

ACT NO. III OF 1889.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor General on the 22nd
February, 1889.)*

An Act to provide a Village-system and amend the law relating to Rural Police in Lower Burma.

WHEREAS it is expedient to provide a village-system and amend the law relating to rural police in Lower Burma; It is hereby enacted as follows:—

1. (1) This Act may be called the Lower Burma Village Act, 1889.

Title, extent, commencement and repeal.

(2) It extends to the whole of Lower Burma; and

(3) This section and sections 14 to 23 (both inclusive) shall come into force at once.

(4) The other sections shall not come into force in any part of Lower Burma until the Local Government extends them thereto.

(5) Such extension shall be by notification in the Burma Gazette, describing the part of Lower Burma to which the sections are extended and the day on which they are to take effect therein.

(6) On and from that day sections 12 to 21 (both inclusive) of the Burma District Cesses and Rural Police Act, 1880, shall be repealed as regards that part.

II of 1880.

2. (1) For the purposes of this Act "village" includes—

Definition.

(a) village-lands,

(b) rivers passing through or by, and lakes adjacent to, those lands, and

(c) a group of villages.

(2) The

(Sections 3-5.)

(2) The Deputy Commissioner may determine the limits of a village for the purposes of this Act.

Appointment
of headman.

3. (1) The Deputy Commissioner shall appoint a headman in every village.

(2) In appointing a headman the Deputy Commissioner shall have regard, so far as circumstances admit, to any established custom which may exist respecting the right of nomination or succession or otherwise and to claims based thereon.

(3) When in any village there are two or more headmen, the Deputy Commissioner shall decide which of them is to be the headman for the purposes of this Act, and, with the previous sanction of the Commissioner, may make rules to define and regulate their relations to each other.

(4) The Deputy Commissioner may appoint a rural policeman or more than one such policeman in any village.

Substitution
of new clause
for clause (a)
of section 9,
Act II of
1880.

4. For clause (a) of section 9 of the Burma District Cesses and Rural Police Act, 1880, the following II of 1880. shall be substituted, namely:—

“(a) the remuneration of the headmen and the maintenance of the rural police appointed under the Lower Burma Village Act, III of 1889. 1889;”.

Substitution
of new section
for section 45
of the Code of
Criminal
Procedure.

5. For section 45 of the Code of Criminal Procedure, 1882, the following shall be substituted, X of 1882. namely:—

Headman
bound to
report
certain
matters.

“45. (1) A headman appointed under the Lower Burma Village Act, 1889, shall forthwith communicate to the nearest Magistrate, or to the officer in charge of the nearest police-station or military post, whichever is the nearer, any information which he may obtain respecting—

(a) the permanent or temporary residence of any
notorious

(Section 6.)

notorious receiver or vendor of stolen property in his village ;

- (b) the resort to any place within, or the passage through, his village of any person whom he knows, or reasonably suspects, to be a dacoit, robber, escaped convict or proclaimed offender ;
- (c) the commission of, or attempt or intention to commit, within his village any of the following offences, namely :—
- (i) murder,
 - (ii) culpable homicide not amounting to murder,
 - (iii) dacoity,
 - (iv) robbery,
 - (v) offence against the Indian Arms Act, 1878, and
 - (vi) any other offence respecting which the Deputy Commissioner by general or special order, made with the previous sanction of the Commissioner, directs him to communicate information ;
- (d) the occurrence in his village of any sudden or unnatural death, or of any death under suspicious circumstances.

“(2) In sub-section (1) ‘village’ has the meaning assigned to that word in the Lower Burma Village Act, 1889.”

III of 1889.

6. (1) The headman of a village shall be bound— Duties of headman.

- (a) to investigate every offence respecting which he is required by section 45 of the Code of Criminal Procedure, 1882, to communicate information ;
- (b) to search for and arrest any person whom he has reason to believe to have been concerned in the commission or attempted commission

of

X of 1882.

(Section 6.)

- of any such offence, and to recover, if possible, any property taken by any such person ;
- (c) to arrest any person found lurking within the limits of the village who cannot give a satisfactory account of himself ;
 - (d) to forward, as soon as may be, to the nearest police-station or military post, any person arrested by him or made over to his custody, together with any weapon or other article likely to be useful as evidence ;
 - (e) to resist any unlawful attack made upon the village ;
 - (f) to take such measures and execute such works for the protection of the village and for keeping open the communications between it and adjacent posts as the Deputy Commissioner may direct ;
 - (g) on the written order of the Deputy Commissioner, or other Magistrate not below the rank of Myo- δ kk, to collect and furnish on payment supplies of food or carriage for troops or police posted in or near, or marching through, the village ;
 - (h) on the requisition of any Magistrate not below the rank of Myo- δ kk, to furnish labourers for the making or repair of roads, embankments or other public works ;
 - (i) to collect or aid in collecting revenue and other money due to the Government from residents of the village or persons holding land therein ;
 - (j) to allot unoccupied land within the village for cultivation or house-building up to such limit and on such conditions as the Deputy Commissioner may direct ;
 - (k) if so ordered, and in accordance with such rules as may be made in this behalf by the Commissioner with the previous sanction of
the

(Section 7.)

the Local Government, to register all births and deaths which take place within the village, and any other vital statistics which may be prescribed by such rules ;

- (l) to take such measures for the prevention of public nuisances and for the general sanitation of the village as may be prescribed in any rules made in this behalf by the Commissioner with the previous sanction of the Local Government ;
- (m) to supply to the best of his ability any local information which any Magistrate or officer of police may require ; and,
- (n) generally, to assist all officers of the Government in the execution of their public duties.

(2) Every rural policeman shall be bound to perform such duties similar to those imposed on a headman by sub-section (1) as may be imposed upon him by rules made by the Local Government in this behalf.

7. (1) If any of the offences mentioned in the next following sub-section is committed in a village, the headman of the village may, on complaint made to him within eight days from the date of the commission of the offence, take cognizance of it and try any person accused thereof.

Disposal of petty criminal cases by headman.

(2) The offences referred to in sub-section (1) are the following, namely :—

- (a) assault ;
- (b) theft when the value of the property stolen does not exceed five rupees ;
- (c) mischief when the mischief causes damage to an amount not exceeding five rupees ;
- (d) criminal trespass ; and
- (e) any other offence which the Local Government may, by notification in the Burma

Gazette,

(Section 7.)

Gazette, declare to be triable by a headman under sub-section (1).

(3) If the accused is convicted, he may be sentenced to fine not exceeding five rupees or, if the offence was theft or mischief, twice the value of the property stolen or twice the amount of the damage caused, as the case may be, or to confinement for a term not exceeding twenty-four hours in such place as the Deputy Commissioner may appoint in this behalf, or to both.

(4) A headman specially empowered by the Local Government in this behalf may, on complaint, try any person accused of theft or mischief when the value of the property stolen or the amount of the damage caused does not exceed fifty rupees, and may, in any case so triable by him, sentence the accused, on conviction, to fine not exceeding fifty rupees, or to confinement for a term not exceeding fifteen days in such place as the Deputy Commissioner may appoint in this behalf, or to both.

(5) Proceedings under this section shall be held in the presence of the complainant and the accused.

(6) The offence out of which the proceedings have arisen may be compounded at any time before the headman pronounces his decision.

(7) The proceedings need not be reduced to writing, but such record shall be kept of the cases decided as the Deputy Commissioner directs.

(8) Any fine imposed for an offence referred to in this section may be awarded as compensation to any person injured by the offence.

(9) A fee of one rupee may be levied on a complaint under sub-section (1) and of two rupees on a complaint under sub-section (4).

(10) No other fee shall be leviable in any case under this section.

(11) If the accused is convicted, the amount of
any

(Sections 8-10.)

any fee paid in respect of the complaint shall be recovered from him as if it were a fine imposed under this Act and be repaid to the complainant.

8. If a headman or a rural policeman neglects to perform any of the duties imposed upon him by this Act or any rule thereunder, or abuses any of the powers conferred upon him by this Act or any such rule, he shall be liable, by order of the Deputy Commissioner, to pay a fine not exceeding fifty rupees, or to be suspended from office for a period not exceeding six months, or to be dismissed from office.

Penalty for neglect of duty or abuse of authority by headman or rural policeman.

9. (1) Every person residing in a village shall, on the requisition of the headman or of a rural policeman, be bound to assist him in the execution of his public duties.

Obligation on villagers to aid headman and rural policeman.

(2) If any such person refuses or neglects to comply with the requisition of the headman or rural policeman, he shall, in the absence of reasonable excuse, the burden of proving which shall lie upon him, be liable, by order of the headman, to fine not exceeding five rupees, or to confinement for a term not exceeding twenty-four hours in such place as the Deputy Commissioner may appoint in this behalf, or to both, or, on conviction by a Magistrate, to fine not exceeding fifty rupees, or to imprisonment for a term not exceeding one month, or to both.

10. (1) The Local Government may, by notification in the Burma Gazette, invest any headman with the powers of a Civil Court for the trial of suits between persons of whom both or all, as the case may be, reside within his village, and may, by general or special order notified in the Burma Gazette, specify the classes, and the value not exceeding twenty rupees, of the suits which such headman may try.

Civil jurisdiction of headman.

(2) The Local Government may at any time cancel or vary any such notification or order.

(3) In any suit tried in exercise of powers conferred under sub-section (1), the decision of the headman

shall,

(Sections 11-14.)

shall, subject to revision by such authority as the Local Government may appoint in this behalf, be final.

(4) Notwithstanding anything in the Code of Civil Procedure, a person shall not be bound to institute a suit in the Court of a headman. XIV of 1882.

(5) A fee of ten per centum of the value of the suit shall be paid on its institution in the Court of a headman, and no other fee shall be paid for the issue of processes or otherwise.

Notification of residence of strangers in villages.

11. (1) If any person comes into a village of which he is not a resident, he or the person, if any, in whose house he is living shall, within twelve hours of his coming to the village, report to the headman his arrival, his name and occupation, and the name of the place where he last resided.

(2) The departure from a village of a person whose arrival has been reported under sub-section (1) shall also be reported by the person, if any, in whose house he has been living.

Prohibition of unauthorized settlement of strangers in villages. Penalty for breach of orders under immediately preceding sections.

12. A person who is not a resident of a village shall not build any house, hut or enclosure, or take up his residence in the village, without the permission of the headman.

13. If a person contravenes the provisions of section 11 or section 12, he shall be punished, on conviction by a Magistrate, with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to fifteen days, or with both.

Fine on villagers accessory to crime.

14. (1) The Deputy Commissioner may, with the sanction of the Commissioner, impose fines on all or any residents of a village if after enquiry he has found—

(a) that they have colluded with or harboured or failed to take all reasonable means to prevent the escape of any criminal;

(b) that they have suppressed or combined to suppress evidence in any criminal case;

(c) that

(Sections 15-16.)

(c) that stolen property having been tracked to their village, they have failed or neglected to restore the property or to take on the track beyond the limits of their village.

(2) In either of the following cases, namely :—

(a) when a fine is imposed on the ground stated in clause (a) or in clause (b) of sub-section (1), and the offence of which the criminal is accused, or to which the criminal case relates, is mischief by fire, dacoity, robbery or cattle-theft,

(b) when a fine is imposed on the ground stated in clause (c) of sub-section (1),

a sum not exceeding the amount of any damage caused or the value of the property stolen may be given out of the fine as compensation to the owner of the damaged or stolen property.

15. When within any village a person is dangerously or fatally wounded by unlawful attack, or the body is found of a person believed to have been unlawfully killed, the residents of the village shall be deemed to have committed an offence under the last foregoing section unless they can show that they—

(a) had not an opportunity of preventing the offence or arresting the offender, or

(b) have used all reasonable means to bring the offender to justice.

16. (1) When the Deputy Commissioner has reason to believe, on the report of a headman or otherwise, that a person residing in any place is harbouring, aiding or abetting dacoits, robbers or cattle-thieves, or has taken up his residence in that place for the purpose of such harbouring, aiding or abetting, he may require that person to leave that place and to reside in such other place as the Deputy Commissioner may direct.

(2) If a person disobeys a requisition under sub-section (1), he shall be punished, on conviction by a

Magistrate,

Fine on villagers where homicide is committed or attempted.

Power to require residents to remove from villages.

(Sections 17-20.)

Magistrate, with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

Mode of recovering fines.

17. (1) A fine imposed under this Act may be recovered as if it were an arrear of land-revenue.

(2) A fine imposed under section 14 may, with the previous sanction of the Local Government, be commuted into an annual addition to the capitation-tax payable by the residents of the village or to the land-revenue payable in respect of the village-lands, or, in the case of revenue-free lands, to an annual assessment at such rates and for such term of years as the Local Government may direct.

Provisions with respect to emoluments of headmen and rural policemen.

18. (1) The emoluments of a headman or rural policeman shall not be liable to attachment in execution of a decree or order of any Civil Court.

(2) An assignment of, or charge on, or an agreement to assign or charge, any such emoluments shall be void.

(3) Where the emoluments of a headman consist wholly or in part of a grant of land, the title to the grant shall pass with the office of headman, and the Deputy Commissioner may, upon such terms, if any, as to compensation for improvements or otherwise as he thinks fit, enforce the surrender of the land to the person for the time being holding that office.

Protection to headman or rural policeman in execution of his duty.

19. No complaint against a headman or rural policeman of any act or omission punishable under this Act shall be entertained by any Court unless the prosecution is instituted by order of or under authority from the Deputy Commissioner.

Finality of orders.

20. (1) An appeal shall not lie from any order made under this Act.

(2) But the Deputy Commissioner may revise any such order made by any officer subordinate to him, and the Commissioner may revise any such order made by the Deputy Commissioner.

(3) Save as provided by this section, an order made

(Sections 21-22.)

made under this Act shall be final and shall not be liable to be contested by suit or otherwise.

(4) The word "order" in this section does not include a decision of a headman in a suit tried in exercise of powers conferred under section 10, sub-section (1).

21. The Local Government may authorize any Assistant Commissioner, by name or by virtue of his office, to exercise in any district or part of a district all or any of the powers of the Deputy Commissioner under this Act.

Delegation of powers of Deputy Commissioner to Assistant Commissioner.

22. (1) The Local Government may, subject to the control of the Governor General in Council, make rules consistent with this Act—

Power to make rules.

- (a) conferring on rural policemen any powers or privileges which may be exercised or are enjoyed by police-officers under any enactment for the time being in force;
- (b) prescribing the duties to be performed by rural policemen, including any duties imposed upon police-officers by any enactment for the time being in force;
- (c) regulating the exercise, enjoyment and performance of those powers, privileges and duties by rural policemen;
- (d) regulating the emoluments of headmen and rural policemen;
- (e) prescribing the procedure to be observed by a headman trying a suit in exercise of powers conferred under section 10, sub-section (1), the record which he is to make of the suit and the mode in which that record is to be disposed of, the powers which he may exercise as regards the costs of the suit and of any proceeding arising thereout, the manner in which a decree or order made by him may be executed by himself, and the manner, circumstances and conditions in and on which such

(Section 23.)

such a decree or order may be sent for execution to, and be executed by, another headman or a Civil Court;

(f) for the disposal of fees levied under section 7, sub-section (9), and section 10, sub-section (5); and,

(g) generally, for carrying into effect the purposes of this Act.

(2) All such rules shall be published in the Burma Gazette.

Effect of Act.

23. This Act shall take effect notwithstanding anything in any enactment for the time being in force.
