvement of the line of the street.

75. (1) Every

(Chapter VI.—Powers for Sanitary and other Purposes.—Section 75.)

75. (1) Every person intending to erect or re-erect any building shall, if required to do so by rule made by the committee in this behalf, give notice in writing of his intention to the committee, and shall, if required to do so, submit a plan showing the levels at which the foundation and lowest floor are proposed to be laid, and specifications of the works intended to be constructed, and the materials to be used, and shall obey all written directions consistent with this Act given by the committee within one month after receiving such notice, either prohibiting the erection or re-erection, if deemed likely to be injurious to the inhabitants of the neighbourhood, or in respect of all or any of the matters following, namely:—

Notice of new buildings.

- (a) free passage or way in front of the building;
- (b) space to be left about the building to secure free circulation of air and facilitate scavenging;
- (c) ventilation and drainage;
- (d) level and width of foundation, level of lowest floor and stability of structure; and
- (e) the line of frontage with neighbouring buildings, if the building abuts on a street or public thoroughfare:

Provided that the committee shall make full compensation to the owner for any damage he may sustain in consequence of the prohibition of the erection or re-erection of any building, or of its requiring any land belonging to him to be added to the street.

(2) If any such building is begun or erected without giving notice, or without submitting particulars as aforesaid when required, or in contravention of the legal orders of the committee issued within one month, the committee may by notice require the building to be altered or demolished, as it may deem necessary.

*Explanation*

(Chapter VI.—Powers for Sanitary and other Purposes.—Sections 76 & 77.)

*Explanation.*—The expression “erect any building” includes all additions or alterations which involve new foundations or increased superstructure on existing foundations, or the conversion into a dwelling-house of any building not originally constructed for human habitation, or the conversion into more than one dwelling-house of a building originally constructed as one dwelling-house only.

Removal of projections and obstructions.

76. (1) It shall not be lawful, unless with the written permission of the committee, for the owner or occupier of any building in a public street to add to, or place against or in front of, the building any projection or structure overhanging, projecting into or encroaching on the street or into or on any drain, sewer or aqueduct therein.

(2) The committee may, by notice, require the owner or occupier of any building to remove or alter any projection, encroachment or obstruction built or placed against or in front thereof if the same overhangs or projects into or encroaches on any public street, or projects into or encroaches on any drain, aqueduct or sewer in the street :

Provided that, in the case of a projection, encroachment or obstruction being lawfully in existence at the time of the passing of this Act, the committee shall make reasonable compensation to any person who suffers damage by the removal or alteration.

(3) The committee may give written permission to the owners or occupiers of buildings in public streets to put up open verandahs, balconies or rooms projecting from any upper storey thereof to an extent beyond the line of the plinth or basement-wall, and at a height from the level of the ground or street, to be specified in the written permission.

*Bathing and Washing Places.*

Bathing and washing places.

77. The committee may set apart suitable places for the purpose of bathing, and may specify the times

at

(Chapter VI.—Powers for Sanitary and other Purposes.—Sections 78 & 79.)

at which, and the sex of the persons by whom, such places may be used; and may also set apart suitable places for washing animals or clothes, or for any other purpose connected with the health, cleanliness or comfort of the inhabitants; and may, by public notice, prohibit bathing, or washing animals or clothes, in any public place not so set apart, or at times or by persons other than those so specified, and all other acts not so permitted by which water in public places may be rendered foul or unfit for use.

*Deposit of Offensive Matter and Slaughter-places.*

78. The committee may fix places within or, with the approval of the Deputy Commissioner, beyond the limits of the municipality for the deposit of refuse, rubbish or offensive matter of any kind or for the disposal of the dead bodies of animals, and may by public notice give directions as to the time, manner and conditions at, in and under which such refuse, rubbish or offensive matter or dead bodies of animals may be removed along any street and deposited at such places.

Removal and deposit of offensive matter.

79. (1) The committee may, with the approval of the Deputy Commissioner, fix and abolish places either within or without the limits of the municipality for the slaughter of animals for sale, or of any specified description of such animals, and may with the like approval grant and withdraw licenses for the use of such places, or, if they belong to the committee, charge rent or fees for the use of the same.

Places for slaughter of animals.

(2) When such places are fixed by the committee beyond municipal limits, it shall have the same power to make rules for the inspection and proper regulation of the same as if they were within those limits.

(3) When any such place has been fixed, no person shall slaughter any such animal for sale within the municipality at any other place.

(4) Whoever

(Chapter VI.—Powers for Sanitary and other Purposes.—Sections 80—82.)

(4) Whoever slaughters any such animal for sale at any other place within the municipality shall be punishable with fine which may extend to twenty rupees.

*Burial and Burning Places.*

Powers in respect of burial and burning places.

80. (1) The committee may, by public notice, order any burial or burning ground which is, in its opinion, dangerous to the health of persons living in the neighbourhood, to be closed, from a date to be specified in the notice, and shall, in such case, if no suitable place for burial or burning exists within a reasonable distance, provide a fitting place for the purpose.

(2) Private burial-places in such burial-grounds may be excepted from the notice, subject to such conditions as the committee may impose in this behalf :

Provided that the limits of such burial-places are sufficiently defined, and that they shall only be used for the burial of members of the family of the owner thereof.

(3) No burial or burning ground, whether public or private, shall be made or formed, after the passing of this Act, without the permission in writing of the committee.

(4) If any person buries or burns, or causes or permits to be buried or burnt, any corpse in any burial or burning ground made or formed contrary to the provisions of this section, or after the date fixed thereunder for closing the same, he shall be punishable with fine which may extend to fifty rupees.

Removal of corpses.

81. The committee may, by public notice, prescribe routes for the removal of corpses to burial or burning places.

*Inflammable Materials.*

Inflammable materials.

82. The committee may, where it appears to it to be necessary for the prevention of danger to life

or

(Chapter VI.—Powers for Sanitary and other Purposes.—Sections 83—85.)

or property, by public notice, prohibit all persons from stacking or collecting bamboos, dry grass, straw or other inflammable materials, or placing mats on thatched huts or lighting fires in any place or within any limits specified in the notice.

*Powers of Entry and Inspection.*

83. (1) The committee, by any person authorized by it in this behalf, may, after giving six hours' notice in writing to the occupier of any land or building in which any drains, privies or cesspools are situated, inspect any such drains, privies and cesspools at any time between sunrise and sunset, and may, if necessary, cause the ground to be opened where the committee or person may think fit for the purpose of preventing or removing any nuisance arising from the privies, drains or cesspools.

Inspection of drains, privies and cesspools.

(2) If, on such inspection, it appears that the opening of the ground was necessary for the prevention or removal of a nuisance, the expenses thereby incurred shall be paid by the owner or occupier of the land or building; but if it is found that no nuisance exists, or but for such opening would have arisen, the ground shall be closed and made good as soon as may be, and the expense of opening, closing and making it good shall be borne by the committee.

84. The committee, by any person authorized by it in this behalf, may, after giving twenty-four hours' notice to the occupier, or, if there is no occupier, to the owner, of any building, at any time between sunrise and sunset enter and inspect the building, and may by notice direct all or any part thereof to be forthwith internally or externally lime-washed, disinfected or otherwise cleansed for sanitary reasons.

Power to enter and inspect buildings, &c.

85. The committee, by any person authorized by it in this behalf, may, after giving twenty-four hours' notice to the occupier, or, if there is no occupier, to the

Other powers of entry on buildings or land.

(Chapter VI.—Powers for Sanitary and other Purposes.—Sections 86 & 87.)

the owner, of any building or land, at any time between sunrise and sunset—

- (a) enter on and survey and take levels of any land;
- (b) enter, inspect and measure any building for the purpose of valuation;
- (c) enter into any building or on any land for the purpose of examining works under construction, of ascertaining the course of sewers or drains, or of executing or repairing any work which it is by this Act empowered to execute or maintain.

Power to enter for discovery of vehicles or animals liable to taxation.

**86.** The committee, by any person authorized by it in this behalf, may, at any time between sunrise and sunset, enter and inspect any stable, coach-house or other place wherein there is reason to believe that there is any vehicle or animal liable to taxation under this Act and which has not been so taxed.

Power to inspect places for sale of food or drink, &c., and to seize unwholesome articles exposed for sale.

**87.** The committee, by any person authorized by it in this behalf, may, at all reasonable times, enter into and inspect any market, building, shop, stall or place used for the sale of food or drink for man, or as a slaughter-house, or for the sale of drugs, and inspect and examine any food or drink, drug or animal which may be therein; and, if any article of food or drink or any animal therein appears to be intended for the consumption of man and to be unfit therefor, may seize and remove the same, or may cause it to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for such consumption;

and, in case any drug is reasonably suspected to be adulterated in such manner as to lessen its efficacy or to change its operation or to render it noxious, may remove the same, giving a receipt therefor, and may cause it to be brought before a Magistrate for enquiry whether any offence has been committed in respect thereof, and for his orders as to its disposal.

**88. (1)** The

*(Chapter VI.—Powers for Sanitary and other Purposes.—Sections 88—91.)*

88. (1) The committee may provide for the performance by its agents of the duties usually performed by sweepers in respect of any buildings or lands, or of any privies, drains, cesspools or other receptacles for offensive matter pertaining to buildings or land, with the consent of the occupier of the building or land, or without such consent if the occupier fails to make arrangements to the satisfaction of the committee for the performance of such duties.

Power of entry for purpose of scavenging.

(2) When the committee has undertaken to provide for the performance by its agents of such duties as aforesaid, the persons employed by it to perform the same may enter on the property at all reasonable times so far as may be necessary for the proper discharge of those duties; and the committee, by any person authorized by it in this behalf, may enter on the property at all reasonable times for the purpose of ascertaining that such duties have been duly performed.

89. When any building, used as a human dwelling, is entered under this Act, due regard shall be paid to the social and religious sentiments of the occupiers; and before any apartment in the actual occupancy of any woman, who, according to custom, does not appear in public, is entered under this Act, notice shall be given to her that she is at liberty to withdraw, and every reasonable facility shall be afforded to her for withdrawing.

Precautions to be observed in entering dwelling.

*Water-pipes, Privies and Drains.*

90. The committee may, by notice, require the owner of any building in any street to put up and keep in good condition proper troughs and pipes for receiving and carrying the water from the roof and other parts thereof and for discharging the same so as not to inconvenience persons passing along the street.

Troughs and pipes for rain-water.

91. (1) The committee may, by notice, require the owner of any building to provide any privy or cesspool

Provision of privies, &c.



*(Chapter VI.—Powers for Sanitary and other Purposes.—Sections 92—94.)*

pool, or additional privies or cesspools, which should in its opinion be provided for the building, in such manner as the committee directs.

(2) The committee may, by notice, require any persons employing more than twenty workmen or labourers to provide such latrines and urinals as it may think fit, and to cause the same to be kept in proper order and to be daily cleaned.

(3) The committee may, by notice, require the owner or occupier of any building or land to have any privy provided for the same shut out by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood, or to remove or alter, as the committee directs, any door or trapdoor of a privy opening on to any street or drain.

Repair, alteration and closing of drains, privies and cesspools.

92. (1) The committee may, by notice, require the owner or occupier of any building or land to repair or alter and put in good order any drain, privy or cesspool, or to close any cesspool, belonging thereto.

(2) The committee may, by notice, require any person who constructs any new drain, privy or cesspool without its permission in writing, or contrary to its directions or regulations or to the provisions of this Act, or who constructs, rebuilds or opens any drain, privy or cesspool which it has ordered to be demolished or stopped up or not to be made, to demolish the drain, privy, or cesspool, or to make such alteration therein as it thinks fit.

Unauthorised buildings over drains, &c.

93. The committee may, by notice, require any person who, without its permission in writing, newly erects or rebuilds any building over any sewer, drain, culvert, watercourse or water-pipe vested in the committee to pull down or otherwise deal with the same as it thinks fit.

Removal of latrines, &c., near any source of water-supply.

94. The committee may, by notice, require any owner or occupier on whose land any drain, latrine, urinal, cesspool or other receptacle for filth or refuse

for

(Chapter VI.—Powers for Sanitary and other Purposes.—Sections 95—97.)

for the time being exists within fifty feet of any spring, well, tank, reservoir or other source from which water is or may be derived for public use, to remove or close the same within one week.

95. The committee may, by notice, require the owner or occupier of any land or building to cleanse, repair, cover, fill up or drain off any private tank, well, reservoir, pool or excavation therein, which appears to the committee to be injurious to health or offensive to the neighbourhood :

Power to require drainage, &c., of unwholesome tanks, &c.

Provided that, if for the purpose of effecting any drainage under this section it is necessary to acquire any land not belonging to the person who is required to drain his land or to pay compensation to any other person, the committee shall provide the land or pay the compensation.

#### *Dangerous Buildings and Places.*

96. If any building or any well, tank or other excavation, is for want of sufficient repair, protection or enclosure, dangerous to persons passing by or dwelling or working in the neighbourhood, the committee may, by notice, require the owner or occupier thereof to repair, protect or enclose the same ; and, if it appears to it to be necessary in order to prevent imminent danger, it shall forthwith take such steps as are necessary to avert the danger.

Power to require buildings, wells, tanks, &c., to be secured.

97. If any building, wall, structure or anything affixed thereto is deemed by the committee to be in a ruinous state or in any way dangerous, it may, by notice, require the owner or occupier thereof forthwith either to remove the same or to cause such repairs to be made to the building, wall or structure as the committee considers necessary for the public safety ; and, if it appears to it to be necessary in order to prevent imminent danger, the committee shall forthwith take such steps as are necessary to avert the danger.

Buildings, &c., in ruinous or dangerous state.

*Buildings*

(Chapter VI.—Powers for Sanitary and other Purposes.—Sections 98—103.)

*Buildings and Grounds in unsanitary condition.*

Power to require owner to clear away noxious vegetation.

98. The committee may, by notice, require the owner or occupier of any land to clear away and remove any thick or noxious vegetation, jungle or undergrowth which appears to the committee to be injurious to health or offensive to the neighbourhood.

Power to trim hedges and trees bordering on streets, wells, &c.

99. The committee may, by notice, require the owner or occupier of any land, within three days, to cut or trim the hedges thereof bordering on any street, or branches of trees growing thereon which overhang any street and obstruct the same or cause danger thereto, or which so overhang any well, tank or other source from which water is derived for public use as to be likely to pollute the water thereof.

Cleansing of filthy buildings or land.

100. If the owner or occupier of any building or land suffers the same to be in a filthy or unwholesome state, the committee may, by notice, require him within twenty-four hours to cleanse the same or otherwise put it in a proper state.

Power to prohibit use for human habitation of buildings unfit for such use.

101. If any building appears to the committee to be unfit for human habitation in consequence of the want of proper means of drainage or ventilation or other sufficient reason, the committee may, by notice, prohibit the owner or occupier thereof from using the same for human habitation or suffering it to be so used, until the committee is satisfied that it has been rendered fit for such use.

Power to require untenanted buildings becoming a nuisance to be secured or enclosed.

102. The committee may, by notice, require the owner or person claiming to be the owner of any building or land which, by reason of abandonment or disputed ownership or other cause, remains untenanted and thereby becomes a resort of idle and disorderly persons or otherwise a nuisance, to secure or enclose the same within a reasonable time fixed in the notice.

Cultivation, use of manure or irrigation

103. (1) The committee, on the report of the Sanitary Commissioner that the cultivation of any description of crop or the use of any kind of manure

or

(Chapter VI.—Powers for Sanitary and other Purposes.—Section 104.)

or the irrigation of land in any specified manner in any place within the limits of the municipality is injurious to the health of persons dwelling in the neighbourhood, may, with the previous sanction of the Local Government, by notification prohibit the cultivation of the crop, the use of the manure or the irrigation so reported to be injurious, or regulate it by imposing such conditions thereon as may prevent the injury :

injurious to health, after prohibition.

Provided that when on any land to which the notification applies that description of crop has been cultivated, that kind of manure has been used or irrigation has been practised in that manner during the five years preceding the notification with such continuity as the ordinary course of husbandry admits of, compensation shall be paid from the municipal fund to all persons interested in that land for any damage caused to them by the prohibition or regulation.

(2) If any person cultivates, uses manure or irrigates in disregard of the prohibition or conditions notified under sub-section (1), he shall be punishable with fine which may extend to fifty rupees, and with a further fine which may extend to five rupees for every day after the first during which the offence is continued.

*Offensive and Dangerous Trades.*

104. (1) The owner or occupier of every place within the municipality used for any of the following purposes, namely :—

Regulation of offensive and dangerous trades.

melting tallow ;

boiling bones, offal or blood ; or

as a soap-house, oil-boiling house, dyeing-house or tannery ; or,

as a brickkiln, pottery or limekiln ; or

as

(Chapter VI.—Powers for Sanitary and other Purposes.—Section 105.)

as any other manufactory or place of business from which offensive or unwholesome smells arise ; or

as a yard or depôt for trade in hay, straw, thatching-grass, wood or coal, or other dangerously inflammable material ; or

as a store-house for kerosine, petroleum, naphtha or any inflammable oil, spirit or explosive substance ;

shall register the same in a book to be kept by the committee for the purpose.

(2) No place shall be newly used for any of the said purposes except under a license from the committee, which shall be renewable annually.

(3) The license shall not be withheld unless the committee considers that the business which it is intended to establish or maintain would be offensive or dangerous to persons residing in, or frequenting, the immediate neighbourhood.

(4) The committee may impose such conditions in respect of such license as it may think necessary.

(5) Whoever, without such registration or without a license, uses any place for any such purpose shall be punishable with fine which may extend to fifty rupees, and with further fine not exceeding ten rupees for every day during which the offence is continued after he has been convicted of such offence.

Power to prohibit such trades.

105. (1) If it is shown to the satisfaction of the committee, at a meeting, that any place registered or licensed under the last preceding section is a nuisance to the neighbourhood or likely to be dangerous to life, health or property, it may, by notice, require the occupier thereof to discontinue the use of the place, or to use it in such manner as will, in the opinion of the committee, render it no longer a nuisance or dangerous.

(2) Whoever, after such notice has been given, uses the place or permits it to be used in such a manner

(Chapter VI.—Powers for Sanitary and other Purposes.—Section 106.)

manner as to be a nuisance to the neighbourhood or dangerous, shall be punishable with fine which may extend to two hundred rupees, and with further fine not exceeding forty rupees for every day during which the offence is continued after he has been convicted of such offence.

*Power to make rules.*

106. A committee may, from time to time, at a special meeting, make rules— Power to make rules.

- (a) for rendering licenses necessary for the proprietors or drivers of vehicles, boats or animals plying for hire within the limits of the municipality, and fixing the fees payable for such licenses and the conditions on which they are to be granted and may be revoked;
- (b) for limiting the rates which may be demanded for the hire of any carriage, cart, boat or other conveyance, or of animals hired to carry loads, or for the services of persons hired to carry loads, and the loads to be carried by such conveyances, animals or persons, where they are hired within the municipality for a period not exceeding twenty-four hours, or for a service which would ordinarily be performed within twenty-four hours;
- (c) for securing a proper registration of births, marriages and deaths, and for the taking of a census;
- (d) for fixing, and from time to time varying, the number of persons who may occupy a building or part of a building which is let in lodgings or occupied by members of more than one family;

for the registration and inspection of such buildings;

for

P

(Chapter VI.—Powers for Sanitary and other Purposes.—Sections 107 & 108.)

for promoting cleanliness and ventilation in such buildings ;

for the notices to be given and the precautions to be taken in the case of any infectious disease breaking out in such buildings ;

and generally for the proper regulation of such buildings ;

(e) for the inspection and proper regulation of encamping grounds, pounds, zayáts, wharves not within the limits of any port, markets and slaughter-houses ;

(f) for the holding of fairs and industrial exhibitions within the municipality and under its control ;

(g) for controlling and regulating the use and management of burial and burning grounds ;

(h) for the supervision and regulation of public wells, tanks, springs or other sources from which water is or may be made available for public use ; and

(i) for carrying out the purposes of this Act :

Provided that the committee of a municipality in which the Hackney-Carriage Act, 1879, is in force shall not make rules under clauses (a) and (b) in respect of any vehicles to which that Act applies. XIV.

Penalty for infringement of rules.

107. In making any rule under section 106 the committee may direct that a breach of it shall be punishable with fine which may extend to fifty rupees, and, when the breach is a continuing breach, with a further fine which may extend to five rupees for every day after the first during which the breach continues. In lieu of, or in addition to, such fine the Magistrate may require the offender to remedy the mischief so far as within his power.

Confirmation of rules.

108. No rule made under section 106 shall come into force until it has been confirmed by the Local Government

*(Chapter VI.—Powers for Sanitary and other Purposes.—Sections 109 & 110.)*

Government and published for such time and in such manner as the Local Government may prescribe in this behalf.

*Supplemental.*

109. (1) When any notice under this chapter requires any act to be done for which no time is fixed by this Act, it shall fix a reasonable time for doing the same.

Execution of acts required to be done by any notice.

(2) When the owner or occupier of any land or building fails to comply with the terms of any notice under this chapter requiring him to do any act upon that land or building, the committee may, after six hours' notice, by its officers, cause the act to be done.

110. (1) Where, under this Act, the owner or occupier of property is required by the committee to execute any work and makes default in complying with the requirement, and the committee executes the work, the committee may recover the cost of the work from the person in default.

Recovery of costs of execution.

(2) If the person in default is the owner, the committee may, by way of additional remedy, recover the whole or any part of the cost from the occupier, and in such case the occupier may deduct any sum paid by him under this sub-section from the rent from time to time becoming due from him to the owner of the property in respect of which the payment is made, or otherwise recover it from the owner.

(3) Provided that an occupier shall not be required to pay, under the last sub-section, any greater sum than the amount of rent which is for the time being due from him to the owner, or which, after demand for payment of the money payable by him to the committee and notice not to pay rent without first deducting the amount so demanded, becomes payable by him to the owner, unless he refuses on application to him by the committee truly to disclose the amount of his rent and the name and address

of



(Chapter VI.—Powers for Sanitary and other Purposes.—Sections 111 & 112.)

of the person to whom it is payable ; but the burden of proof that the sum so demanded by the committee from the occupier exceeds the rent due at the time of the demand, or which has since accrued due, shall lie on the occupier.

(4) All money recoverable by a committee under this section may be recovered either by suit, or on application to a Magistrate having jurisdiction within the municipality by distress and sale of the moveable property of the person from whom the money is recoverable, and if payable by the owner of property shall, until it is paid, be a charge on the property.

(5) Nothing in this section shall affect any contract between an owner and an occupier.

Compensation out of municipal fund.

111. (1) The committee may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any of the powers vested in the committee, its officers and servants, under this Act, and shall make such compensation where the person sustaining the damage was not himself in default in the matter in respect of which the power was exercised.

(2) If any dispute arises touching the amount of any compensation which the committee is required by this Act to pay for injury to any building or land, it shall be settled in such manner as the parties may agree, or in default of agreement in the manner provided by the Land Acquisition Act, 1870, sections 3, 8 to 42, 51 to 53, and 56 to 59, so far as they can be made applicable. X of

Appeals against certain orders of committee.

112. (1) Any person aggrieved by any order made by a committee under the powers vested in it by section 80, 101 or 105 may appeal within thirty days from the date thereof to the Commissioner or to the Deputy Commissioner as the Local Government may prescribe in this behalf ; and no such order shall be liable to be called in question otherwise than by such appeal :

Provided

(Chapter VII.—Offences affecting the Public Health, Safety or Convenience.—Sections 113—115.)

Provided that, if the Deputy Commissioner is himself a member of the committee, the appeal shall lie to the Commissioner or other officer empowered by the Local Government in this behalf.

(2) The appellate authority may, for sufficient cause, extend the period hereby allowed for appeal.

(3) The order of the appellate authority confirming, setting aside or modifying the order appealed against shall be final:

Provided that the order appealed against shall not be modified or set aside until the appellant and the committee have had reasonable opportunity of being heard.

## CHAPTER VII.

### OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY OR CONVENIENCE.

113. Whoever, without the permission of the committee or in disregard of its orders, throws or deposits, or permits his servants or members of his household under his control to throw or deposit, earth or materials of any description, or refuse, rubbish or offensive matter of any kind, upon any public street or place, or into any public sewer or drain or any drain communicating therewith, shall be punishable with fine which may extend to twenty rupees.

Depositing or throwing earth or materials or refuse, rubbish or offensive matter on roads or into drains.

114. Whoever throws or causes to be thrown any corpse or carcass or any part thereof into any river, stream, well, lake, canal, tank or any other such place shall be punishable with fine which may extend to twenty rupees.

Throwing corpse or carcass into river, &c.

115. Whoever, without the permission of the committee, causes or allows the water of any sink, sewer or cesspool, or any other offensive matter, to flow, drain or be put upon any public street or place, or into any sewer or drain not set apart for the purpose, shall

Discharging sewage.

## (Chapter VII.—Offences affecting the Public Health, Safety or Convenience.—Sections 116—120.)

shall be punishable with fine which may extend to twenty rupees.

Non-removal  
of filth, &c.

116. Whoever, being the owner or occupier of any building or land, keeps or allows to be kept for more than twenty-four hours, or otherwise than in some proper receptacle, any carcass, dirt, dung, bones, ashes, night-soil or filth or any noxious or offensive matter in or upon such building or land, or suffers any such receptacle to be in a filthy or noxious state, or neglects to employ proper means to cleanse and purify the same, shall be punishable with fine which may extend to fifty rupees.

Making or  
altering  
drains with-  
out autho-  
rity.

117. Whoever, without the permission of the committee, makes or causes to be made, or alters or causes to be altered, any drain leading into any of the sewers or drains vested in the committee shall be punishable with fine which may extend to fifty rupees.

Penalty for  
making or  
keeping  
latrines, &c.,  
near any  
source of  
water-supply.

113. Whoever makes, without the permission of the committee, or keeps for a longer time than one week after notice to remove issued under section 94, any drain, latrine, urinal, cesspool or other receptacle for filth or refuse within fifty feet of any spring, well, tank, reservoir or other source from which water is or may be derived for public use, shall be punishable with fine which may extend to twenty rupees, and, when a notice has issued, with a further fine not exceeding five rupees for each day during which the offence is continued after the lapse of the period allowed for removal.

Keeping  
animals in  
disregard of  
orders.

119. Whoever keeps any swine, buffaloes, cows, oxen, sheep or goats in disregard of any orders which the committee may give to prevent them from becoming a nuisance, shall be punishable with fine which may extend to twenty rupees, and with a further fine which may extend to five rupees for every day after the first during which the offence is continued.

Feeding  
animals on  
deleterious  
substances.

120. Whoever feeds or allows to be fed any animal, which is kept for dairy purposes or may be used for  
food

(Chapter VII.—Offences affecting the Public Health, Safety or Convenience.—Sections 121—125.)

food, on deleterious substances, filth or refuse of any kind, shall be punishable with fine which may extend to fifty rupees.

121. Whoever drives any vehicle after dark in any public street or thoroughfare unless the vehicle is properly supplied with lights or there is sufficient moonlight to render lights unnecessary, shall be punishable with fine which may extend to twenty-rupees.

Driving vehicles without proper lights.

122. Whoever discharges fire-arms or lets off fireworks or fire-balloons, or engages in any game, in such a manner as to cause or be likely to cause danger to persons passing by or dwelling or working in the neighbourhood, or risk of injury to property, shall be punishable with fine which may extend to twenty rupees.

Discharging fire-arms, &c.

123. Whoever, being the owner or person in charge of any dog which is likely to annoy or intimidate passengers, neglects to restrain it so that it shall not be at large without a muzzle in any public street or place shall be punishable with fine which may extend to twenty rupees.

Suffering dogs to be at large.

124. Whoever, without the permission of the committee, alters, obstructs or encroaches upon any public street, thoroughfare, sewer, drain or water-course, or displaces, takes up or alters the pavement or other materials or the fences or posts of any public street, place or thoroughfare, or deposits building-materials or makes any hole or excavation on or in any public street or thoroughfare, shall be punishable with fine which may extend to fifty rupees.

Altering, obstructing or encroaching upon streets, &c.

125. Whoever quarries, blasts, cuts timber or carries on building-operations in such a manner as to cause, or be likely to cause, danger to persons passing by or dwelling or working in the neighbourhood, shall be punishable with fine which may extend to fifty rupees.

Quarrying, blasting, cutting timber or building.

126. Any

## (Chapter VII.—Offences affecting the Public Health, Safety or Convenience.—Sections 126 &amp; 127.)

Penalty on exposure of infected persons and things.

126. Any person who—

- (1) while suffering from any dangerous infectious disorder wilfully exposes himself without proper precautions against spreading the said disorder in any street, public place, shop or public conveyance or enters any public conveyance without previously notifying to the owner, conductor or driver thereof that he is so suffering; or,
- (2) being in charge of any person so suffering, so exposes the sufferer; or
- (3) gives, lends, sells, transmits or exposes without previous disinfection, any bedding, clothing, rags or other things which have been exposed to infection from any such disorder;

shall be liable to a penalty not exceeding fifty rupees; and a person who, while suffering from any such disorder, enters any public conveyance without previously notifying to the owner or driver that he is so suffering, shall in addition be ordered by the Court to pay the owner and driver the amount of any loss and expense they may incur in carrying into effect any measures requisite for disinfection of the conveyance:

Provided that no proceedings under this section shall be taken against persons transmitting with proper precautions any bedding, clothing, rags or other things for the purpose of having the same disinfected.

Penalty on failing to provide for disinfection of public conveyance.

127. Every owner or driver of a public conveyance shall immediately provide for the disinfection of the conveyance after it has to his knowledge conveyed any person suffering from a dangerous infectious disorder, and if he fails to do so he shall be liable to a penalty not exceeding fifty rupees; but no such owner or driver shall be required to convey any person so suffering until he has been paid a sum sufficient to cover any loss or expense incurred by him in carrying into effect the provisions of this section.

128. Whoever

(Chapter VII.—Offences affecting the Public Health, Safety or Convenience.—Sections 128—131.)

128. Whoever, contrary to the orders of the committee, pickets animals or collects carts on any public ground, or uses any such ground as a halting-place for vehicles or animals of any description or as a place of encampment, or causes or permits animals to stray, shall be punishable with fine which may extend to twenty rupees.

Picketing animals and collecting carts.

129. Whoever, without the permission of the committee, keeps a corpse or causes it to be kept in or on any building or land when seventy-two hours after death have elapsed, or carries a corpse along a route prohibited by the committee or in a manner likely to cause annoyance to the public, shall be punishable with fine which may extend to ten rupees.

Keeping corpses or carrying corpses by prohibited routes or so as to cause annoyance.

130. Whoever, in any public place, without being authorized by the committee, defaces or disturbs any direction-post or lamp-post or fence, or injures any tree, or extinguishes any light shall be punishable with fine which may extend to ten rupees.

Destroying direction-posts, lamp-posts, &c.

131. Whoever disobeys any lawful directions given by the committee by public notice under the powers conferred upon it by the last preceding chapter, or any written notice lawfully issued by it under the powers so conferred, or fails to comply with the conditions subject to which any permission was given by the committee to him under those powers, shall, if the disobedience or omission is not an offence punishable under any other section, be punishable with fine which may extend to fifty rupees, and, in the case of a continuing breach, with a further fine which may extend to five rupees for every day after the first during which the breach continues :

Penalty for disobedience to orders of committee under last chapter.

Provided that, when the notice fixes a time within which a certain act is to be done and no time is specified in this Act, it shall rest with the Magistrate to determine whether the time so fixed was a reasonable time within the meaning of this Act.

132. Any

Prosecution  
to be sus-  
pended in  
certain cases.

132. Any prosecution for an offence under section 80, or section 105, or under section 131, when the order which has been disobeyed is appealable, shall be suspended, when the Magistrate learns that an appeal has been instituted, pending the decision of the appeal; and if the order is set aside on appeal, disobedience thereto shall not be deemed an offence against those sections.

## CHAPTER VIII.

### CONTROL.

Control by  
Commis-  
sioner and  
Deputy Com-  
missioner.

133. The Commissioner or the Deputy Commissioner may—

- (a) enter on and inspect, or cause to be entered on and inspected, any immovable property situate within the limits of his division or district respectively and occupied by any municipal committee or joint committee, or any work which is in progress within those limits under the direction of any such committee or joint committee;
- (b) call for and inspect any book or document in the possession or under the control of any such committee or joint committee having authority within those limits;
- (c) require any such committee or joint committee to furnish such statements, accounts, reports and copies of documents relating to the proceedings or duties of the committee or joint committee, as he may think fit to call for; and
- (d) record in writing, for the consideration of any such committee or joint committee, any observations he may think proper in regard to the proceedings or duties of the committee or joint committee:

Provided

*(Chapter VIII.—Control.—Sections 134 & 135.)*

Provided that—

(1) when the Deputy Commissioner is a member of a committee or joint committee, he shall not exercise, in respect of that committee or joint committee, the powers conferred upon him by this section; and

(2) in any of the municipalities of Rangoon, Maulmain, Akyab and Bassein, and any other municipalities to which the Local Government may extend this clause, the said powers shall be exercised by the Local Government and not by any authority mentioned in the foregoing part of this section.

134. (1) The Commissioner or the Deputy Commissioner may, by order in writing, suspend within the limits of the division or district (as the case may be) the execution of any resolution or order of a municipal committee or joint committee, or prohibit the doing within those limits of any act which is about to be done, or is being done, in pursuance of or under cover of this Act, if, in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a serious breach of the peace, or to cause serious injury or annoyance to the public or to any class or body of persons.

Power to suspend action under Act.

(2) When a Commissioner or Deputy Commissioner makes any order under this section, he shall forthwith forward a copy thereof, with a statement of his reasons for making it, and of any representations regarding it submitted to him by the municipal committee, to the Local Government, which may thereupon rescind the order or direct that it continue in force with or without modification, permanently or for such period as it thinks fit.

135. (1) In cases of emergency, the Deputy Commissioner may provide for the execution of any work, or the doing of any act, which a municipal committee is empowered to execute or do, and the immediate exe-

cution

Extraordinary powers of Deputy Commissioner in case of emergency.



(Chapter VIII.—Control.—Sections 136 & 137.)

cution or doing of which is in his opinion necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act shall be forthwith paid by the committee.

(2) If the expense is not so paid, the Deputy Commissioner may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or as much thereof as is, from time to time, possible, from the balance in priority to any or all other charges against the same.

(3) The Deputy Commissioner shall forthwith report to the Commissioner every case in which he uses the powers conferred upon him by this section.

Powers of  
Local Gov-  
ernment in  
case of  
default of  
committee.

136. (1) If at any time it appears to the Local Government that a municipal committee has made default in performing any duty imposed on it by or under this or any other Act for the time being in force, the Local Government may, by order in writing, fix a period for the performance of that duty.

(2) If that duty is not performed within the period so fixed, the Local Government may appoint the Deputy Commissioner to perform it, and may direct that the expense of performing it shall be paid, within such time as it may fix, to the Deputy Commissioner by the committee.

(3) If the expense is not so paid, the Deputy Commissioner, with the previous sanction of the Local Government, may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as is from time to time possible, from the balance in priority to any or all other charges against the same.

Power of  
Local Gov-  
ernment to  
supersede  
committee in  
case of  
incom-  
petency, per-  
sistent

137. (1) If a municipal committee is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this or any other Act for the time being in force, or exceeds or abuses its powers, the Local Government may, with the previous approval of the

Governor

*(Chapter VIII.—Control.—Section 138.)*

Governor General in Council, by an order published, with the reasons for making it, in the local official Gazette, declare the committee to be incompetent or in default or to have exceeded or abused its powers, as the case may be, and supersede it for a period to be specified in the order.

default or  
excess or  
abuse of  
powers.

(2) When a committee is so superseded, the following consequences shall ensue:—

- (a) All members of the committee shall, as from the date of the order, vacate their offices as such members.
- (b) All powers and duties of the committee may, during the period of supersession, be exercised and performed by such person or persons as the Local Government appoints in that behalf.
- (c) All property vested in the committee shall, during the period of supersession, vest in the Local Government.

(3) On the expiration of the period of supersession specified in the order, the committee shall be reconstituted, and the persons who vacated their offices under clause (a) shall not be deemed disqualified from being members.

138. (1) If any dispute, for the decision of which this Act does not otherwise provide, arises between two or more committees constituted under this Act, or between any such committee and a cantonment authority, the matter shall be referred—

Disputes.

- (a) to the Deputy Commissioner, if the local authorities concerned are in the same district;
- (b) to the Commissioner or Commissioners of the division or divisions, if the local authorities concerned are in different districts; and
- (c) to the Local Government, if the local authorities concerned are in different divisions

and

(Chapter VIII.—Control.—Sections 139 & 140.)

and the Commissioners of those divisions cannot agree.

(2) The decision of the authority to which any dispute is referred under this section shall be final.

(3) If in the case mentioned in clause (a) the Deputy Commissioner is a member of one of the committees concerned, his functions under this section shall be discharged by the Commissioner.

(4) "Local authority" in this section means a municipal committee or cantonment authority.

Annual reports and statements.

139. (1) A municipal committee shall, at the close of each year or of such other period as may, from time to time, be fixed by the Local Government in this behalf, submit to the Local Government a statement of its receipts and disbursements, in such form as the Local Government may prescribe, and a general report of its proceedings during that period :

Provided that separate accounts shall be submitted of—

(a) all receipts of the water-tax, lighting-tax and scavenging-tax, and of all expenditure on the purposes for which those taxes are levied, respectively ; and

(b) all income under the heads mentioned in section 62, and all expenditure on educational purposes.

(2) Accounts submitted under this section shall be examined or audited in such manner as the Local Government prescribes.

Estimates of receipts and expenditure.

140. (1) A municipal committee shall submit, before such date in each year as may be directed by the Local Government, for the sanction of such authority as the Local Government may appoint in this behalf, an estimate of its probable receipts for the financial year next following, with proposals for its expenditure, and may, from time to time, submit, in like manner, further estimates or proposals amending the same.

(2) No

*(Chapter VIII.—Control.—Sections 141—143.)*

(2) No expenditure shall be incurred by the committee unless it is provided for in a proposal sanctioned under this section.

(3) An abstract of the annual estimate and proposals submitted and sanctioned as required by this section shall be published in such manner as the Local Government directs.

141. (1) No new work, the estimated cost of which exceeds five hundred rupees, shall be begun by a municipal committee, nor shall any contract be entered into by it in respect of any such work, until a plan and estimate thereof have been approved by the committee at a meeting. Sanction to works.

(2) If the estimated cost of any such new work has not been specifically provided for in proposals submitted and sanctioned in manner mentioned in section 140, or exceeds—

twenty thousand rupees in the case of the municipalities of Rangoon, Maulmain, Bassein and Akyab, or

one-tenth of the estimated annual income of the municipal fund in the case of any other municipality,

it shall not be begun, nor shall any contract be entered into in respect of it, until the plan and estimate have been submitted to and approved by the Local Government, or by an officer empowered by the Local Government in this behalf.

142. In all matters connected with the administration of this Act, a Commissioner shall have and exercise the same authority and control over a Deputy Commissioner subordinate to him as he has and exercises over the Deputy Commissioner in the general and revenue administration. Powers of Commissioner.

143. The Local Government may frame forms for any proceeding of a municipal committee for which it considers that a form should be provided, and may, in addition Additional power of Local Government to frame forms and make rules.

*(Chapter IX.—Supplemental.—Section 144.)*

addition to any other powers to make rules conferred by this Act, make rules consistent with this Act—

- (a) as to the intermediate office or offices, if any, through which correspondence between municipal committees and the Local Government or officers of that Government and representations addressed to the Local Government under this Act shall pass ;
- (b) as to the preparation of estimates of receipts and expenditure of committees, and as to the conditions subject to which such estimates may be sanctioned ;
- (c) as to the returns, statements and reports to be submitted by committees ; and
- (d) generally for the guidance of committees and public officers in all matters connected with the carrying out of this Act.

## CHAPTER IX.

## SUPPLEMENTAL.

*Criminal Procedure.*

Powers and duties of police in respect of offences against Act and rules, and assistance to municipal authorities.

144. (1) Every police-officer employed in a municipality shall give immediate information to the committee of any offence committed against this Act or the rules made thereunder, and shall be bound to assist all members, officers and servants of the committee in the exercise of their lawful authority.

(2) Any such police-officer may arrest any person committing in his view any offence against this Act or the rules made thereunder—

- (a) if the name and address of the person are unknown to him, or
- (b) if the person declines to give his name and address, or if there is reason to doubt the accuracy of the name and address if given.

(3) A

(Chapter IX.—Supplemental.—Sections 145—148.)

(3) A person arrested under this section may be detained until his name and address are correctly ascertained :

Provided that no person so arrested shall be detained longer than is necessary for bringing him before a Magistrate unless the order of a Magistrate for his detention is obtained.

145. Prosecutions for offences against this Act or the rules made under it shall not be instituted except by order of or with the approval of the municipal committee. Prosecutions.

146. A Judge or Magistrate shall not be deemed to be a party to, or personally interested in, any such prosecution within the meaning of section 555 of the Code of Criminal Procedure merely because he is a member of the committee by the order or with the approval of which it has been instituted. Member not to be deemed interested in prosecution.

X of 1882.

147. Nothing in this Act shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or the rules made under it : Saving of prosecutions under other laws.

Provided that a person shall not be punished twice for the same offence.

#### Rules.

148. (1) The authority empowered to make rules under section 7, 48, 106 or 143 shall, before making them, publish, in such manner as may in its opinion be sufficient for giving information to persons interested, a draft of the proposed rules, together with a notice specifying a date at or after which the draft will be taken into consideration; and shall, before making the rules, receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified. Procedure for making rules under section 7, 48, 106 or 143.

(2) Every

(2) Every rule made under any of those sections shall be published in the local official Gazette in English and in such other language or languages as the Local Government may direct; and such publication shall be conclusive evidence that the rule has been made as required by this section.

Continuance  
of existing  
rules.

149. (1) The Local Government may, by notification in the official Gazette, direct that any rules made under the British Burma Municipal Act, 1874, and in force in any local area being, or comprised in, a municipality constituted under this Act at the time the municipal committee for that municipality comes into existence under section 13, shall, so far as they are consistent with this Act and within the powers conferred thereby, be deemed to have been made under this Act, and shall continue in force until repealed by new rules so made.

VII of 18

(2) The authority empowered to make such new rules shall, as soon as may be, make them and take such action as may be requisite for bringing them into force.

#### *Recovery of Money.*

Recovery of  
money.

150. All fees and all rents and other sums due on account of property for the time being vested in or managed by the municipal committee, and all arrears of taxes and other money due for water supplied or otherwise under this Act, may be recovered as if they were arrears of land-revenue.

#### *Notices.*

Authentica-  
tion, service  
and validity  
of notices.

151. (1) Every notice issued by a committee under this Act or under any rule made thereunder shall be in writing, and shall be sufficiently authenticated by the signature of the president or secretary, and may be served on the person to whom it is addressed, or left at his usual place of abode or business with some adult male member or servant of his family, or, if it cannot be so served, may be posted on some conspicuous part of his place of abode or business.

(2) If

(Chapter IX.—Supplemental.—Sections 152 & 153.)

(2) If the place of abode or business of the person to whom the notice is addressed is not within the limits of the municipality, the notice may be served by posting it in a registered cover addressed to his usual place of abode.

(3) If the place of abode or business of the owner of any property is not known, every such notice addressed to him as such owner may be served on the occupier.

(4) If the place of abode or business of the occupier of any property is not known, every such notice addressed to him as such occupier may be served by posting it on some conspicuous part of the property.

(5) No notice issued by the committee under this Act or under any rule made thereunder shall be invalid for defect of form.

152. When any notice is, under the provisions of this Act, to be given to, or served on, the owner or occupier of any property and he is unknown, it may be given or served—

Mode of giving notice to owner or occupier of property.

(a) by delivering a written notice to some person on the property or, if there is no person on the property to whom it can be delivered, by fixing it on some conspicuous part of the property; or

(b) by putting into the post a prepaid letter containing a written notice, and addressed by the description of the "owner" or "occupier" of the property (naming it) in respect of which the notice is given, without further name or description.

153. Every public notice given by a committee under this Act or under any rule made thereunder shall be published by proclamation or in such other manner as the Local Government may, by rule, direct.

Publication of public notices.

*Alteration*



(Chapter IX.—Supplemental.—Sections 154—156.)

*Alteration of Municipal Limits.*

Notification  
of intention  
to alter limits  
of municipi-  
pality.

154. The Local Government may, by notification published in the official Gazette, and in such other manner as the Local Government may determine, declare its intention—

- (a) to exclude from a municipality any local area comprised therein and defined in the notification, or
- (b) to include within a municipality any local area in the vicinity of the same and defined in the notification:

Provided that, where the local area is a military cantonment or part of a military cantonment, a notification shall not be published under this section in respect of it without the previous consent of the Governor General in Council.

Alteration  
of limits of  
municipality.

155. (1) Any inhabitant of a municipality or local area in respect of which a notification has been published in the official Gazette under section 154 may, if he objects to the alteration proposed, submit his objection in writing to the Local Government within six weeks from the publication of the notification in the official Gazette, and the Local Government shall take his objection into consideration.

(2) When six weeks from the publication of the notification in the official Gazette have expired, and the Local Government has considered the objections (if any) which have been submitted under sub-section (1), the Local Government may, by a notification in the official Gazette, exclude the local area from the municipality or include it therein, as the case may be.

Effect of ex-  
clusion of  
local area  
from municipi-  
pality.

156. (1) When a local area is excluded from a municipality under section 155—

- (a) this Act, and all rules, orders, directions and powers made, issued or conferred under this Act, shall cease to apply thereto; and

(b) the

(Chapter IX.—Supplemental.—Sections 157 & 158.)

(b) the Local Government shall, after consulting the municipal committee, frame a scheme determining what portion of the balance of the municipal and school funds and other property vested in the municipal committee shall vest in Her Majesty for the benefit of the local area, and in what manner the liabilities of the committee shall be apportioned between the committee and the Secretary of State for India in Council; and, on the publication of the scheme in the local official Gazette, the property and liabilities shall vest and be apportioned accordingly.

(2) All property vested in Her Majesty under sub-section (1) shall be applied under the orders of the Local Government to discharging the liabilities imposed on the Secretary of State for India in Council under that sub-section, or for the promotion of the safety, health, welfare or convenience of the inhabitants of the local area.

157. When a local area is included in a municipality under section 155, this Act, and, except as the Local Government may otherwise, by notification in the official Gazette, direct, all rules, orders, directions and powers made, issued or conferred under this Act and in force throughout the whole municipality at the time the local area is so included, shall apply to the local area.

Effect of including local area in municipality.

*Powers to except Municipalities from Provisions of Act.*

158. (1) If the circumstances of any municipality are such that, in the opinion of the Local Government, any of the provisions of this Act are unsuited thereto, the Local Government may, by notification in the official Gazette, except the municipality from the operation of those provisions; and thereupon those provisions shall not apply to the municipality until again applied thereto by like notification.

Power to except municipality from provisions of Act unsuited thereto.

(2) While

*(Chapter IX.—Supplemental.—Sections 159—161.)*

(2) While the exception remains in force, the Local Government may make rules for the guidance of the committee and public officers in respect of the matters excepted from the operation of the said provisions.

*Miscellaneous.*

Saving of Act XI of 1879.

159. Nothing in this Act shall affect the Local Authorities Loans Act, 1879.

XI of 1879.

Powers of Governor General in Council and of Local Government exercisable from time to time.

160. All powers conferred by this Act on the Governor General in Council or on the Local Government may be exercised from time to time as occasion requires.

Decision of questions as to whether persons are "inhabitants."

161. If any question arises whether a person or persons of a specified class is or are an inhabitant or inhabitants of a local area within the meaning of this Act, the decision thereon of the Local Government shall be conclusive.