

## **Bengal Municipal Act, 1932**

**15 of 1932**

**[1st December, 1932]**

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### **Bengal Municipal Act, 1932**

**15 of 1932**

**[1st December, 1932]**

An Act to consolidate and amend the law relating to municipalities in Bengal WHEREAS it Is expedient to consolidate and amend the law relating to municipalities in Bengal: AND WHEREAS the previous sanction of the Governor General has been obtained under sub-section (3) of section 80A of the Government of .India Act to the passing of this Act; It is hereby enacted as follows

#### CHAPTER 1 PRELIMINARY

#### **1. Short title, extent and commencement :-**

(1) This Act may be called the Bengal Municipal Act, 1932.

(2) It extends to the whole of [West Bengal], except Calcutta as defined by clause (11) of section 3 of the Calcutta Municipal Act, 1923.

(3) It shall come into force on such date as the (State Government] may, by notification, appoint.

(4) Notwithstanding anything contained in sub-section (2), it shall not take effect in any cantonment or part of a cantonment without the consent of the [Central Government] previously obtained.

(5) Notwithstanding anything contained in sub-section (2), the provisions of this Act shall apply to the district of Darjeeling or any part thereof subject to such exceptions and modifications as the State Government may, by notification, direct.

#### **2. Savings :-**

\*\*\*\*\* All municipalities constituted, \*\*\*\*\* limits defined, regulations, measurements and divisions made, licenses and notices issued, taxes, tolls, rates and fees imposed or assessed, budgets passed, assessments made, plans approved, permissions or sanctions granted under the Bengal Municipal Act, 1884, shall, so far as they are in force at the commencement of this Act, be deemed to have been respectively constituted, 7\*\*\*\*\*defined, issued, imposed, assessed, passed, made, approved or granted under this Act, and shall (unless previously altered, modified,

cancelled, suspended, surrendered or withdrawn, as the case may be, under this Act) remain in force for the period (if any) for which they were so constituted, \*\*\*\*\*defined, issued, imposed, assessed, passed, made, approved or granted.

### **3. Definitions :-**

In this Act, unless there is anything repugnant in the subject or context,- <sup>1</sup>

(aI) auditor" means an auditor appointed under section 122A and includes any officer authorised by him to perform all or any of the functions of the auditor under Chapter IVA;

(1) "bridge" includes a culvert;

(2) "building" includes a house, out-house, stable, privy, urinal, shed, hut, wall (other than a boundary wall, not exceeding <sup>2</sup>[3.05 metres] in height) <sup>3</sup>[,verandah, balcony, chqjja, sunshade, staircase} and any other such structure, whether of masonry, bricks, wood, mud, metal or any other material whatsoever, but does not include a hogla or other similar kind of temporary shed erected on ceremonial or festive occasions;

(3) "building line" means the line up to which the main wall of a building abutting on a street or a projected public street may lawfully extend;

(4) "bustee" means an area containing land occupied by, or for the purposes of, any collection of huts;

(5) "carriage" means any wheeled vehicle, with springs or other appliances acting as springs, which is used for the conveyance of human beings, and includes a jinrickshaw <sup>4</sup>[and a cycle rickshaw], but does not include a motor vehicle or a bicycle or a tricycle or a perambulator or other form of vehicle designed for the conveyance of small children;

(6) "cart" means any cart, hackery or wheeled vehicle with or without springs, which is not a carriage or a motor vehicle as defined in this section and includes a hand-cart, but does not include the trailer of a motor vehicle, a bicycle or a tricycle or a perambulator or other form of vehicle designed for the conveyance of small children;

(7) "connected-privy" means a privy which is directly connected

with a sewer;

(8) "conservancy" means the removal and disposal of sewage offensive matter and rubbish

; **5**

(8a) "Council" means the Darjeeling Gorkha Hill Council constituted under the Darjeeling Gorkha Hill Council Act, 1988;

(9) the expression "cubical extent", when used with reference to the measurement of a building, means the space contained within the external surfaces of its walls and roof and the upper surface of the floor of its lowest or only storey;

(10) "dairy" includes any farm, cattle-shed, cow-house, milk store, milk-shop, or other place from which milk is supplied only on, or for, sale or in which milk is kept, or used for the purposes of sale, or manufacture into butter, ghee, cheese, curds, or dried or condensed milk, for sale; and in the case of a dairyman or person selling milk, who does not occupy any premises for the sale of milk, includes the place where he keeps the vessels used by him for the sale of milk, but does not include a shop from which milk is not supplied otherwise than in properly closed and unopened receptacles in which it was delivered to the shop, or a shop, or other place in which milk is sold for consumption on the premises only a or a shop or place from which milk is sold or supplied in hermetically closed and unopened receptacles in the same original condition in which it was first received in such shop or place;

(11) "dangerous disease" means-

(a) cholera, plague, small-pox, cerebro-spinal meningitis and diphtheria; and

(b) any other disease which the <sup>6</sup>[State Government] may, by notification, declare to be a dangerous disease for all or any of the purposes of this Act;

(12) "District Magistrate" means the chief magistrate in a district <sup>7</sup>[and Includes an Additional District Magistrate];

(13) "drain" includes a sewer, a house-drain, a drain of any other description, a tunnel, a culvert, a ditch, a channel and any other device for carrying off sullage, sewage, offensive matter, polluted water, rainwater or sub-soil water;

(14) "drug" means any substance used as medicine or in the composition or preparation of medicines, whether for internal or external use I6Ibut

(15) "dwelling house" means a masonry or framed building constructed, used or adapted to be used wholly or principally for human habitation:

(16) "food" includes every article used for food or drink by man. other than drugs or water, and any article which ordinarily enters into or is used in the composition or preparation of human food, and also includes confectionery, flavouring and colouring matters and spices and condiments;

(17) "framed building" means a building the external walls of which are constructed of timber framing or iron framing, and the stability of which depends on such framing ;

(18) "habitable room" means a room constructed or adapted for human habitation ;

(19) "Health Officer" includes a Medical Officer of Health ;

(20) "hill municipality" means the Darjeeling Municipality and any other municipality, wholly or in part situated in a hilly tract, which the <sup>8</sup>[State Government] may, by notification, declare to be a hill municipality;

(20a) "hill areas" has the same meaning as in the Darjeeling Gorkha Hill Council Act, 1988;

(21) "holding" means land held under one title or agreement and surrounded by one set of boundaries :

Provided that where two or more adjoining holdings form part and parcel of the site or premises of a dwelling house, manufactory, warehouse or place of trade or business, such holdings shall be deemed to be one holding for the purposes of this Act.

Explanation.-Holdings separated by a street or other means of communication shall be deemed to be adjoining within the meaning of this proviso;

(22) "house" includes any hut, shop or warehouse ;

(23) "house-gully" means a passage or strip of land constructed, set apart or utilized for the purpose of serving as a drain or of

affording access to a privy, urinal, cesspool or other receptacle for filthy or polluted matter to municipal servants or to persons employed in the cleansing thereof or in the removal of such matter therefrom. and includes the air space above such passage or land ;

(24) "hut" means any building which is constructed principally of wood, bamboo, mud, leaves, grass or thatch, and includes any temporary structure of whatever size or any small building (not being a masonry building) of whatever material made;

(25) "inhabitant" used with reference to any local area means any person ordinarily residing or carrying on business or owning or occupying immovable property therein;

(26) "inhabited room" means a room in which some person passes the night, or which is used as a living room, and includes a room with respect to which there is a reasonable presumption (until the contrary is shown) that some person passes the night therein or that it is used as a living room ;

(27) "land" includes benefits arising out of land, and things attached to the earth, or permanently fastened to anything attached to the earth ;

(28) "living thing" includes any animal, bird or fish ;

(29) "lodging-house" means a house in which pilgrims or other persons are harboured or lodged for hire for a single night or for some other short period and where there is ordinarily community of eating or sleeping accommodation;

(30) "market" includes any place where persons assemble for the sale of any living thing intended for human food or of any article of food;

(31) "masonry building" means any building other than a framed building or a hut and includes any structure a substantial part of which is made of masonry or of steel, iron or other metal;

## **9**

(31a) "meter" includes and shall be deemed to have always included any apparatus set up or fixed for checking or measuring the consumption of water or gas, as the case may be ;

(32) "motor vehicle" includes a vehicle, carriage or other means of conveyance propelled or which may be propelled, on a road by



electrical or mechanical power either entirely or partially ;

(33) "municipal drain" means a drain vested in the Commissioners ;

(34) "municipality" means any place in which this Act, or any part thereof is in force ;

(35) "notification" means a notification published in the [Official Gazette]

(36) "occupier" means any person for the time being paying, or liable to pay, to the owner the rent or any portion of the rent of the land or building in respect of which the word is used or damages on account of the occupation of such land or building, and includes an owner living in, or otherwise using, his own land or building and also a rent-free tenant;

(37) "offensive matter" means kitchen or stable refuse, dung, dirt, putrid or putrifying substances and filth of any kind which is not included in sewage as defined in this section ;

(38) "owner" includes the person for the time being receiving the rent of any land or building or of any part of any land or building whether on his own account or as agent or trustee for any person or society or any religious or charitable purpose, or as a receiver, or, who would so receive such rent if the land, building or part thereof were let to a tenant;

(39) "plinth" means the part of a wall or structure between the ground- level and the level of the lowest floor of a building ;

(40) "premises" includes lands, buildings, vehicles, tents, vans, structures of any kind, streams, lakes, sea-shore, drains, ditches or places open, covered, or enclosed, whether built on or not, and whether public or private, and whether natural or artificial, and whether maintained or not under statutory authority, and any vessel lying in any river, harbour or other water not being a port declared under the Indian Ports Act, 1908;

(41) "prescribed" means prescribed by this Act or by rules or by-laws made thereunder ;

(42) "private drain" means any drain which is not a municipal drain as defined in this section;

(43) "private street" means any street, road, lane, gully, alley, passage or square which is not a public street as defined in this

section, but does not include a passage securing access to less than four premises, or a passage provided in effecting the partition of any masonry building amongst joint owners, where such passage is not less than **10**[2.44 metres] wide;

(44) "public street" means any street, road, lane, gully, alley, passage, pathway, square or court whether a thoroughfare or not, over which the public have a right of way, and includes-

(a) the access or approach to a public ferry,

(b) the roadway over any public bridge or causeway,

(c) the footway attached to any such street, public bridge or causeway,

(d) the passage connecting two public streets, and

(e) the drains attached to any such street/public bridge or causeway, and, where there is no drain attached to any such street, shall be deemed to include also, unless the contrary is shown, all land up to the boundary wall, ail, hedge or pillar of the premises, if any, abutting on the street, or if a street alignment has been fixed, then up to such alignment;

(45) "registered medical practitioner" means- a medical practitioner registered under the Bengal Medical Act, 1914;

(46) "rubbish" means dust, ashes, broken bricks, mortar, broken glass, and refuse of any kind which is not offensive matter or sewage as defined in this section;

## **11**

(46a) "salary" means basic pay;

(47) "school" includes a maktab, a madrassah and a tol;

(48) "service-privy" means a fixed privy which is cleansed by hand, but does not include a movable commode ;

(49) "sewage" means night-soil and other contents of privies, urinals, cesspools or drains, and includes trade effluents and discharges from manufactories of all kinds ;

(50) "slaughter-house" means any place used for the slaughter of cattle, sheep, goats, kids or pigs for the purpose of selling the flesh thereof as meat;

(51) "street" means a public or private street;

(52) "street alignment" means the line dividing the land comprised in and forming part of a street from the adjoining land ;

(53) "the Commissioners" means the persons for the time being appointed or elected to conduct the affairs of any municipality under this Act;

(54)23\*\*\*\*\*

(55) "water course" includes any river, stream, or channel whether natural or artificial;

(56) "water for domestic purposes" shall not be deemed to include a supply-

(a) for animals or for washing carriages, where such animals or carriages are kept for sale or hire,

(b) for any trade, manufacture or business,

(c) for fountains,

(d) for watering gardens or streets,

(e) for any ornamental or mechanical purpose,

(f) for building purposes, or

(g) for flushing purposes, except a supply allowed for flushing connected- privies in accordance with a resolution of the Commissioners ;

(57) "water-works" includes all lakes, tanks, streams, cisterns, springs, pumps, wells, reservoirs, aqueducts, cuts, sluices, mains, pipes, culverts; engines, hydrants, stand-pipes, conduits, and all machinery, lands, buildings, bridges, and things for supplying or used for supplying water;

(58) "year" means a year beginning on the first day of April.

1. Clause (al) ins. by W.B. Act 27 of 1955.

2. Word and figures subs, for the words "ten feet" by W.B. Act 51 of 1980.

3. Words ins. by W.B. Act 51 pf 1980.

4. Words ins. by W.B. Act 28 of 1951.

5. Clause (So) ins. by W.B. Act 17 of 1988.

6. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India(Adaptation of Indian

Laws) Order, 1937, and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

7. Words ins. by W.B. Act 27 of 1955.

8. Words subs, for the word "Drugs" by W.B. Act 51 of 1980.

9. Clause (31a) ins. by W.B. Act 27 of 1955.

10. Word and figures subs, for the words "eight feet" by W.B. Act 51 of 1980.

11. Clause (46o) ins. by W.B. Act 51 of 1980.

### **3A. Residence within the limits of a municipality :-**

A person shall be deemed to be resident within the municipality if he maintains a dwelling place within the municipality and occasionally uses such place or any part thereof as a sleeping apartment. A person shall not be deemed to cease to reside within the limits of the municipality merely because of his absence from the dwelling place if he is entitled to return to such place at any time and has not abandoned the intention of returning to such place.

### **4. Extent of power conferred on an authority :-**

(1) Where a power is expressed as being conferred on any authority to require a person to do one thing or do another thing, that authority may, in its discretion, require the

(2) Where the power is expressed as being conferred on any authority to require a person to do a number of things, that authority may from time to time in its discretion require that person to do any one or more of those things.

### **5. Power to define character of building :-**

The Commissioners at a meeting may decide whether any particular building is a masonry building, a framed building, or a hut, or is a lodging-house, as defined in section 3, and their decision shall be final.

## **CHAPTER 2**

THE MUNICIPALITIES The creation of municipalities

### **6. Declaration of intention to constitute, abolish or alter limits of municipality :-**

(1) The <sup>1</sup>[State Government] may, by notification, <sup>2</sup>\*\*\*\*\* \* \* declare its intention-

(a) to constitute any town, together with, or exclusive of, any railway station, village, land or building in the vicinity of any such

town a municipality under this Act; or

(b) to withdraw any municipality from the operation of this Act; or

(c) to exclude from a municipality any local area comprised therein and defined in the notification ; or

(d) to include within a municipality and local area contiguous to the same and defined in the notification; or

(e) to divide any municipality into two or more municipalities ; or

(f) to unite two or more municipalities so as to form one municipality; or

(g) to define the limits of any municipality; or

(h) to revise the boundaries of two or more contiguous municipalities; or <sup>3</sup>\*\*\*\*\*

Provided that a declaration shall not be made- <sup>4</sup>

(i) under clause (a) unless the State Government is satisfied that-

(a) three-fourths of the adult male population of the town to which it refers are chiefly employed in pursuits other than agriculture.

(b) such town contains not less than ten thousand inhabitants, and an average number of not less than two thousand inhabitants to the 2.59 square kilometres of the area of such town, and

(c) if such town is constituted a municipality, the municipal income from taxation and other sources is likely to be adequate for the discharge of municipal functions under this Act;

(ii) under clause(b) and clauses (d) to (g), in the case of any municipality in which the conditions specified in proviso (i) are complied with, except <sup>5</sup>[after taking into consideration the views] of the Commissioners of the municipality or each of the municipalities concerned at a meeting;

(iii) where any local area is to be excluded from a municipality under clause(c) of which area three-fourths of the adult male population are chiefly employed in pursuits other than agriculture and in which area the average number of inhabitants is not less than <sup>6</sup>[two thousand] to the <sup>7</sup>[2.59 square kilometres], except after consideration of the views of the Commissioners at a meeting;

(iv) under clause(d), unless the <sup>8</sup>[State Government] is satisfied that three- fourths of the adult male population of the local area to which it refers are chiefly employed in pursuits other than agriculture;

(v) under clause(h), except after consideration of the views of the Commissioners of each of the municipalities concerned at a meeting;

(vi) where any part of a town or local area affected by any declaration under this section is a cantonment or part of a cantonment <sup>9</sup>\* \* \* \*.

(2) A copy, <sup>10</sup>[in English and Bengali and in the areas referred to in clause (a) of section 2 of the West Bengal Official Languages Act, 1961, also in Nepali], of every notification issued under sub-section(1) shall be posted up in a conspicuous place in the office of the Commissioners of the municipality or municipalities concerned, or, in the case of a notification under clause(a) of that sub-section, in the office of the District Magistrate, and in such other public places as the Commissioners or the District Magistrate, as the case may be, may direct; and a public proclamation shall be made <sup>11</sup> [by insertion in at least three newspapers in circulation in the municipality] or local area concerned that such copy has been so posted up, and is open to inspection in such office. 36(3) The provisions of sub-section (2) shall not apply in the case of a notification issued under clause(a) of, read with clause(i) of the proviso to, sub-section (1).

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order. 1937, and. thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

2. Words "and by such other means as it may determine." om. by W.B. Act 10 of 1982.

3. Clause (i) om. by W.B. Act 22 of 1979 which was as under:- ~ (i) to alter the number of Commissioners of a municipality in consideration inter alia of the increase or decrease in the population, income, number of voters and commercial and general Importance of the place:".

4. Clause (i) to proviso subs, by W.B. Act 51 of 1980. which was earlier as under:

5. Words subs, for the words " on the recommendation" by W.B. Act 27 of 1955.

6. Words subs, for the words "one thousand" by W.B. Act 51 of 1980.

7. Words and figures subs, for the words "square mile" by W.B. Act 51 of 1980.
8. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937. and. thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order, 1950.
9. Words "without the consent of the Governor General in Council previously obtained" om. by the Government of India (Adaptation of Indian Laws) Order, 1937.
10. Words, figures, letter and brackets within third brackets subs, for the words "both in English and Bengali" by W.B. Act 51 of 1980.
11. Words subs, for the words "by beat of drum throughout the municipality" by W.B. Act 10 of 1982

**6A. Sub-section(3) of section 6 of the Act to cease to have effect :-**

With effect from the date of coming into force of clause(b) of section 2 of the Bengal Municipal (Amendment) Act, 1982, sub-section(3) of section 6 shall cease to have effect, except as respects things done or omitted to be done before such cesser; and section 8 of the Bengal General Clauses Act, 1899 shall apply upon such cesser as if the said sub-section had then been repealed by a West Bengal Act.

**7. Consideration of objections :-**

Any inhabitant of the town or local area, or any rate-payer of the municipality or municipalities in respect of which a notification has been published under section 6 may, if he objects to anything contained in the notification, submit his objections in writing to the <sup>1</sup>[State Government] within three months from the date of the publication, and the <sup>1</sup> [State Government] shall take his objection into consideration.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937. and. thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order, 1950.

**8. Constitution, abolition or alteration of limits of a municipality :-**

When three months from the date of the publication of the notification have expired, and after considering any objections which may be submitted, the <sup>1</sup>[State Government] may by notification-

- (a) constitute the town or any specified part thereof a municipality under this Act; or

- (b) withdraw the whole area comprised in the municipality from the operation of this Act; or
- (c) include the local area or any part thereof in the municipality or exclude it therefrom ; or
- (d) divide the municipality into two or more municipalities or unite the municipalities, as the case may be ; or
- (e) define the limits of any municipality ; or
- (f) revise the boundaries of two or more contiguous<sup>2</sup>[municipalities.]<sup>3</sup> [\*\*\*\*\*]

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937. and. thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

2. Word subs, for the words "municipalities; or" by W.B. Act 51 of 1980.

3. Clause (g) om. by W.B. Act 51 of 1980 which was earlier as under:- "(g) alter the number of Commissioners of a municipality in consideration inter alia of the increase or decrease in the population, income, number of voters and commercial and general importance of the place.".

### **8A. Validation :-**

<sup>1</sup> Where the constitution, abolition or alteration of limits of a municipality is set aside by order of a Court or otherwise, anything done or any action taken upon the constitution, abolition or alteration of limits of such municipality before such constitution, abolition, or alteration, of limits of such municipality is so set aside shall be deemed to have been validly done or taken.

1. Sec. 8A ins. by W.B. Act 10 of 1982.

### **9. Power to include certain dwelling-house, manufactory, etc., within a particular municipality :-**

Where a dwelling-house, manufactory, warehouse, place of trade or business is situated within the limits of two or more adjacent municipalities the <sup>1</sup> [State Government] may, notwithstanding anything contained in this Act, by notification, declare within which of these municipalities such dwelling-house, manufactory, warehouse, place of trade or business shall be deemed to be included for the purposes of this Act.

1. Words "Provincial Government" first subs- for the words "Local



Government" by the Government of India(Adaptation of Indian Laws) Order. 1937, and. thereafter, the word "State" subs. for the word "Provincial" by the Adaptation of Laws Order, 1950.

**10. Application of Act and subsidiary orders in areas included within a municipality :-**

When any local area is included in a municipality by a notification under clause (c) or clause (f) of section 8 all the provisions of this Act and of any rules, by-laws, notifications, or orders made thereunder, which immediately before such inclusion were in force throughout such municipality, shall be deemed to apply to such area unless the 42[State Government] in and by the notification otherwise directs.

**11. Continuance of Act and subsidiary orders in municipalities formed by division :-**

When any municipality is divided into two or more municipalities by a notification under clause (d) of section 8, then, notwithstanding anything contained in this Act, all the provisions of this Act and of any rules, by-laws, notifications, or orders made thereunder, which immediately before such division were in force in any part of the original municipality, shall be deemed to be in force in the same part of the municipalities formed by the division, unless the <sup>1</sup>[State Government] in and by the notification otherwise directs.

1. Words "Provincial Government" first subs- for the words "Local Government" by the Government of India(Adaptation of Indian Laws) Order. 1937, and. thereafter, the word "State" subs. for the word "Provincial" by the Adaptation of Laws Order, 1950.

**12. Discontinuance of Act and subsidiary orders in municipalities withdrawn from Act, or in areas excluded :-**

When the whole area comprised in a municipality is withdrawn from the operation of this Act, or when any part of such area is excluded from the municipality, by a notification under clauses (b), (c), or (f) of section 8, this Act, and all rules and by-laws made, orders, directions and notices issued and powers conferred thereunder shall cease to apply to such area or part, as the case may be.

**13. Power to except municipality from provisions of Act unsuited thereto :-**

(1) If the circumstances of any municipality are such that, in the opinion of the <sup>1</sup>[State Government] any of the provisions of this Act are unsuited thereto, the <sup>1</sup>[State Government] may, <sup>3</sup>[after

taking into consideration the views] of the Commissioners at a meeting, by notification, except the municipality or any part of it from the operation of those provisions; and thereupon the said provisions shall not apply to the municipality until applied thereto by notification.

(2) While such exception as aforesaid remains in force, the <sup>1</sup> [State Government] may make rules consistent with the provisions of this Act in respect of matters excepted from the operation of the said provisions.

1. Words "Provincial Government" first subs- for the words "Local Government" by the Government of India(Adaptation of Indian Laws) Order. 1937, and. thereafter, the word "State" subs. for the word "Provincial" by the Adaptation of Laws Order, 1950.

3. Words subs. for the words "on the recommendation" by W.B. Act 27 of 1955.

#### **14. Commissioners to erect and maintain boundary marks :-**

The Commissioners of every municipality already existing and of every municipality newly constituted under this Act and of every municipality whose local limits are altered as aforesaid, shall cause to be erected and set up and thereafter maintain substantial boundary-marks defining the limits or the altered limits of the area subject to their authority, as set out in any notification published under this chapter.

#### **CHAPTER 3**

THE MUNICIPAL AUTHORITIES The constitution of the municipality

#### **15. Constitution and incorporation of municipality and number of Commissioners. :-**

(1) There shall be established for each municipality a body of Commissioners having authority over the municipality and consisting of such number of Commissioners, not being more than thirty nor less than nine, as the [State Government] may specify in the notification constituting the municipality.

(2) Such Commissioners shall be a body corporate by the name of the Municipal Commissioners of the place by reference to which the municipality is known, having perpetual succession and a common seal, and by that name shall sue and be sued.

#### **16. Commissioners to be elected and appointment of Commissioners In a newly created municipality. :-**

(1) The Commissioners shall be elected in the manner prescribed.

(2) Notwithstanding anything contained in sub-section (1), the State Government may appoint all the Commissioners of a municipality newly created and constituted under this Act for a period not exceeding two years from the date of the notification under which such municipality is created and constituted:

Provided that where the appointment is made for any period less than two years the State Government may, if it thinks fit so to do, extend such period, so, however, that the total period shall not exceed two years.

(3) Where the general election of the Commissioners of a municipality cannot, for any reason, be held before the expiry of the period or the extended period of office of the Commissioners appointed under sub-section (2) the State Government may, if it considers it necessary so to do in the circumstances of the case, make a fresh appointment of all the Commissioners of the municipality for such period not exceeding two years as it thinks fit;

Provided that the general election of the Commissioners of such municipality shall be held within the period as may be extended under this sub-section.

(4) A person to be appointed as a Commissioner under sub-section (2) or sub-section (3) shall-

(a) if he is not an official, be a resident within the limits of the municipality for a period of not less than twelve months immediately preceding the appointment,

(b) be a citizen of India or if an alien, be a person exempt from the disabilities imposed by the Bengal (Aliens) Disqualification Act, 1918,

(c) not be subject to any of the disqualifications mentioned in section 22.

(5) A person appointed as Commissioner under sub-section (2) shall be eligible for re-appointment as Commissioner under sub-section (3).

(6) Where the general election of the Commissioners of a municipality has been held before the expiry of the period of office of the Commissioners appointed under sub-section (2) or sub-

section (3), such appointed Commissioners shall continue to hold office until the first meeting of the elected Commissioners of the municipality at which a quorum is present after the general election.

**16A. Qualifications of Commissioner appointed by State Government :-**

No persons other than an official shall be appointed a Commissioner by the State Government unless, irrespective of whether his name is or is not included in the electoral roll, he possesses the necessary qualifications of a voter.

**17. . :-**

**1 \*\*\*\*\***

1. Sec. 17 subs. by W.B. Act 11 of 1947 which was earlier as under:- "17. Constitution of municipalities included in Schedule II.- (1) Every municipality mentioned in Schedule II to this Act shall be excluded from the operation of section 16. and in any municipality so excluded four-fifths of the total number of Commissioners shall be elected in the manner prescribed and the remaining one-fifth shall be appointed by the Local Government: Provided that in cases where the whole number of Commissioners is not evenly divisible by live, the one-fifth shall be ascertained by taking the number, next below the whole number, which is evenly divisible by five, as the number to be divided. (2) The Local Government may. at any time, include In, or exclude from, the said Schedule the name of any municipality."

**18. . :-**

**1 \* \* \* \* \***

1. Sec. 18 subs. by W.B. Act 22 of 1962 which was earlier as under:- "18. Special provision in regard to industrial areas.-(11 Notwithstanding anything contained in section 16, the Local Government, by notification, stating the special circumstances, may, in the case of a municipality the development of which in its opinion is due to an appreciable extent to and dependent on the concentration of any industry or industries including railways and shipping and industries connected therewith), (i) increase the number of appointed Commissioners beyond the proportion mentioned in that section in order to secure the proper representation of such industry or Industries and of labour employed therein, or if it appears expedient to the Local Government that the industry or Industries and the labour employed therein should be represented by elected Commissioners, constitute industrial constituencies for the representation of such industry or industries and of labour on such basis as may appear to the Local Government to be expedient: Provided that the number

of appointed Commissioners shall in no case exceed one-half of the total number of the Commissioners of the municipality; (ii) provide for the representation of the inhabitants who are not directly connected with such industry or industries by the formation of electoral constituencies for such inhabitants, on such basis as may appear to the Local Government to be expedient; and the Local Government may further provide for election by general electorates in any portion of such municipality. (2) In any municipality where the number of appointed Commissioners is increased or where any industrial constituency is constituted in the manner mentioned in clause(i) of sub-section (1), the appointment of such Commissioners, or the election of Commissioners from such constituency, as the case may be, shall be made from persona directly concerned in or connected with such industry or industries. (3) In any municipality to which the provisions of sub-section (1) are applied the electoral roll shall be prepared and the elections held in such manner as the Local Government may prescribe."

### **19. Representation of Scheduled Tribes :-**

**1**

1.The State Government, if it considers necessary may, by order published in the Official Gazette, reserve for members of the Scheduled Tribes a number of seats among the seats to which the Commissioners of a municipality are to be elected.

(2) The number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to which the Commissioners are to be elected as the population of the Scheduled Tribes in the municipality bears to the total population therein.

(3) No member of the Scheduled Tribes for members of which seats are reserved under sub-section(1) shall, if eligible for election, be disqualified from election to any seat not so reserved.

(4) In this section, the expression "Scheduled Tribes" has the same meaning as in clause(25) of article 366 of the Constitution of India.

1. Sec. 19 subs, by W.B. Act 25 of 1950 which was earlier as under:- "19. Representation of minority communities,-(1) The Local Government shall by rule provide for the representation of a minority community within a municipality by reserving seats for it among those to which Commissioners are to be elected under section 16 or section 17. The number of seats so reserved shall be in accordance with the proportion borne by such community to the total population of the municipality according to the latest census. (2) No person belonging to a minority community for which seats are reserved under subsection (1} shall, if eligible for election as a Commissioner, be disqualified by the operation of this section from

election to any seat not so reserved. Explanation.-The Local Government shall determine whether any community in a municipality shall be deemed to be a minority community for the purposes of this section."

**20. Power to divide municipality into wards and to fix the number of Commissioners of each ward. :-**

The <sup>1</sup>[State Government] may, in case of new municipalities of its own motion, and in case of municipalities already in existence at the time the notification is made after consideration of the views of the Commissioners at a meeting, by notification, divide any municipality into wards for the purpose of the election of Commissioners and determine the number of Commissioners to be elected from each such ward <sup>2</sup> [having regard to population, geographical condition and commercial importance of the area].

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order. 1937. and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

2. Words ins. by W.B. Act 22 of 1979.

**21. Electoral roll for municipality :-**

<sup>1</sup> For every municipality there shall be an electoral roll showing the names of persons qualified to vote. The electoral roll shall be prepared in accordance with the provisions of this Act and the rules made thereunder.

1. Sec. 21 first subs. by W.B. Act 16 of 1966. Then, the sec. 21 faced some amendments by W.B. Act 2 of 1975. Thereafter, existing sec. 21 and secs. 21A to 21J subs, for previous sec. 21 by W.B. Act 34 of 1978. Previous sec. 21 was as under:- "21. The electoral roll.-(I) So much of the electoral roll for any Assembly constituency for the time being in force as relates to the area comprised within a municipality shall, subject to the provisions of this Act and the rules made thereunder, be the electoral roll for the election of Commissioners in that municipality. (2) The Executive Magistrate in charge of the sub-division in which a municipality is situated or any other Executive Magistrate authorised by him in writing in this behalf shall, at the time and in the manner prescribed, publish, revise and republish the electoral roll in respect of the municipality and save as otherwise provided in sub-section (7). the electoral roll thus published or republished shall, subject to such corrections as may be made therein in accordance with the provisions of the rules made under this Act, remain in force for the purposes of all elections of Commissioners of that municipality. (3) When a municipality has been divided into wards, the electoral roll shall be divided into separate lists for each ward. (4) Every person

whose name appears in the electoral roll of a municipality finally published under this section or whose name has been included in such electoral roll on correction made therein in accordance with the provisions of the rules made under this Act, shall be entitled to vote at the election of Commissioners of that municipality. (4a) Notwithstanding anything contained in sub-section (2), sub-section (3) or sub-section (4). where a municipality has been divided into wards and the electoral roll for the Assembly constituency for the time being in force relating to the area comprised within that municipality has been prepared on the basis of the existing wards in that municipality and has been divided into separate lists for each ward, that electoral roll of the Assembly constituency shall be deemed to be the electoral roll of that municipality finally published under this section and every person whose name appears in that electoral roll shall be entitled to vote at the election of Commissioners of that municipality. (5) The electoral roll shall be made available for purchase by any inhabitant of the municipality at a reasonable price to be fixed by the Executive Magistrate by whom such roll was published under sub-section (2). (6) The cost of publishing and where the electoral roll is reprinted for the purposes of subsection (5). the cost of reprinting the electoral roll shall be paid from, and the sale proceeds from the sales of such roll shall be credited to, the Municipal Fund. (7) If there is any revision in the electoral roll for any Assembly constituency relating to the area comprised within a municipality or there is any delimitation of the area of a municipality. the electoral roll in respect of that municipality shall be revised and republished. (8) The State Government may, if it thinks fit so to do. direct at any time the preparation and publication of the electoral roll for the election of Commissioners of any municipality."

### **21A. Disqualifications for registration in electoral roll :-**

**1**

(1) A person shall be disqualified for registration in an electoral roll for a municipality if he-

(a) is not a citizen of India ; or

(b) is of unsound mind and stands so declared by a competent court; or

(2) The name of any person who becomes so disqualified after registration shall forthwith be struck off the electoral roll in which it is included: Provided that the name of any person struck off the electoral roll by reason of a disqualification under clause (c) of sub-section (1) shall forthwith be restored if such disqualification is, during the period such roll is in force, removed under any law authorising such removal.

1. Sec. 21 first subs. by W.B. Act 16 of 1966. Then, sec. 21 faced some amendments by W.B. Act 2 of 1975. Thereafter sec. 21 and secs. 21A to 21J subs. for previous sec. 21 by W.B. Act 34 of 1978.

**21B. No person to be registered in the electoral roll relating to more than one local authority :-**

**12**

(I) A person registered in the electoral roll for a municipality shall not be entitled to be registered in the electoral roll for any other municipality. Municipal Corporation or Panchayat area.

**2**

(2) A person registered in the electoral roll for an Municipal Corporation or Panchayat area shall not be entitled to be registered in the electoral roll for any municipality.

Explanation.- For the purposes of this section, "Municipal Corporation" means <sup>4</sup> [the Calcutta Municipal Corporation, the Howrah Municipal Corporation and the Municipal Corporation of Chandernagore] and "Panchayat area" means an area to which the West Bengal Panchayat Act, 1973 has been extended.

1. Sec. 21 first subs. by W.B. Act 16 of 1966. Then, sec. 21 faced some amendment by W.B. Act 2 of 1975. Thereafter sec. 21 and secs. 21A to 21J subs, for previous sec. 21 by W.B. Act 34 of 1978.

2. Sec. 21B renumbered as sub-sec. (1) and sub-sec.(2) ins. by W.B. Act 7 of 1986.

4. Words subs. for the words "the Corporation of Calcutta and the Municipal Corporation of Chandernagore" by W.B. Act 7 of 1986.

**21C. No person to be registered more than once in any municipality :-**

<sup>1</sup> No person shall be entitled to be registered in the electoral roll for any municipality more than once.

1. Sec. 21 first subs. by W.B. Act 16 of 1966. Then, sec. 21 faced some amendment by W.B. Act 2 of 1975. Thereafter sec. 21 and secs. 21A to 21J subs, for previous sec. 21 by W.B. Act 34 of 1978.

**21D. Conditions of registration :-**

<sup>1</sup> Subject to the provisions of sections 21, 21A, 21B and 21C, every person who-

(a) is not less than eighteen years of age on the qualifying date; and

(b) is ordinarily resident in a municipality; shall be entitled to be



registered in the electoral roll for that municipality.

Explanation.-For the purposes of this section <sup>2</sup>[, section 21E] and section 21F, "qualifying date", in relation to the preparation or revision of an electoral roll, shall mean the first day of such month of the year in which it is so prepared or revised as may be specified by the State Government by notification <sup>3</sup> [or, where the electoral roll for election of Members to the West Bengal Legislative Assembly is adopted under the proviso to sub-section (1) of section 21F as the electoral roll for a municipality, the qualifying date on the basis of which the electoral roll for election of Members to the West Bengal Legislative Assembly was prepared, as the case may be].

1. Sec. 21 first subs. by W.B. Act 16 of 1966. Then, sec. 21 faced some amendment by W.B. Act 2 of 1975. Thereafter sec. 21 and secs. 21A to 21J subs, for previous sec. 21 by W.B. Act 34 of 1978.

2. Word.figures and letter ins. by W.B. Act 22 of 1979.

3. Words, figures letter and brackets iris, by W.B. Act 30 of 1989.

### **21E. Meaning of "ordinarily resident :-**

".\_ 1

(1) A person shall be deemed to be ordinarily resident in a municipality if he generally resides therein for a period of not less than 185 days in a period of twelve months preceding the qualifying date:

Provided that-

(a) a person shall not be deemed to be ordinarily resident in a municipality on the ground only that he owns or is in possession of, a dwelling house or hut therein;

(b) a person who is a patient in any establishment maintained wholly or mainly for the reception and treatment of persons suffering from mental diseases or who is detained in prison or other legal custody at any place shall not by reason thereof be deemed to be ordinarily resident therein.

Explanation.-

(i) A person shall be deemed to "reside" in any dwelling house or hut which, or some portion of which he sometimes, although not uninterruptedly, uses as a sleeping apartment, and

(ii) a person shall not be deemed to have ceased to "reside" in any

such dwelling house or hut merely because he is absent from it or has elsewhere another dwelling house or hut in which he resides, if there is a liberty of, or if there is no abandonment of intention of, returning to it at any time.

(2) If in any case a question arises as to whether a person is ordinarily resident in a municipality at any relevant time, the question shall be determined with reference to all the facts of the case and to such rules as may be made in this behalf, by the State Government.

1. Sec. 21 first subs, by W.B. Act 16 of 1966. Then. sec. 21 faced some amendments by W.B. Act 2 of 1975. Thereafter, existing sec. 21 and secs. 21A to 21J subs. for previous sec. 21 by W.B. Act 34 of 1978. Sec. 21E again subs. by W.B. Act 22 of 1979. Previous sec. 21E was as under:- 21E. Meaning of "ordinarily resident".- (1) A person shall not be deemed to be ordinarily resident in a municipality on the ground only that he owns, or is in possession of, a dwelling house therein. (2) A person absenting himself temporarily from his place of ordinary residence shall not by reason thereof cease to be ordinarily resident therein. (3) A person who is a patient in any establishment maintained wholly or mainly for the reception and treatment of persons suffering from mental illness or mental defectiveness or who is detained in prison or other legal custody at any place shall not by reason thereof be deemed to be ordinarily resident therein. (4) If in any case a question arises as to whether a person is ordinarily resident In a municipality at any relevant time, the question shall be determined with reference to all the facts of the case and to such rules as may be made in this behalf, by the State Government.

#### **21F. Preparation, revision and correction of electoral roll :-**

**1**

(1) The electoral roll for any municipality shall be prepared by the election authority in the prescribed manner by reference to the qualifying date and shall come into force immediately upon its final publication in accordance with the rules made under this Act: **2**

Provided that the electoral roll for the time being in force for election of Members to the West Bengal Legislative Assembly, so far as such electoral roll relates to any area comprised in a municipality, may be adopted by the election authority as the electoral roll for that municipality.

(2) The electoral roll for a municipality shall be divided into separate parts for each ward of the municipality.

(3) The electoral roll for a municipality shall, unless otherwise directed by the State Government for reasons to be recorded in writing, be revised in the prescribed manner by reference to the qualifying date-

(i) before each general election of Commissioners in that municipality;

(ii) before each bye-election to fill a casual vacancy; <sup>3</sup>

Provided that if the electoral roll for a municipality is not revised or is revised in a summary manner, the validity of such electoral roll shall not be called in question.

#### **4**

(4)

(a)

(i) Any person whose name is not included in the electoral roll for a municipality may apply to the election authority for the inclusion of his name in that roll.

(ii) If the election authority is satisfied that the applicant is entitled to be registered in the electoral roll, the election authority shall, subject to such general or special direction, if any, as may be given by the State Government in this behalf, direct his name to be included therein.

(b) If the election authority, on application made to it or on its own motion, is satisfied, after such enquiry as it thinks fit, that any entry in an electoral roll for a municipality is or has been erroneous or defective in any particular, the election authority shall, subject to such general or special direction, if any, as may be given by the State Government in this behalf, correct the entry.

(c) No direction for the inclusion of a name in the electoral roll for a municipality shall be given, and no correction of any entry shall be made, under this sub-section after the last date for making nominations for an election in that municipality and before the completion of that election.

(5) <sup>5</sup> [Notwithstanding anything contained elsewhere in this Act, every person whose name is included in such part of the electoral roll for the time being in force for election of Members to the West Bengal Legislative Assembly, as is adopted under the proviso to

sub-section (1) of section 21F as the electoral roll for a municipality and as relates to the area comprising a ward of that municipality shall, so long as the electoral roll so adopted remains in force, be entitled, subject to the provisions of this Act, to vote at an election of a Commissioner from that ward:]

Provided that no person shall vote at an election of Commissioners of a municipality if he-

(a) has been adjudged to be of unsound mind, or

(b) has voluntarily acquired the citizenship of a foreign State, or

(c) has been sentenced by a criminal court for an electoral offence punishable under this Act or has been disqualified under any other law from exercising any electoral right on account of corrupt practices in connection with an election, and six years have not elapsed from

(6) The preliminary and final electoral rolls shall be printed and electoral roll for a ward shall be made available for purchase by any inhabitant of the municipality at a reasonable price to be fixed by the election authority.

(7) The cost of preparing, publishing and printing the electoral rolls under this section shall be paid from, and the sale proceeds from the sales of such rolls shall be credited to, the municipal fund.

1. Sec. 21 first subs. by W.B, Act 16 of 3966. Then. sec. 21 faced some amendments by W.B. Act 2 of 1975. Thereafter, existing sec. 21 and secs. 21A to 21J subs. for previous sec. 21 by W.B. Act 34 of 1978.

2. Proviso ins. by W.B. Act 30 of 1989.

3. Proviso ins, by W.B. Act 10 of 1982.

4. Sub-sec. (4) subs. by W.B. Act 36 of 1980 which was earlier as under:- "(4) If the election authority, on application made to it or on its own motion, is satisfied, after such enquiry as it thinks fit, that any entry in an electoral roll is or has been erroneous or defective in any particular, the election authority shall, subject to such 'general or special directions, if any, as may be given by the State Government in this behalf, correct the entry.".

5. Words, figures, letter and brackets within third brackets subs. for the words "Every person whose name appears in the electoral roll for a municipality shall, so long as such roll remains in force, be entitled, subject to the provisions of this Act. to vote at an election for the ward where his name is so included:" by W.B. Act 30 of 1989. WBL-2nd Ed-Vol-11/13

**21G. Appeal :-**

(1) Any person aggrieved by any entry in or omission from the electoral roll or by the order or decision of the election authority may, within fifteen days from the final publication or the date of the decision or order of the election authority, as the case may be, appeal to the District Magistrate and if on such appeal the District Magistrate or any other officer authorised by him to hear the appeal directs any modification or addition to be made in the electoral roll or the decision or order of the election authority, the roll shall be amended and the decision or order shall be modified accordingly: <sup>2</sup>

Provided that nothing in this sub-section shall apply to any entry in, or omission from, the electoral roll for the time being in force for election of Members to the West Bengal Legislative Assembly which has been adopted under the proviso to sub-section (1) of section 21F as the electoral roll for a municipality for election of a Commissioner to that municipality.

(2) The electoral roll amended under sub-section (1) of this section shall be published in the manner provided for final publication referred to in subsection (1) of section 21F.

1. Sec. 21 first subs, by W.B. Act 16 of 1966. Then. sec. 21 faced some amendments by W.B. Act 2 of 1975. Thereafter, existing sec. 21 and secs. 21A to 21J subs, for previous sec. 21 by W.B. Act 34 of 1978

2. Proviso ins. by W.B. Act 30 of 1989.

### **21H. Bar to jurisdiction of civil courts :-**

<sup>1</sup> No civil court shall have jurisdiction-

(a) to entertain or adjudicate upon any question whether any person is or is not entitled to be registered in the electoral roll for a municipality; or

(b) to question the legality of any action taken by or on behalf of the election authority under this Act.

1. Sec. 21 first subs, by W.B. Act 16 of 1966. Then. sec. 21 faced some amendments by W.B. Act 2 of 1975. Thereafter, existing sec. 21 and secs. 21A to 21J subs, for previous sec. 21 by W.B. Act 34 of 1978

### **21I. Appointment of election authorities :-**

<sup>1</sup> The State Government shall, by notification, appoint an election

authority for every municipality for the purposes of this Act and may also appoint such number of assistant election authorities as the State Government may think fit to perform such functions of the election authority under this Act or the rules made thereunder as the election authority may delegate in this behalf and an assistant election authority shall, while performing such functions, be deemed to be an election authority for the purposes of this Act.

1. Sec. 21 first subs, by W.B. Act 16 of 1966. Then. sec. 21 faced some amendments by W.B. Act 2 of 1975. Thereafter, existing sec. 21 and secs. 21A to 21J subs, for previous sec. 21 by W.B. Act 34 of 1978

### **21J. Making false declaration :-**

**<sup>1</sup>** If any person makes in connection with-

- (a) the preparation, revision or correction of an electoral roll, or
- (b) the inclusion or exclusion of any entry in or from an electoral roll,

1. Sec. 21 first subs, by W.B. Act 16 of 1966. Then. sec. 21 faced some amendments by W.B. Act 2 of 1975. Thereafter, existing sec. 21 and secs. 21A to 21J subs, for previous sec. 21 by W.B. Act 34 of 1978

### **22. General disqualifications for being a Commissioner :-**

(1) A person shall not be eligible for election or appointment as a Commissioner if such person-

- (a) has been adjudged by a competent court to be of unsound mind ; or
- (b) is under twenty-one years of age ; or
- (c) is an undischarged insolvent; or
- (d) being a discharged insolvent, has not obtained from the court a certificate that his insolvency was caused by misfortune without any misconduct on his part; or
- (e) is a municipal officer or servant or holds any office of profit under the Commissioners; or

**1**

(ee) has been elected to any other municipality or any Municipal Corporation or any Gram Panchayat or Panchayat Samiti <sup>2</sup>[Zilla

Parishad or the Council;] or

(f) has, directly or indirectly, by himself or by his partner or employer or any employee, any share or interest in any contract or employment with, by, or on behalf of, <sup>3</sup>[the Commissioners;]  
<sup>3</sup>[\*\*\*\*\*]

Provided that notwithstanding anything contained in clause (f) no person shall be deemed to be disqualified thereunder by reason only of his having a share or interest in-

(i) any lease, sale or purchase of land or any agreement for the same ; or

(ii) any agreement for the loan of money or any security for the payment of money only ; or

(iii) any newspaper in which any advertisement relating to the affairs of the Commissioners is inserted ; or

(iv) any incorporated <sup>68</sup>[or registered] company which contracts with or is employed by the Commissioners.

Explanation.-<sup>5</sup>For the purposes of this sub-section,-

(a) "Municipal Corporation" shall have the same meaning as in the Explanation to section 21B; and

(b) "Gram Panchayat", "Panchayat Samiti" and "Zilla Parishad" shall have the meanings respectively assigned to them in the West Bengal Panchayat Act, 1973.

(2) If any person is or has been convicted by a criminal court of <sup>6</sup>[an offence punishable with] transportation or imprisonment for a period of more than six months such person shall not <sup>7</sup>[ \* \* \*] be eligible for election or appointment for five years from the date of expiration of the sentence: Provided that, on application made by a person disqualified under this sub-section, the <sup>8</sup> [State Government] may remove the disqualification by an order made in this behalf <sup>73</sup>[and shall do so if in the opinion of the State Government the offence does not involve moral turpitude.]

1. Clause (f) ins. by W.B. Act 7 of 1986.

2. Words subs. for the words 'Zilla Parishad;' by W.B. Act 17 of 1988.

3. Word "or" and clause (g) was first ins. by W.B. Act 28 of 1951. Then, the words within third brackets subs. for the words "the

Commissioners; or", and clause (g) om.. by W.B. Act 22 of 1979. Clause (g) was as under:- (g) is in arrears for more than three months in payment of any rate or tax:".

5. Words ins. by W.B. Act 27 of 1955.

6. Words subs. for the words "any such-offence as in the opinion of the State Government involves moral turpitude and which carries with it a sentence of by W.B. Act 27 of 1955.

7. Words "unless the offence of which he was convicted has been pardoned," om. by W.B. Act 27 of 1955.

8. Words "Provincial Government" first subs. for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937, and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

### **23. Qualifications of Commissioners and voters :-**

(1) No person shall be qualified to be elected a Commissioner of a municipality, <sup>1</sup> [whose name is not included in the electoral roll for the election] of Commissioners of such municipality.

75\* \*\*\*\*\*

79\* \*\*\*\*\*

76\* \*\*\*\*\*

76\* \*\*\*\*\*

1. Words subs, for the words "who is not entitled to vote at an election" by W.B. Act 7 of 1969.

### **24. Election of Commissioners :-**

(1) The first general election of Commissioners of a municipality shall be held under the provisions of this Act at such time as the 77[State Government] may prescribe78\* \* \* \*. 79Explanation.- In this section the expression 'first general election' shall include the first general election held after the commencement of the Bengal Municipal (Amendment) Act, 1962.

(2) The "[State Government) may issue such orders as it may consider necessary to give effect to the provisions of this Act in regard to the holding of the first general election referred to in sub-section (1) and in regard to any matter incidental and ancillary thereto.

(3) General elections of Commissioners shall take place <sup>1</sup>[before the expiration of the term of office of the Commissioners under sub-section (1) or sub-section (5) of section 56, as the case may be, and] on such days as the District Magistrate may fix for each



municipality in his district : **2**[\*\*\*\*\*] **3**

Provided that the State Government may for sufficient reasons direct that a ward or a number of wards not exceeding one-fourth of the total number of wards constituting the municipality be excluded for the purpose of holding a general election of Commissioners of a Municipality

(4) Elections and appointments in respect of 83[casual or other] vacancies shall be held and made at such other times as may be prescribed in accordance with the provisions of this Act.

1. Words, figures and brackets subs, for the words "every year" by W.B. Act 27 of 1955.

2. Proviso om. by W.B. Act 27 of 1955 which was as under;- "Provided that where the term of office of the Commissioners of a municipality has been extended by the Local Government under sub-section (5) of section 56. the general election for that municipality shall take place as early as possible after the expiration of such term on a day to be fixed by the District Magistrate."

3. Proviso ins. by W.B. Act 51 of 1980.

**24A. Holding of general election in default of timely election or when election is set aside. :-**

**1**

(a) If, for any reason, the general election of the Commissioners of a municipality cannot be held within the period referred to in section 24, or

(b) if a general election is set aside by a Court otherwise than under the provisions of this Act, then the State Government shall fix a date for holding a general election or a fresh general election, as the case may be.

1. Sec. 24A ins. by W.B. Act 18 of 1961.

**24B. Validation :-**

**1**

(1) Where the Commissioners elected at a general election are restrained from functioning or the election as a whole is set aside, by order of a Court, anything done or any action taken by the said Commissioners before they are so restrained or before the election is so set aside, as the case may be, shall be deemed to have been validly done or taken.

(2) Where the Commissioners have continued in office after the expiry of the term referred to in section 24 <sup>2</sup> [or sub-section(2) or sub-section(3) of section 161 on account of-

(a) a general election not having taken place within the time referred to in that section, or

(b) a general election having been set aside before the assumption of office by the newly elected Commissioners, or

(c) the Commissioners elected at a general election not having been able to assume office for any reason, then notwithstanding anything contained in this Act or in any judgment, decree or order of any Court,- (i) the Commissioners so continuing shall be deemed to be and to have been validly continuing in office, and (ii) anything done or any action taken by such Commissioners shall be . deemed to be and to have been validly done or taken.

(3) The Commissioners continuing in office under the provisions of subsection (2) shall continue to hold office until the first meeting of the Commissioners, elected at a general election, at which a quorum is present.

1. Sec. 24B ins. by W.B. Act 27 of 1955.

2. Words, figures and brackets ins. by W.B. Act 51 of 1980.

## **25. Deposit by candidates for election :-**

(1) On or before the date fixed for the nomination of candidates, each candidate for election as a Commissioner shall deposit with the Chairman <sup>1</sup>[or the District Magistrate or the Magistrate-in-charge of the sub-division) the sum of rupees one hundred in cash and no candidate shall be deemed to be duly nominated unless such deposit has been made:

Provided that the <sup>2</sup>[State Government] may reduce the amount of deposit to fifty rupees in the case of such municipality as it thinks fit.

(2) If a candidate who has made a deposit under sub-section (1) withdraws his candidature before he is registered as a candidate or within three days of his registration or if his nomination is refused, his deposit shall be returned to him, and if a candidate dies before the poll is held, his deposit shall be returned to his legal representative.

(3) If the number of votes polled by a candidate <sup>3</sup> [other than a candidate . who is elected,] does not exceed ten per cent, of the total number of votes polled the deposit shall be forfeited to the Municipal Fund.

(4) The number of votes polled shall be deemed to be the number of ballot papers, other than spoilt ballot papers counted.

1. Words ins. by W.B. Act 10 of 1982.

2. Words "Provincial Government" first subs. for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937, and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

3. Words ins. by Ben. Act 11 of 1936,

### **25A. Election of ineligible person to be a Commissioner :-**

<sup>1</sup>Where a person who has been elected to be a Commissioner was not eligible for election on account of a disqualification mentioned in section 22, the election of such person shall be void upon the <sup>2</sup> [State Government] making a declaration to that effect:

Provided that such a declaration shall not be made if the question whether such person was so disqualified was raised in a petition under section 36 and decided on its merits or if such a petition, in which the question is raised, is pending disposal.

(2) No act done by such Commissioner in execution of the office before the time when the declaration under sub-section (1) is made shall be invalidated by reason of that declaration.

(3) If an election is declared void under sub-section (1) a date shall be fixed by the District Magistrate and the necessary steps taken for holding a fresh election for filling the vacancy, as though it had been a casual vacancy.

1. Sec. 25A ins. by Ben. Act 11 of 1936.

2. Words "Provincial Government" first subs. for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937, and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

### **26. On failure of election. Commissioners to be appointed by Government :-**

If the electorate in any municipality fails within the prescribed time to elect the number of Commissioners to be elected in accordance with the provisions of sections 16 <sup>1</sup>[ \*\*\*] <sup>2</sup>[ \*\*\*] a date shall be fixed by the District Magistrate for another election and in case the

electorate still fails to elect the number of Commissioners at such second election the <sup>3</sup>[State Government] may appoint Commissioners to complete that number. <sup>4</sup> [Any person so appointed shall be deemed to be duly elected Commissioner.]

1. Figures "17" om. by W.B. Act 11 of 1947.

2. Word and figures "or 18" om. by W.B. Act 22 of 1962.

3. Words "Provincial Government" first subs. for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937, and. thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order, 1950.

4. Words ins. by W.B. Act 11 of 1947.

## **27. Voting to be by ballot :-**

'The manner of holding elections shall be prescribed by rules made under this Act:

Provided that-

(i) when a poll is taken at any election of a Commissioner the voting at such election shall be by ballot to be conducted in the manner prescribed, and

(ii) no person shall be entitled to give more than one vote to any one candidate.

## **28. Offences in respect of electoral list :-**

(1) Every person who by claiming a qualification which he knows that he does not possess to vote at a municipal election or by using false documents or by a false declaration or by any other deceitful means procures <sup>1</sup>[or attempts to procure] the improper entry of the name whether of himself or of any other person in the electoral roll, or the improper omission of any name therefrom shall be punished with imprisonment which may extend to <sup>2</sup>[one year] or with fine or with both.

(2) Every municipal officer or <sup>3</sup>[employee] or polling officer who wilfully makes or procures <sup>4</sup> [or attempts to make or procure] any improper entry in the electoral roll or any improper omission therefrom shall be punished with imprisonment which may extend to six months or with fine or with both.

1. Words ins. by Ben. Act 11 of 1936.

2. Words subs. for the words "three months" by W.B. Act 22 of 1979.

3. Word subs. for the word "servant" by W.B. Act 51 of 1980.

4. Words ins. by Ben. Act 11 of 1936.

**29. Corrupt practices :-**

(1) A person shall be deemed to have committed a corrupt practice who directly or indirectly, by himself or by any other person-

(i) induces or attempts to induce by fraud or coercion any voter to give or refrain from giving a vote in favour of any candidate;

(ii) threatens any candidate or voter, or any person in whom a candidate or voter is interested with injury of any kind with a view to influence him in any way in connection with the election ;

(iii) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of divine displeasure or of spiritual censure with a view to influence him in any way in connection with the election;

(iv) employs, instigates or threatens any form of social boycott of any voter or candidate or of any one in whom such voter or candidate is interested ;

(v) with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any food or drink, or any money or valuable consideration, or any place or employment, or holds out any promise of individual advantage or profit to any person, including a promise of spiritual salvation ;

(vi) gives or procures the giving of a vote in the name of a voter who is not the person giving such vote ;

(vii) makes any payment or promise of payment to any person on account of the conveyance of any voter to or from any place for the purpose of recording his vote :

Provided that nothing contained in this clause shall prevent a conveyance being hired by a voter or by several voters at their joint cost, for the purpose of conveying him or them to or from the poll;

(viii) offers any money or valuable consideration to any person to induce him to withdraw from being a candidate at an election, or, being a candidate accepts any money or valuable consideration so offered ;

(ix) abets the doing of any of the acts specified in clauses (i) to (viii).

Explanations.-

(a) A "promise of individual advantage or profit to a person" includes a promise for the benefit of the person himself, or of any one in whom he is interested, but does not include a promise to further or oppose, or to vote for or against any particular municipal measure or work ;

(b) no agent, clerk, messenger, or other person who may in accordance with rules made by the <sup>1</sup> [State Government] be employed for remuneration by a candidate at an election shall by reason of such employment alone be deemed to come within the provision of this section.

(2) A corrupt practice shall be deemed to have been committed by a candidate if it has been committed with his knowledge and consent, or by a person who is acting under the general or especial authority of such candidate with reference to the election.

(3) Every person who is guilty of a corrupt practice at or in connection with an election held under the provisions of this Act shall be punished with imprisonment which may extend to six months or with fine or with both.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937, and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order, 1950.

### **30. Fraudulent voting and personation :-**

(1) Every person who applies for a ballot paper at an election having already voted once at the same election and in the same ward or knowing that <sup>1</sup> [his name is not included in the electoral roll], shall be punished with imprisonment which may extend to six months or with fine or with both.

(2) Every person who applies for a ballot paper in the name of any other person, living or dead, or of a fictitious person, shall be punished with the same punishment.

1. Words subs, for the words "he is not qualified to vote thereat" by Ben. Act 11 of 1936.

### **31. Infringement of secrecy of election :-**

Every polling officer, clerk or other person in attendance at the polling station who, except for some purpose authorised by law, communicates to any person any Information showing directly or indirectly for which candidate any voter has voted, and every person who by any improper means procures any such information, shall be punished with imprisonment which may extend to six months or with fine or with both.

**32. Offences by polling officers :-**

Every polling officer who permits a person to vote knowing that such person is not entitled to vote, or who prevents a person from voting knowing that such person is entitled to vote, shall be punished with Imprisonment which may extend to six months or with fine or with both.

**33. Falsifying result of election :-**

Every person who in the course of electoral operations falsifies or attempts to falsify the record of an election by removing, destroying, altering or fabricating nomination papers or voting papers or by any other act or by any omission shall be punished with imprisonment which may extend to one year or with fine or with both.

**34. Procedure before Magistrate :-**

<sup>1</sup> [No Judicial Magistrate other than a Judicial Magistrate] of the first class shall take cognizance of any offence punishable under sections 28 to 33 (both inclusive) nor shall any Magistrate take cognizance of such offence,-

(a) except on the complaint of a person whose name is on the electoral roll, and

(b) unless such complaint has been made within fourteen days of the date of the declaration of the result of any election to which the offence relates, or within seven days of the date on which the offence is alleged to have been committed, and

(c) except in the case of an offence punishable under sections 31 to 33 (both inclusive) unless the person complaining shall have deposited fifty rupees. The deposit mentioned in clause (c) shall be refunded to the complainant if the complaint is found to be true or if for any other reason the Magistrate or the Court of Sessions so directs. An appeal shall lie to the Court of Sessions from any conviction and sentence passed under sections 28 to 33 (both

inclusive)

.

1. Words subs, for the words "No Magistrate other than a Magistrate" by W.B. Act 51 of 1980.

**35. Order of disqualification :-**

Every person convicted of an offence punishable under sections 28 to 33 (both inclusive) <sup>1</sup> [of this Act or of an offence punishable under section 3 or section 9 of the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) Act, 1952] shall be disqualified from voting or from being elected in any election to which this Act applies and from holding the office of Chairman, or Commissioner under this Act for such period, not being less than three nor more than six years from the date of his conviction, as the Court may by order determine.

1. Words, brackets and figures ins. by W.B. Act 10 of 1952.

**36. Proceedings to set aside an election :-**

If the validity of any election of a Commissioner is brought in question by any person qualified to vote at the election to which such question refers, such person may, at any time within ten days after the date of the declaration of the result of the election, file a petition before the District Judge of the district within which the election has been or should have been held and shall at the same time deposit fifty rupees in court as security for the costs likely to be incurred:

Provided that the validity of such election shall not be questioned in any such petition-

(a) on the ground that the name of any person qualified to vote has been omitted from the electoral roll; or

(b) on the ground that the name of any person not qualified to vote has been inserted in the electoral roll:

**1**

Provided further that if only two candidates contested such election, the petitioner may in addition to calling in question the election of the returned candidate claim that if the election of the returned candidate is set aside the other candidate may be declared duly elected.

1. Proviso ins. by W.B. Act 27 of 1955



### **37. Procedure and powers of Judge holding inquiry :-**

(1) Where a petition has been filed under section 36 the District Judge, or any judicial officer subordinate to him and not below the rank of a Subordinate Judge {hereinafter referred to in this chapter as the Judge) to whom the District Judge may transfer the petition, may <sup>1</sup>(hold such inquiry in accordance with the prescribed procedure as he deems necessary].

(2) For the purposes of the said inquiry the Judge may summon and enforce the attendance of witnesses and compel them to give evidence as if he were a civil court, and may also direct by whom the whole or any part of the costs of such inquiry shall be paid and such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure, 1908.

(3) The Judge may, at any stage of the proceedings, require the petitioner to deposit in court a further sum as the costs incurred or likely to be incurred by any respondent, or to give security, or further security for the payment of the same, and if, within the time fixed by him or within such further time as he may allow, such costs are not deposited or such further security is not furnished, as the case may be, may dismiss the petition. <sup>2</sup> \*\*\*\*\*

1. Words subs, for the words and figures "after holding such inquiry in accordance with the prescribed procedure as he deems necessary, and subject to the provisions of sections 38 and 39. pass an order confirming or amending the declared result of the election or setting the election aside." by Ben. Act 11 of 1936.

2. Sub-sec (4) om. by Ben. Act 11 of 1936 which was as under.:-  
{4) The decision or order of the Judge shall be final.".

### **38. Setting aside of election :-**

**1**

(1) <sup>2</sup>[If the Judge, after holding an inquiry under section 37, is satisfied that]-

(a) a candidate has committed any corrupt practice within the meaning of section 29 for the purpose of the election, or

(b) the election has not been a free election by reason of the general employment of bribery or undue influence as defined in the <sup>3</sup>Representation of the People Act, 1951, or by reason of any form of general intimidation, including any form of social boycott, or

(c) the result of election has been materially affected by any non-

compliance with this Act or any rule made under this Act or by any mistake in the forms required thereby or by any error, irregularity, or informality on the part of any officer charged with or carrying out any duty under this Act or rules made under this Act, or

(d) the result of election has been materially affected by improper acceptance or refusal of candidate's nomination, <sup>4</sup>[he] shall set aside the election of such candidate, if he has been elected, and if the election is set aside for any cause which is the result of acts of a candidate or his agents may declare that candidate to be disqualified for the purpose of such fresh election as may be held under section 42.

<sup>5</sup> (2) If the petitioner has made a claim under the second proviso of section 36, and the Judge is of opinion that but for the votes obtained by the returned candidate as a result of the acts referred to in clause (a) or clause (b) of subsection (1), the other candidate would have obtained a majority of the valid votes, he may, after setting aside the election of the returned candidate, declare the other candidate to have been duly elected.

1. Sec. 38 renumbered as sub-sec.(1) and sub-sec.(2) ins. by W.B. Act 27 of 1955.

2. Words and figures subs, for the words 'The Judge, if he is satisfied that' by Ben. Act 11 of 1936.

3. Words and figures subs, for the words and figures "Indian Election Offences and Inquiries Act. 1920" by W.B. Act 51 of 1980.

4. Word ins. by Ben. Act 11 of 1936.

5. Sec. 38 renumbered as sub-sec.(1) and sub-sec.(2) ins. by W.B. Act 27 of 1955.

### **39. Scrutiny of votes and declaration in other cases :-**

If, in any case to which section 38 does not apply, the validity of an election is in dispute between two or more candidates, the Judge shall, after a scrutiny and computation of the votes recorded in favour of <sup>1</sup>[each] candidate, declare <sup>2</sup>[as many of the candidates who are found to have obtained consecutively the largest number of valid votes as there are seats] to have been duly elected. <sup>3</sup>[Every candidate at the election to which the dispute relates shall be deemed to be a party to such dispute] :

Provided that for the purpose of such computation no vote shall be reckoned as valid if the Judge finds that any corrupt practice was committed by any person, known or unknown, in giving or obtaining it: <sup>4</sup>

Provided further that if after computation there be an equality of votes among two or more candidates and if the number of seats is less than the number of such candidates, the Judge shall select one or more among them. as the case may require, by drawing lots.

1. Word subs, for the words "each such" by Ben. Act 11 of 1936.
2. Words subs, for the words "the candidate who is found to have the greatest number of valid votes in his favour" by W.B. Act 27 of 1955.
3. Words ins. by Ben. Act 11 of 1936.
4. Proviso ins. by W.B. Act 27 of 1955.

#### **39A. Confirmation of election by the Judge :-**

<sup>1</sup> If the Judge after holding an inquiry under section 37 is satisfied that no ground exists for setting aside the election in the manner provided in section 38 or modifying it in the manner

provided in section 39, he shall confirm the election.

1. Sees. 39A and 39B ins. by Ben. Act 11 of 1936.

#### **39B. Decision of the Judge to be final on proceedings to set aside election. :-**

<sup>1</sup> The decision or order of the Judge under sections 38, 39 or 39A shall be final.

1. Sees. 39A and 39B ins. by Ben. Act 11 of 1936.

#### **40. Disqualification of persons from being candidates who commit corrupt practices. :-**

If the Judge sets aside an election under section 38, he may, if he thinks fit, declare any person by whom a corrupt practice has in his opinion been committed within the meaning of section 29 to be disqualified from being a candidate for election in that or any other municipality for a period not exceeding six years, and the Judge's decision shall be final :

Provided, however, that such person may, by an order of the <sup>1</sup> [State Government], be at any time relieved from such disqualification.

1. Words "Provincial Government" first subs, for the words "Local Government" by The Government of India (Adaptation of Indian Laws) Order, 1937, and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order, 1950.

#### **41. Saving of acts done by a Commissioner before his election is set aside. :-**

Where a candidate, who has been elected to be a Commissioner, is declared by the Judge not to have been duly elected, acts done by him in execution of the office before the time when the decision is certified to the Commissioners shall not be invalidated by reason of that declaration.

**42. Fresh election when election is set aside :-**

If an election is set aside by the Judge, a date shall forthwith be fixed and the necessary steps taken for holding a fresh election for filling up the vacancy, as though it has been a casual vacancy.

**43. Bar to interference by courts in election matters :-**

No election of a Commissioner shall be called in question in any court except under the procedure provided by this Act, and no order passed in any proceeding under sections 36 to 40 (both inclusive), shall be called in question in any court and no court shall grant an injunction-

- (i) to postpone an election of a Commissioner, or
- (ii) to prohibit a person, declared to have been duly elected under this Act, from taking part in the proceedings of a municipality of which he has been elected a Commissioner, or
- (iii) to prohibit the Commissioners formally elected or appointed for a municipality from entering upon their duties.

**44. Rules :-**

**1**

(1) For the purpose of election of Commissioners the <sup>2</sup>[State Government] may, with respect to municipalities generally or to any municipality or class of municipalities, make such rules, as it may think fit, to regulate and determine-

(a) the alteration of-

(i) the boundaries of, and

(ii) the number of Commissioners apportioned to, any ward of a municipality ;

(b) the preparation, publication and revision of the electoral roll, the registration of voters and the nomination and registration of candidates; **3\* \*\*\*\*\* 4\* \*\*\*\*\***

(e) the dates, time and manner of holding elections, including the

manner of giving and recording votes;

(f) the procedure to be followed by a Judge in inquiring into election petitions;

(g) the employment of agents, clerks, messengers or other persons by a candidate for the purpose of an election; and

(h) any other matter relating to elections or election petitions in respect of which this Act makes no provision or in the opinion of the <sup>2</sup>[State Government] insufficient provision.

## **6**

(2) The State Government may issue such general or special directions as may in its opinion be necessary for the purpose of carrying out the provisions of the Act or the rules made thereunder In the matter of holding of election of Commissioners of municipalities.

1. Sec. 44 renumbered as sub-sec. (1) and sub-sec. (2) Ins. by W.B. Act 51 of 1980.

2. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937, and. thereafter, the word "State" subs, for the word "Provincial by the Adaptation of Laws Order, 1950,

3. Clause(c) om. by W.B. Act 22 of 1962 which was as under:- "(c) with reference to sub-clause(a) of clause(iii) of sub-section (2) and clause(ii) of sub-section (5) of section 23, the minimum sums entitling a person to vote."

4. Clause(d) om. by W.B. Act 25 of 1950 which was as under:- (d) the representation of a minority community under section 19:".

6. Sec. 44 renumbered as sub-sec.(1)and sub-sec.(2) ins. by W.B. Act 51 of 1980.

### **45. Election of Chairman :-**

(1) The Commissioners of every municipality shall, at a meeting to be held within <sup>22</sup>[thirty] days from the date of the publication in the <sup>23</sup>[Official Gazette] of the result of a general election of Commissioners in the municipalities, or <sup>24</sup>[where Commissioners are appointed within <sup>22</sup>{thirty) days from the date of publication of the names of the persons appointed], elect by name in the prescribed manner one of their number to be Chairman: <sup>25</sup>

Provided that the State Government may extend the period of thirty days by such period as it thinks fit.

(2) In the case of a vacancy in the office of Chairman other than a vacancy occurring under the provisions of section 59 the Commissioners shall at a meeting to be held within <sup>22</sup>[thirty] days from the date of the occurrence of the vacancy elect by name in the prescribed manner one of their number to fill the vacancy.

(3) If the election of a Commissioner who is also elected Chairman is set aside by the Judge under section <sup>26</sup>[38], the Chairman shall be deemed to have vacated his office from the date of receipt by the Commissioners of such order,

**27**

(4) The meeting to be held under sub-section (1) shall be convened <sup>28</sup>[by the District Magistrate or any other Executive Magistrate authorised by the District Magistrate in this behalf]. Seven clear days' notice shall be given of the meeting.

(5) The meeting to be held under sub-section (2) shall be convened by the Vice-Chairman and if notices of the meeting are not issued within ten days from the date referred to in sub-section (2) <sup>29</sup>[may be convened by requisition of any three of the Commissioners. Seven clear days' notice shall be given of the meeting:] <sup>30</sup>

Provided that where the office of the Vice-Chairman has also fallen vacant such meeting shall be convened by the District Magistrate or any other

22. Word subs, for the word "twenty-one" by W.B. Act 28 of 1951.

23. Words subs, for the words "Calcutta Gazette" by the Government of India (Adaptation of Indian Laws) Order, 1937.

24. Words subs, for the words "of the names of the persons appointed to be Commissioners, whichever publication may be later" by W.B. Act. ] 1 of 1947.

22. Word subs, for the word "twenty-one" by W.B. Act 28 of 1951.

25. Proviso ins. by W.B. Act 28 of 1951.

22. Word subs, for the word "twenty-one" by W.B. Act 28 of 1951.

26. Figures subs, for the figures "37" by W.B. Act 28 of 1951.

27. Sub-sec. (4) subs, by W.B. Act 28 of 1951 which was as under:- "(4) The meeting to be held under sub-section (1) shall be convened by the Chairman of the outgoing body of Commissioners, or in the case of a newly created and constituted municipality by the Magistrate, and if notices of the meeting are not issued within ten days from the date referred to in sub-section (1) maybe convened by requisition of any three of the Commissioners. Seven clear days' notice shall be given of the meeting."

28. Words subs, for the words "by the Magistrate" by W.B. Act 51

of 1980.

29. Words subs, for the words, figures and brackets "there shall be a like right or convention thereof by three Commissioners and a like period of notice to that provided by sub-section (4)" by W.B. Act 28 of 1951,

30. Proviso ins. by W.B. Act 51 of 1980.

**46. (2) The Commissioner so appointed shall ordinarily be a non-official except when the 32[State Government] is of opinion that it is necessary to appoint a Government official. :-**

**47. . :-**

**1 \*\*\*\*\***

1. Sec. 47 rep. by Ben. Act 9 of 1933 which was as under:- "47. Status of appointed Chairman.-Notwithstanding anything contained in section 15 every Chairman appointed under this Act, if not already a Commissioner of the municipality of which he has been appointed Chairman, shall, from the date of his appointment, during the term of his office, enjoy all the rights and privileges, and be subject to all the liabilities and disabilities of a Commissioner of the municipality to which such appointment relates, but shall not be reckoned in calculating the proportions of one-fourth and one-fifth under the provisions of sections 16 and 17."

**48. Election of Vice-Chairman :-**

The Commissioners at a meeting shall elect by name in the prescribed manner one of their own number to be Vice- Chairman.

**49. Dispute as to elections of Chairman or Vice-Chairman :-**

If any dispute arises as to the election of a Chairman or Vice-Chairman the matter shall be referred to the <sup>1</sup> [State Government], whose decision shall be final and shall not be questioned in any court.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India [Adaptation of Indian Laws) Order, 1937. and, thereafter, the word "State" subs, for the word "Provincial by the Adaptation of Laws Order. 1950.

**50. Publication of elections and of nominations :-**

The names of all persons elected or appointed as Chairman, Vice-Chairman or Commissioners shall be published in the <sup>1</sup> [Official Gazette].

1. Words subs, for the words "Calcutta Gazette" by the Government of India (Adaptation of Indian Laws) Order, 1937.

**50A. Majority of Commissioners elected at a general election to function when election of some Commissioners cannot be held :-**

**1**

(1)

(a) the election of any Commissioner from any ward of the municipality cannot be held, or

(b) if held, the result of such election cannot be published in the Official Gazette, by reason of the order of a Court or for any other reason, within such time as the State Government considers reasonable, the State Government may, if it thinks fit so to do in the interest of municipal administration, by order, direct that such of the Commissioners of the municipality as have been elected and are able to assume office as Commissioners shall forthwith assume such office:

Provided that no order shall be made under this sub-section unless at least <sup>2</sup> [four-fifths] of the total number of Commissioners specific for the municipality under section 15 have been elected and are able to assume office

,

(2) Upon an order under sub-section (1) being made, the names of the Commissioners who have been elected and as regards the publication of the result of whose election there is no impediment shall be published in the Official Gazette and such Commissioners shall assume office as the newly- formed body of Commissioners after a general election of Commissioners in the municipality and shall be deemed to constitute for the time being the total number of Commissioners for the municipality.

(3) Any Commissioner of the municipality who is subsequently elected or whose name is subsequently published in the Official Gazette as a Commissioner shall be entitled to assume office as Commissioner, but his term of office shall be deemed to have commenced from the date of the first meeting, at which a quorum is present, of the Commissioners referred to in sub-section (2).

1. Sec. 50A ins. by W.B. Act 22 of 1969.

2. Sub-sec.(2) first subs, by W.B. Act 27 of 1955. then again subs, by W.B. Act 51 of 1980. Previous sub-sec.(2) was as under:- "(2) In any municipality where an Executive Officer is appointed under



section 66 or sub-section (1) or sub-section (4) of section 67. the Commissioners at a meeting may, notwithstanding anything contained in sub-section (1). delegate to him all or any of the powers of the Commissioners and shall, if required by the State Government to do so. delegate to him such powers of the Commissioners as the State Government may direct, and upon such delegation the Commissioners shall cease to exercise the powers so delegated to the Executive Officer."

## **51. Powers of Chairman :-**

(1) <sup>1</sup>[Save as hereinafter otherwise provided, the Chairman] shall for the transaction of the business connected with this Act, or for the purpose of making any order authorised thereby, exercise all the powers vested by this Act in the Commissioners and, where by any other law power is vested in the Commissioners for any purpose, the Chairman. may transact any business or make any order authorised by that law in the exercise of that power, unless it is otherwise expressly provided in that law: Provided that the Chairman shall not act in opposition to, or in contravention of, any order of the Commissioners at a meeting or exercise any power which is directed to be exercised by the Commissioners at a meeting.

**2**

(2) In any municipality where an Executive Officer is appointed under section 66, the Commissioners at a meeting may, notwithstanding anything contained in sub-sectionfJJ, delegate to him all or any of the powers of the Commissioners and upon such delegation the Commissioners shall cease to exercise the powers so delegated to the Executive Officer:

Provided that the Commissioners at a meeting may at any time withdraw or modify the powers so delegated.

1. Words subs, for the words "The Chairman" by W.B. Act 27 of 1955.

2. Sub-sec.(2) first subs, by W.B. Act 27 of 1955. then again subs, by W.B. Act 51 of 1980. Previous sub-sec.(2) was as under:- "(2) In any municipality where an Executive Officer is appointed under section 66 or sub-section (1) or sub-section (4) of section 67. the Commissioners at a meeting may, notwithstanding anything contained in sub-section (1). delegate to him all or any of the powers of the Commissioners and shall, if required by the State Government to do so. delegate to him such powers of the Commissioners as the State Government may direct, and upon such delegation the Commissioners shall cease to exercise the powers so

delegated to the Executive Officer."

**52. Delegation of duties or powers to Vice-Chairman or certain officers :-**

The Commissioners at a meeting specially convened for the purpose or the Chairman may delegate to the Vice-chairman or to the holder of any of the other offices referred to <sup>1</sup> [sub-sections(2) and (3) of section 6], all or any of the duties or powers of a Chairman as defined in this Act, and may at any time in the like manner withdraw or modify the same:

Provided that in the case of a Chairman appointed under section 46 the delegation of duties or powers to the Vice-Chairman by the Commissioners shall be subject to the approval of the [State Government]:

Provided also that nothing done by the Vice-Chairman which might have been done under the authority of a delegation from the Chairman shall be invalid for want of or defect in such delegation if it be done with the express or implied consent of the Chairman and subsequently approved by the Commissioners at a meeting.

1. Words, figures and brackets subs, words, figures and brackets "In sub-section(1) of section 73" by W.B. Act 51 of 1980.

**53. Delegation of powers by the Executive Officer :-**

The Executive Officer may with the approval of the Commissioners at a meeting delegate all or any of his powers to the holder of any office under the Commissioners.

**54. Duties of Vice-Chairman :-**

The Vice-Chairman-

(a) shall, during a vacancy in the office of Chairman or the incapacity or temporary absence of the Chairman, perform any duty and, when occasion arises, exercise any power of the Chairman,

(b) shall, at any time, perform any duty and exercise, when occasion arises, any power delegated to him under section 52.

**55. Grant of leave to Chairman and Vice-Chairman :-**

(1) The Commissioners at a meeting may grant leave of absence to their Chairman or Vice-Chairman for any period not exceeding three months in any one year.

(2) If the Chairman or Vice-Chairman is absent from his duties

during any one year for more than the three months allowable by way of leave under this section, he shall be declared by the [State Government] to have vacated his office unless such absence is [sanctioned by the Commissioners at a meeting for reasons to be recorded in writing.]

**56. Tenure of office of Chairman, Vice-Chairman and Commissioners :-**

(1) Except as otherwise provided in this Act-

(a) a Commissioner,<sup>1</sup>\* \* \* \* shall hold office for four years commencing from the date of the first meeting of the newly-formed body of

(b) an elected Chairman and a Vice-Chairman shall, subject to the provisions of section 59, hold office for four years from the date of his election and an appointed Chairman shall subject to the provisions of section 59 hold office for such period not exceeding four years as the <sup>2</sup>[State Government] may in each case determine.

(2) The term of four years referred to in sub-section(1) <sup>3</sup>[or if the said term is extended under sub-section(5) then the term as so extended,] shall be held to include any period which may elapse between the expiry of the <sup>4</sup>[said term or of the extended term, as the case may be,] and the date of the first meeting of the newly-formed body of Commissioners at which a quorum is present.

(3) A person ceasing to be a Commissioner or to be Chairman or Vice-Chairman by reason of the expiry of his term of office shall, if otherwise qualified, be eligible for re-election or re-appointment <sup>5</sup>for the purpose of section 26].

(4) If the <sup>2</sup>(State Government] in the exercise of its powers under <sup>7</sup>[section 20] increases the number of Commissioners of any municipality at any time before the expiry of the term of four years, provided by clause(a) of sub- section(1), the term of office of the Commissioners thus added shall not extend beyond the said term of four years as above defined.

(5) The <sup>2</sup>[State Government] may extend the term of office of the Commissioners of a municipality <sup>9</sup>[for any period or periods <sup>10</sup> (not exceeding one year) in aggregate] beyond the term of four years, provided by clause(a) of sub-section(1). if in special circumstances

(to be specified in the notification) it so thinks fit.

1. Words "whether elected or appointed" om. by W.B, Act 11 of 1947.
2. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937, and, thereafter, the word "State" subs, for the word "Provincial by the Adaptation of Laws Order, 1950.
3. Words ins. by W.B. Act 18 of 1961.
4. Words subs, for the words "said four years" by W.B. Act 18 of 1961.
5. Words and figures ins. by W.B. Act 11 of 1947.
7. Words and figures subs, for words, figures, letter and brackets "clause(1) of sub-section (1) of section 6" by W.B. Act 51 of 1980.
9. Words subs, for the words "for a period not exceeding one year" by W.B. Act 3 of 1960.
10. Words subs, for the words "not exceeding two years" by W.B. Act 51 of 1980.

**56A. Appointment of Committee in case of delay in forming new body of Commissioners by reason of order of Court or for other reason :-**

**12**

(I)

(a) Where after the expiry of the term of office of the Commissioners of a municipality under sub-section(1) or sub-section(5) of section 56, the State Government is of opinion that by reason of the order of a court or for any other reason, there is no likelihood of a new body of Commissioners being formed within a reasonable time by a general election, or

(b) where the Commissioners elected at a general election cannot, for any reason, assume office or are restrained by order of a court from functioning, or

(c) where the general election is set aside by a court, the State Government may, if it thinks fit so to do in the public interest, by order, appoint a Committee consisting of the same number of members as the Commissioners of the municipality to take charge of the administration of the affairs of the municipality in accordance with the provisions of this Act and the rules and by-laws made thereunder,

(2) No person shall be appointed as a member of the Committee if he is subject to any of the disqualifications mentioned in section 22,

### 3

(3) The members of the Committee appointed under sub-section (1) shall elect a President and a Vice-President from amongst themselves at a meeting convened in the manner laid down in section 45 :

Provided that the State Government may appoint from amongst the members of the Committee a President and a Vice-President who shall hold office till such election.

(4) Upon the appointment of the Committee under subsection (1), all the Commissioners of the municipality continuing in office by virtue of sub-section (2) of section 56 shall be deemed to have vacated their offices as such Commissioners.

(5) The members of the Committee shall for all purposes be deemed to be the Commissioners of the municipality and the President and the Vice- . President of the Committee shall be deemed to be the Chairman and the Vice- Chairman, and references in this Act or any other Act or any rule, by-law, order or notification made under this Act or any other Act to the Commissioners of the municipality, the Chairman and the Vice-Chairman shall be construed as references respectively to the members of the Committee, the President and the Vice-President of the Committee.

### 4

(6) The members of the Committee shall hold office-

(i) where such Committee is appointed on the ground referred to in clause (a) of sub-section (1), till the date of the first meeting, at which a quorum is present, of the newly-formed body of Commissioner of the municipality after a general election,

(ii) where such Committee is appointed on any of the grounds referred to in clause (b) of sub-section (I), till the date of the first meeting, at which a quorum is present, of the Commissioners elected at a general election after the reason for which they could not assume office ceased to exist or, as the case may be, the order of the court restraining them from functioning ceased to be operative, and

(iii) where the. general election is set aside by the order of the court till the date of the first meeting, at which a quorum is

present, of the Commissioners elected at the next general election which shall be held within a period of one year.

(7) If the office of a member of the Committee falls vacant by resignation, death or otherwise, the State Government shall appoint another person as member to fill the vacancy; and if the office of the President or the Vice-President falls vacant for similar reasons the State Government shall appoint one of the members of the Committee to be the President or the Vice-President, as the case may be.

1. Sec. 5GA Ins. by W.B. Act 22 of 1969.

2. Sub-sec. (1) subs, by W.B. Act 51 of 1980 which was earlier as under:- "(1) Where after the expiry of the term of office of the Commissioners of a municipality under sub-section (1) or sub-section (5) of section 56. the State Government is of opinion that by reason of the order of a Court or for any other reason, there is no likelihood of a new body of Commissioners being formed within a reasonable time to take over municipal administration, the State Government may, if it thinks fit so to do in the public interest, by order, appoint a Committee consisting of the same number of members as the Commissioners of the municipality to take charge of the administration of the affairs of the municipality in accordance with the provisions of this Act and the rules and the by-laws made thereunder."

3. Sub-sec.(3) subs, by W.B. Act 51 of 1980 which was earlier as under:- "(3) The State Government shall appoint one of the members of the Committee to be the President and another member to be the Vice-President. of the Committee."

4. Sub-sec.(6) subs, by W.B. Act 51 of 1980 which was as under:- (6) The members of the Committee shall hold office till the date of the first meeting, at which a quorum is present, of the newly-formed body of Commissioners after a general election of Commissioners held under the provisions of this Act or any other Act applicable to the area comprised within the municipality."

## **57. Oath of allegiance to be taken by Commissioners :-**

(1) Notwithstanding anything contained in the Indian Oaths Act, 1873, every person who is elected or appointed to be a Commissioner shall before taking his seat make <sup>54</sup>[and subscribe], <sup>55</sup>[before the Chairman, the Vice-Chairman, the District Magistrate, the Magistrate-in-charge of the sub-division in which the municipality is situated or an officer of the State Government authorised <sup>56</sup>[Constitution of India) in the following form, namely:-

"I, A.B., having been elected appointed a Commissioner of this municipality, do . <sup>57</sup>[swear in the name of God (solemnly affirm)

that I will bear true faith and allegiance) to <sup>58</sup>[the Constitution of India as by law established], and that I will faithfully discharge the duties upon which I am about to enter."

(2) Any person who having been elected or appointed a Commissioner fails to make, within three months of the date on which his term of office commences, the oath or affirmation laid down in sub-section (1) shall cease to hold his office and his seat shall be deemed to have become vacant.

(3) Notwithstanding anything contained in the Indian Oaths Act, 1873, every elected or appointed Commissioner of a municipality holding office at the commencement of this Act shall, at the first meeting of the Commissioners which he attends after the commencement of this Act, make an oath or affirmation of his allegiance to the <sup>59</sup>[Government] in the following form namely:-

"I, A.B., a Commissioner of this municipality, do solemnly swear (or affirm) that I will be faithful and bear true allegiance to <sup>58</sup>[the Constitution of India as by law established] and that I will faithfully discharge the duties of a Commissioner of this municipality."

(4) Any elected or appointed Commissioner holding office at the commencement of this Act who fails to make, within three months from the commencement of this Act, the oath or affirmation laid down in subsection (3) shall cease to hold his office and his seat shall be deemed to have become vacant.

**60**

(5) Where any person has failed whether before or after the commencement of the Bengal Municipal (Amendment) Act, 1933, to make the oath or affirmation of allegiance or has made such oath or affirmation otherwise than in accordance with the provisions of this section and the <sup>61</sup>[State Government] is satisfied that the failure of such person to comply with the provisions of this section was due to inadvertence or misapprehension or that such person is an alien exempted from the disabilities imposed by the Bengal (Aliens) Disqualification Act, 1918, in respect of election or appointment as a Commissioner, the <sup>61</sup>[State Government] may declare that the failure of such person to comply with the provisions of this section is condoned.

**60**

(6) When a declaration has been made by the 61[State Government] under sub-section(5) in respect of any person, such person shall be deemed

(7) Where all the Commissioners of a municipality have failed to make the oath or affirmation under this section or where the number of Commissioners who have made the oath or affirmation is insufficient to allow of a quorum being formed under section 82 and the 62a[State Government] is not satisfied that the failure of the Commissioners who have failed to make the oath or affirmation was due to inadvertence or misapprehension, the 62a[State Government] may, by an order published in the 63[Official Gazette], supersede the Commissioners of the municipality for a period to be specified in the order and thereupon the consequences specified in 64\*\*\*\*\* of section 554 shall ensue. Thereafter the 62a[State GqvernmentJ shall, as soon as may be convenient, reconstitute the Commissioners of the municipality by a fresh general election 65\* \* \* \* and the persons who failed to make the oath or affirmation shall not be deemed disqualified for election or appointment 66 [under section 26].

54. Words Ins. by W.B. Act 25 of 1950.

55. Words and brackets "in presence of the other Commissioners (or such number of them as would be sufficient to form a quorum at a meeting) assembled for a meeting of which notice has been given" first subs, for the words "at a meeting of the Commissioners" by Ben. Act 11 of 1936. then the words within third brackets subs, for the words and brackets, "in presence of the other Commllssionersfor such number of them as would be sufficient to form a quorum at a meeting) assembled for a meeting of which notice has been given" by W.B. Act 23 of 1965.

56. Words subs, for the word "Crown" by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order. 1948.

57. Words and brackets subs, for the words and brackets "solemnly swear (or affirm) that I will be faithful and bear true allegiance" by W.B. Act 25 of 1950.

58. Words subs, for the words "His Majesty the King-Emperor of India, His heirs and successors" by the Indian Independence {Adaptation of Bengal and Punjab Acts) Order, 1948.

59. Word subs, for the word "Crown" by the Adaptation of Laws Order, 1950.

58. Words subs, for the words "His Majesty the King-Emperor of India, His heirs and successors" by the Indian Independence {Adaptation of Bengal and Punjab Acts) Order, 1948.

60. Sub-sees. (5). (6) and (7) Ins. by Ben. Act 9 of 1933.

61. Words "Provincial Government" first subs, for the words "Local



Government" by the Government of India (Adaptation of Indian Laws) Order. 1937. and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

60. Sub-sees. (5). (6) and (7) Ins. by Ben. Act 9 of 1933.

62a. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and, thereafter, the word "State" subs. for the word "Provincial" by the Adaptation of Laws Order, 1950.

62a. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and, thereafter, the word "State" subs. for the word "Provincial" by the Adaptation of Laws Order, 1950.

63. Words subs, for the words "Calcutta Gazette" by the Government of India (Adaptation of Indian Laws) Order. 1937.

64. Words, figure, letters and brackets "clauses (b) and (c) of sub-section (1)" om. by W.B. Act 51 of 1980.

65. Words "and fresh appointment" om. by W.B. Act 11 of 1947.

66. Words and figures ins. by W.B. Act 11 of 1947.

## **58. Filling of vacancies and tenure of office of person filling vacancy :-**

(1) If the election of any Commissioner<sup>1</sup> [is set aside] under the provisions of sections 38 and the Judge does not declare that person to be disqualified for the purpose of such fresh election as may be held under section 42, the said person shall be eligible for re-election in the vacancy so caused.

(2) If the election of any Commissioner is set aside under the provisions of sections 38 and the Judge declares that person to be disqualified for the purpose of such fresh election as may be held under section 42, or if any Commissioner, Chairman or Vice-Chairman is by reason of his death, resignation or removal or by reason of his seat becoming vacant under the provisions of section 55 or section 57 unable to complete his full term of office, or if a Chairman or Vice-Chairman is granted leave under section 55 the vacancy so caused shall be filled by the appointment or election, as the case may be, of another person.

(3) The person elected or appointed to a vacancy referred to in sub-section(1) or sub-section (2) shall fill such vacancy for the unexpired remainder of the term for which such Commissioner, Chairman or Vice-Chairman would otherwise have continued in office or during his absence on leave, as the case may be.

1. Words subs, for the words "is not set aside" by Ben. Act 9 of 1933.

**59. Vacation of office by Chairman and Vice-chairman after general election :-**

(1) Notwithstanding anything contained in section 56, a Chairman and a Vice-Chairman shall be deemed to have vacated office as soon as the newly-formed body of Commissioners has assembled at the meeting held under the provisions of sub section (1) of section 45.

(2) The Commissioners assembled shall thereupon appoint one of their number to preside at the meeting and shall proceed to elect a Chairman and a Vice-Chairman:

Provided that if the Commissioners at the meeting fail to elect a Chairman, the Chairman of the outgoing body of Commissioners shall thereafter resume office and continue to hold the same until the new Chairman is elected or appointed.

**60. Resignation of Chairman, Vice-Chairman or Commissioner :-**

(1) An appointed Chairman may resign by notifying in writing his intention to do so to the <sup>1</sup> [State Government], and on such resignation being accepted shall be deemed to have vacated his office.

(2) An elected Chairman may resign by laying notice in writing of his intention to do so before the Commissioners at a meeting.

(3) A Vice-Chairman or Commissioner may resign by notifying his intention to do so to the Chairman, who shall forthwith lay such notice before the Commissioners at a meeting.

(4) On a resignation under sub-section (2) or sub-section (3) being accepted by the Commissioners at a meeting, the Chairman, Vice-Chairman or Commissioner, as the case may be, shall be deemed to have vacated his office.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws} Order. 1937, and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

**61. Removal of Chairman and Vice-Chairman :-**

(1) The <sup>1</sup> [State Government] may at any time remove a Chairman appointed by it.

**2**

(2) An elected Chairman or Vice-Chairman may at any time be removed from his office by resolution of the Commissioners carried in this behalf by the votes of <sup>3</sup>[more than one-half of] the total number of Commissioners <sup>4</sup>\*\*\*\*\*

**5**

(3) Written notice of the intention to move the resolution signed by not less than one-third of the total number of Commissioners holding office for the time being together with a copy of the resolution shall be delivered <sup>6</sup>[to the Chairman and the Chairman shall] convene a special meeting of the Commissioners for the consideration of the resolution, to be held at the municipal office on a date not later than thirty days from the date on which the notice was delivered to him, and shall give not less than fifteen clear days' notice of the meeting to the Commissioners.

**5**

(4) At such special meeting while any resolution for the removal of the Chairman is under consideration, the Chairman, or while any resolution for the removal of the Vice-Chairman is under consideration, the Vice-Chairman, shall not, though he is present, preside and the provisions of section 79 shall apply in relation to every such meeting as they apply in relation to a meeting from which the Chairman or, as the case may be, the Vice-Chairman is absent.

**5**

(5) If the resolution after being put to vote is not carried by the votes of more than one-half of the total number of Commissioners holding office for the time being, no notice of any subsequent resolution for the removal of the same Chairman or Vice-Chairman shall be given until after the expiry of six months from the date of the meeting referred to in sub-section (3).

**5**

(6) If, within fifteen days of the receipt of the notice of the intention to move the resolution, <sup>10</sup>[the Chairman] fails to give notice convening a special meeting as aforesaid, any three of the Commissioners, who had signed such notice, may, within seven days from the expiry of the period of fifteen days heretofore

referred in this sub-section, call such special meeting giving at least seven clear days' notice together with a copy of the resolution to the Commissioners and notwithstanding anything contained in section 79, the Commissioners shall elect one of their number to preside at such special meeting.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws} Order. 1937, and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

2. Sub-sec. (2) subs. by W.B. Act 27 of 1955 which was earlier as under;- "(2) An elected Chairman and a Vice-Chairman may at any time be removed from his office by a resolution of the Commissioners in favour of which not less than two-thirds of the whole number of the Commissioners have given their votes at a meeting specially converted for the purpose."

3. Words subs, for the words "not less than two-thirds of by W.B. Act 51 of 1980,

4. Proviso om. by W.B. Act 51 of 1980 which was as under:- "Provided that if the number of Commissioners who have given their votes in favour of such resolution is less than two-thirds of the total number of Commissioners holding office for the time being but more than half the number of such Commissioners, the State Government may, by order, remove the Chairman or the Vice-Chairman. as the case may be, from his office."

5. Sub-secs.(3), (4), (5) and (6) first ins. by W.B. Act 27 of 1955, then sub-sec.(4) subs, by W.B. Act 51 of 1980. Previous sub-sec. 14) was as under:- "(4) Notwithstanding anything contained in section 79. the District Magistrate or any other Magistrate of the first class authorisni by the District Magistrate in {his behalf shall preside at such special meeting and no other person shall preside thereat."

6. Words subs, for the words and figures "to the District Magistrate and the District Magistrate shall, notwithstanding anything contained in section 78." by W.B. Act 51 of 1980.

10. Words subs, for the words "the District Magistrate" by W.B. Act 51 of 1980.

## **62. Removal of Commissioners :-**

(1) The <sup>1</sup>[State Government] may remove an elected Commissioner on the ground of misconduct In the discharge of his duties if the removal is recommended by a resolution of the Commissioners passed at a special meeting called for the purpose and supported by the votes of 76[a majority of the total number of Commissioners of the municipality holding office for the time being.]

(2) The <sup>2</sup>[State Government] may remove any Commissioner-

(a) if he refuses to act or becomes incapable of acting, or is declared insolvent, or if after his election as Commissioner, he is convicted of an offence which in the opinion of the <sup>2</sup>[State Government] involves moral turpitude; or

(b) <sup>4</sup>\*\*\*\*\*

(c) <sup>5</sup>[except when he is confined in a prison or is in the lawful custody of the police or is under preventive detention, if he absents himself] from meetings of the Commissioners for three months continuously without having obtained permission from the Commissioners at a meeting; or

(d) if he, being a legal practitioner without the consent of the Chairman, acts or appears in any suit or other proceeding, on behalf of any other person, against the Commissioners, or acts or appears on behalf of any other person in any criminal proceeding instituted by or on behalf of the Commissioners ; or

(e) if he knowingly acquires or continues to have directly or indirectly by himself or his partner, any share or interest in any contract or

(f) if he is in arrears for more than <sup>6</sup>[six months] in payment of rates and taxes and the <sup>7</sup>[State Government] after due inquiry is of opinion that the Commissioner has no reasonable cause for default.

<sup>8</sup>\*\*\*\*\*

(3) Before removing a Commissioner under sub-section(1) or subsection (2) the <sup>9</sup> [State Government] shall allow the Commissioner concerned an opportunity of being heard.

(4) All acts and proceedings of any Commissioners removed under sub-section(1) or sub-section(2) shall, if done previously to such removal, be valid and effectual to all intents and purposes.

(5) Notwithstanding anything contained in clause(e) of sub-section(2) no person shall be deemed to be disqualified thereunder by reason only-

(a) of his having a share or interest in-

(i) a contract entered into between the Commissioners and any incorporated or registered company of which such Commissioner is a member or shareholder; or

(ii) any lease, or purchase of land, or any agreement for the same;  
or

(iii) any agreement for the loan of money, or any security for the payment of money only; or

(iv) any newspapers in which any advertisement relating to the affairs of the municipality is inserted;

(b). of his being professionally engaged on behalf of the Commissioners as a legal practitioner and receiving a fee for services rendered in his professional capacity:

Provided that no such Commissioner shall act as a Commissioner or member of a committee, or take part in any proceedings relating to any matter in which he has a share or interest as described in clause(a) of this sub section.

1. Words subs, for the words "not less than two-thirds of the whole number of Commissioners of the municipality." by W.B. Act 51 of 1980.

2. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India )Adaptation of Indian Laws) Order, 1937, and, thereafter, the word "State" subs, for the word "Provincial by the Adaptation of Laws Order. 1950.

4. Clause(b) om. by W.B. Act 51 of 1980 which was as under:- "(b) if he has been declared by the State Government by notification issued after due inquiry to have violated his oath of allegiance: or".

5. Words subs, for the words "if he absents himself" by W.B. Act 51 of 1980.

6. Words subs, for the words "one year" by W.B. Act 28 of 1951.

7. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order. 1937, and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

8. Explanation om. by W.B. Act 51 of 1980 which was as under:- "Explanation to clause (b).-A person who by constitutional means endeavours to make changes in the Constitution shall not be deemed to have thereby violated his oath of allegiance.".

9. Words, letter and brackets "or clause (b)" om.by W.B. Act 51 of 1980.

### **63. Effect of removal of a Commissioner :-**

(1) A Commissioner who has been removed from his office under sub-section (1) or under clause(a) 62 \*\*\*\* <sup>1</sup>[State Government].

(2) A Commissioner who has been removed from his office in any municipality under clauses(c), (d), (e) or (f) of sub-section (2) of

section 62 shall not be elected or re-elected a Commissioner of that municipality within the period of three years from the date of his removal.

(3) A Chairman <sup>2</sup>[or a Vice-Chairman] in respect of whom a final order has been made under section 62 removing him from the municipality as Commissioner, shall thereupon cease to be Chairman <sup>3</sup> [or Vice-Chairman, as the case may be].

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937, and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

2. Words ins .by W.B. Art 28 of 1951.

3. Words ins.by W.B. Act 28 of 1951.

#### **64. Allowances and travelling expenses of the Chairman, Vice- Chairman and Commissioners :-**

<sup>1</sup> Out of the municipal fund-

(a)

(i) the Chairman and the Vice-Chairman shall be paid a monthly allowance,

(ii) the Chairman shall be paid a sumptuary allowance, and

(iii) each Commissioner, other than the Chairman and the Vice-Chairman, shall be paid an allowance for attending each meeting of the Commissioners, at such rate as may be prescribed:

Provided that the rate shall be fixed after taking into account the financial position of the municipality;

(b) the Chairman, the Vice-Chairman and the other Commissioners shall be paid such travelling expenses as may be incurred in performing journeys for carrying out the purposes of this Act in accordance with rules framed by the State Government.

1. Sec. 64 subs, by W.B. Act 51 of 1980 which was earlier as under:- "64. Travelling expenses of Chairman, Vice-Chairman and Commissioner.- The Commissioners at a meeting may. from time to time, in accordance with rules framed by the State Government pay out of the Municipal Fund to the Chairman or Vice-Chairman. or a Commissioner such travelling expenses as may be incurred in performing journeys for carrying out the purposes of this Act."

#### **65. Power of State Government to make rules :-**

The <sup>1</sup>[State Government] may make rules-

(a) prescribing the manner of holding the election of the Chairman and Vice-Chairman, and

(b) regulating the payment of travelling expenses to the Chairman, Vice-Chairman or a Commissioner<sup>2</sup> [and monthly or other allowances to the Chairman, Vice-Chairman and the Commissioners and of sumptuary allowance in the Chairman]

.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937, and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

2. Words ins. by W.B. Act 51 of 1980.

## **66. Appointment of officers and employees :-**

**1**

(1) The Commissioners at a meeting may, subject to the provisions of this Act and the rules made thereunder from time to time, determine what officers and what employees of the Commissioners are necessary for the municipality, create posts of such officers and employees and fix the salaries and allowances to be paid and granted to such officers and employees:

Provided that no post of an officer or employee shall be created without the prior sanction of the State Government if the number of posts to be so

(2) The State Government may appoint an employee or an officer of the Government for a municipality, or a group of municipalities, as an Executive Officer, an Engineer, a Finance Officer and a Health Officer in such manner and on such terms and conditions of service and possessing such qualifications as may be prescribed. The expenditure on account of salaries and allowances of such employees and officers shall be borne by the State Government:

Provided that the officers and employees so appointed shall be under the administrative control of the Board of Commissioners of the municipality and may be withdrawn by the State Government if a resolution to that effect is passed by the Commissioners at a meeting called for this purpose by a majority of total number of members holding office for the time being and in the case of a group of municipalities, if such resolution is so passed by the Commissioners of the majority of such group of municipalities.



(3) The posts of officers to be created by the Commissioners under subsection (1) may include all or any of the following:-

- (a) a Secretary,
- (b) a Medical Officer,
- (c) one or more Sanitary Inspectors,
- (d) a Superintendent of Waterworks,
- (e) an Assessor,
- (f) an Office Superintendent,
- (g) an Accountant:

Provided that every officer referred to in this sub-section shall possess such qualifications as may be prescribed.

(4) Subject to the scale of establishment determined by the Commissioners under sub-section (1), the Chairman shall have power to select persons for appointment to the posts created under that sub-section:

Provided that-

- (i) a person shall not be appointed to a post carrying a monthly salary of more than two hundred and fifty rupees or a salary rising by periodical increments to more than two hundred and fifty rupees without the sanction of the Commissioners at a meeting,
- (ii) a person shall not be appointed to a post carrying a monthly salary of more than seven hundred and fifty rupees or a salary rising by periodical increments to more than one thousand rupees without the prior approval of the State Government.

(5) Recruitment to different posts of officers and employees, other than Class IV posts, of a municipality shall be made through the local Employment Exchange and in accordance with such principles of recruitment as are applicable to the employees of the State Government.

## **2**

(5A)

(a) Notwithstanding the provisions of sub-section (5), the Municipal Service Commission constituted under sub-section (1) of section 26

of the Calcutta Municipal Corporation Act, 1980 shall, by virtue of sub-section (5A) of section 26, of the said Act, select such personnel for any municipality or notified area constituted under this Act as may be determined by the State Government by notification under sub-section (5A) of section 26 of the Calcutta Municipal Corporation Act, 1980 and it shall be binding on the said municipality or notified area Authority, as the case may be, to appoint the personnel selected by the said Commission.

(b) Any amount of contribution payable by a municipality or notified area Authority under sub-section (2) of section 27 of the Calcutta Municipal Corporation Act, 1960, shall, in accordance with the provisions of sub-section (2) of section 27 of the said Act be credited by the said municipality or notified area Authority, as the case may be, to the Municipal Fund of the Calcutta Municipal Corporation.

(6) Subject to such rules as the State Government may prescribe in this behalf, the appointing authority shall have the power to impose penalty of dismissal, removal from service, reduction in rank and withholding of increments and may, pending enquiry, institute proceedings and suspend any officer or employee of the Commissioners appointed under sub-section (4):

Provided that no officer or employee appointed under sub-section (4) shall be dismissed or removed from service unless such action is approved by a resolution of the Commissioners passed at a meeting called for this purpose by a majority of not less than two-thirds of the number of Commissioners present and voting at such meeting.

(7) Notwithstanding anything contained in this section or in any other provision elsewhere in this Act, any post created or any appointment made by the Commissioners before the 31st December, 1978, without the prior sanction of the State Government where such sanction was necessary, shall be deemed to have been duly created or made with such sanction and no such creation of post or appointment shall be invalid merely on the ground that such sanction has not been obtained.

1. Secs. 66 and 66 Asubs. for previous sec. 66 by W.B. Art 51 of 1980. Previous sec. 66 was as under:- "66. Appointment of subordinate officers.-(I) The Commissioners at a meeting may, subject to the provisions of this Act and the rules made thereunder from time to time, determine what officers and what servants of the Commissioners are necessary for the municipality and may fix

the salaries and allowances to be paid and granted to such officers and servants: Provided that- (a) no post of any officer or servant shall be created or abolished or the salaries or allowances for such post be fixed or revised, or (b) no special pay or allowance, or other remuneration which are not admissible under any rules or orders having the force of law nor any ex-gratia payment under any description whatsoever, shall be granted or made to any officer or servant, by the Commissioners without the prior sanction of the State Government: Provided further that the total amount of expenditure which the Commissioners may incur on account of the establishment costs of the officers and servants may, if the State Government thinks it necessary so to do, be fixed by the State Government. (2) Subject to the scale of establishment determined by the Commissioners under subsection (1), the Chairman shall have power to appoint such persons as he may think fit, and from time to time to remove such persons and appoint others in their place: Provided as follows: (i) a person shall not be appointed to an office carrying a monthly salary of more than fifty rupees or a salary rising by periodical increments to more than fifty rupees without the sanction of the Commissioners at a meeting, and an officer or servant whose post carries a monthly salary of more than twenty rupees shall not be dismissed without such sanction: (ii) no appointment to a post carrying a monthly salary of more than two hundred rupees or a salary rising by periodical increments to more than two hundred rupees shall be made without the prior sanction of the State Government and every dismissal from any such post shall be subject to confirmation by the State Government; (iii) no person holding an office carrying a monthly salary of one hundred rupees or more shall be dismissed unless such dismissal is sanctioned by a resolution of the Commissioners passed at a special meeting called for the purpose and, except with the consent of the State Government unless such resolution has been supported by the votes of not less than two-thirds of the total number of Commissioners holding office for the time being. (3) Notwithstanding anything contained in sub-section 121, the appointment to, or suspension, removal or dismissal from, the post of Executive Officer shall, irrespective of the salary assigned to the post, be subject to confirmation by the State Government. (4) Notwithstanding anything contained in this section or in any other provision elsewhere in this Act, any post created or any appointment made by the Commissioners before the 31st December, 1978, without the prior sanction of the State Government where such sanction was necessary, shall be deemed to have been duly created or made with such sanction and no such creation of post or appointment shall be invalid merely on the ground that such sanction has not been obtained."

2. Sub-sec.(5A) ins. by W.B. Act 7 of 1989.

#### **66A. Appointment of a Pay Review Committee :-**

<sup>1</sup> Notwithstanding anything contained elsewhere in this Act, the

State Government may if it considers necessary for the purpose of rationalising the pay-scale and other terms and conditions of service including leave, retirement benefits, in respect of all or any category of municipal officers and employees, appoint a Pay Review Committee and the decision of the State Government upon the recommendations of such Committee shall be binding on the Commissioners of all municipalities.

1. Sees. 66 and 66A subs, for previous sec. 66 by W.B. Act 51 of 1980.

**67. . :-**

**1 \*\*\*\*\***

1. Sec. 67 first subs, by W.B. Act 27~of 1955. then om. by W.B. Act 51 of 1980. Sec. 67 was as under:- "67. Appointment of Executive Officer, Secretary, etc., on requisition by Government.- (1) Notwithstanding anything contained in section 66. the State Government may. after consulting the Commissioners, if it thinks necessary so to do In the public interest, require the Commissioners of any municipality to appoint at a meeting, within such time as may be specified by the State Government, all or any of the following officers :- (a) an Executive Officer. (b) a Secretary. (c) an Engineer. (d) a Health Officer, and (e) one or more Sanitary Inspectors. C2J An officer appointed under sub-section (1) shall be of such class or possess such qualifications as may be prescribed and shall be paid out of the Municipal Fund such salary and allowances, if any. as the Commissioners at a meeting, subject to the approval of the State Government, may fix. (3) Except as is provided in sub-section (3) of section 73. no Executive Officer, Secretary. Engineer, Health Officer or Sanitary Inspector shall be removed from office by the Commissioners except on resolution carried at a special meeting called for the purpose and supported by the votes of not less than two-thirds of the total number of Commissioners holding office for the time being. (4) Where under sub-section (1) the State Government requires the Commissioners of any municipality to appoint any of the officers referred to in that sub-section, the State Government may. if the Commissioners make default in making the appointment within the specified time or such further time as may be allowed by the State Government, make the appointment and fix the terms and conditions of service, including the salary and allowances, of the officer as it thinks proper, and such salary and allowances shall be paid out of the Municipal Fund. (5) Every nomination to and suspension, removal or dismissal from any appointment made under this section shall be subject to confirmation by the State Government.". 92. Sec. 67A first ins. by W.B. Act 27 of 1955, then om. by W.B. Act 51 of 1980. Sec. 67A was as under:- 67A. Appointment, etc., of Executive Officer by the State Government.- (1) Notwithstanding anything

contained In section 66 or section 67. if in the opinion of the State Government the affairs of a municipality- (a) are not properly managed, or (b) cannot, for failure of a general election or for any other reason, whatsoever, be managed in accordance with law, and if in its opinion It is desirable in the public interest so to do. It may, by notification, declare that the municipality shall have an Executive Officer for such period as may be specified in the notification : Provided that the State Government may, if it thinks fit, by notification, extend such period from time to time. (2} An Executive Officer referred to in sub-section (I) shall be appointed by the State Government and shall be paid out of the Municipal Fund such salary and allowances as may from time to time be fixed by the State Government. (3) The Executive Officer of a municipality, appointed under this section, shall, subject to such directions as the State Government may issue from time to time, exercise such powers of the Chairman or of the Commissioners whether at a meeting or otherwise as may be conferred on him by notification by the State Government and on such notification such powers shall cease to be exerclsable by the Chairman or by the Commissioners, as the case may be. (4) The State Government may at any time suspend, remove, dismiss or otherwise punish an Executive Officer appointed under this section."

#### **67A. . :-**

\*\*\*\*\*

#### **68. Power of the Executive Officer :-**

**1**

(1) The Executive Officer shall be the principal executive officer of the Commissioners and all officers and the employees of the Commissioners shall be subordinate to him. He may be required to be present at a meeting of the Commissioners or of any standing or special committee by the Chairman or the President of the meeting, as the case may be, to make a statement or explanation of facts, but he shall not vote upon, or make, any proposition at such meeting.

(2) Subject to the provisions of sub-section(2) of section 51 **2** \* \* \* \* \* the Executive Officer shall act in respect of all other matters under the direction of the Chairman through whom he shall be responsible to the Commissioners.

1. Sub-sec, (1) subs, by W.B. Act 51 of 1980, which was earlier as under:- "(1) The Executive Officer shall be the principal executive officer of the Commissioners and all other officers and servants of the Commissioners shal) be. subordinate to him. He shall have the same right of being present at a meeting of the Commissioners or of any standing or special committee, and of taking part in the

discussions thereat as if he were a Commissioner or a member of such committee and with the consent of the Chairman or the president of the meeting, as the case may be, he may at any time make a statement or explanation of facts. but he shall not vote upon, or make, any proposition at such meeting."

2. Words, figures, letter and brackets "and sub-section (3) of section 67A" om. by W.B. Act 51 of 1980.

**69. Power to frame rules for pensions and gratuities or for the creation of a provident or annuity fund :-**

(1) The Commissioners, at a meeting specially convened for the purpose, by a resolution in favour of which not less than two-thirds of the Commissioners present and voting at such meeting shall have voted, may, subject to the approval of the <sup>1</sup>[State Government], make rules-

(a) for the granting of pensions, gratuities and bonuses out of the Municipal Fund ;

(b) for the granting of compassionate allowances and gratuities to members of the families of deceased municipal officers and <sup>2</sup>[other employees]; and

(c) for the creation and management of a provident or annuity fund (which may be combined with a system of bonuses based on length of service), for compelling contributions to such provident or annuity fund on the part of their officers and Bother employees], and for supplementing such contributions out of the Municipal Fund.

(2) The Commissioners at a meeting may, from time to time, in accordance with such rules-

(i) grant pensions or bonuses or both or grant allowances or annuities out of such provident or annuity fund to any of their officers 96[other employees], as they may see fit;

(ii) grant advances out of such provident fund to any of their officers or <sup>3</sup>[other employees], as they may see fit;

(iii) grant a gratuity based on the length of service of the deceased to any member of the family of any of their officers 96[other employees] who die while in the service of the Commissioners;

(iv) by a resolution in favour of which not less than two-thirds of the Commissioners present at such meeting have voted,-

(a) grant a special pension or gratuity or both to any member of the family of any of their officers or <sup>3</sup>[other employees] who has died from disease or injury contracted in the discharge of a duty which was attended with extraordinary bodily risk, and

(b) in addition to other benefits grant a bonus to any officer or <sup>5</sup>[employee] in recognition of work or service of exceptional merit.

(3) For the purpose of this chapter the family of a municipal officer or <sup>4</sup> [employee] shall be deemed to include his wife, his children, and his father, mother, brother or sister dependent upon him for support.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order. 1937. and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

2. Words subs, for the word "servants" by W.B. Act 51 of 1980.

3. Words subs, for the word "servants" by W.B. Act 51 of 1980.

5. Word subs, for the word "servant" by W.B. Act 51 of 1980.

## **70. Contributions in the case of 98[employees] of the Government employed by the Commissioners :-**

(1) The Commissioners shall contribute to the pension, gratuities and allowances of any <sup>1</sup>[employee] whose services are lent or transferred by <sup>2</sup>[any Government] to the Commissioners.

(2} Such contribution shall be to the extent prescribed by <sup>3</sup>[the conditions of service under which the officer is serving the <sup>4</sup> (Government)].

1. Blank.

2. Words subs, for the word "Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.

3. Words subs, for the words "the rules of Government Civil Pension and Leave Codes" by the Government of India (Adaptation of Indian Laws) Order, 1937.

4. Word subs, for the word "Crown" by the Adaptation of Laws Order. 1950.

## **71. Notice to be given by mehters of intention to withdraw from service. :-**

**1**

(1)[An employee] of the Commissioners to remove or deal with sewage, offensive matter or rubbish shall not withdraw from his duties without the permission of the Commissioners, unless he has

given notice in writing not less than one month previously of his intention so to withdraw.

(2) <sup>2</sup>[An employee referred to in sub-section(1 )] who withdraws from his duties without giving such notice as aforesaid shall be liable to rigorous imprisonment for a period which may extend to one month or to fine not exceeding fifty rupees or both and shall forfeit all salary which may be due to him.

(3) The <sup>3</sup>[State Government] may direct that on and from a specified future date the provisions of sub-sections (1) and (2) shall apply also to any other <sup>4</sup> [employees] of the Commissioners whose functions ultimately concern the public health or safety.

1. Words subs, for the words "A methor or other servant" by W.B. Act 51 of 1980.

2. Words subs, for the words "Any metlwr or other such person" by W.B. Act 51 of 1980.

3. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India [Adaptation of Indian Laws) Order, 1937 and. thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order, 1950.

4. Word subs, for the word "servants" by W,B. Act 51 of 1980

## **72. Prohibition of having share or interest in contract or employment with Commissioners :-**

(1) No person shall be eligible for employment as a municipal officer <sup>1</sup>[or other employees] if he has, directly or indirectly by himself or his partner or employer or employee, any share or interest in any contract or employment with, by, or on behalf of the municipality.

(2) If any municipal officer <sup>1</sup>[or other employees] acquires, directly or indirectly as aforesaid, any such share or interest otherwise than as such officer <sup>1</sup> [or other employees] he shall cease to be a municipal officer or servant and his office shall become vacant from the date on which he is removed from office by the authority which appointed him ; and he shall also be liable to be punished as provided in section 500.

(3) Nothing in sub-sections (1) and (2) shall apply to any such share or interest as under sub-section (5) of section 62 it is permissible for a Commissioner to have without being thereby disqualified to be a Commissioner.



1. Words subs, for the words "or servant" by W.B. Act 51 of 1980.

**73. . :-**

**1 \*\*\*\*\***

1. Sec. 73 om. by W.B. Act 51 of 1980 which was as under:- "73. Indebtedness.-(I) A person shall not be eligible for the office of Executive Officer. Secretary, Engineer. Health Officer. Superintendent of Waterworks, Sanitary Inspector. Tax- Collector, Accountant or Overseer of a municipality if he is seriously in debt. (2) If any question arises as to whether any person Is seriously in debt within the meaning of sub-section (I), it shall be decided- (a) in the case of a candidate for any office mentioned in sub-section (1), appointment to which is subject to the approval of the State Government-by the State Government. and (b) in the case of a candidate for any other office mentioned in sub-section (1)-by the authority which makes appointment to such office. (3) If any person holding any of the offices mentioned in sub-section (1) is found, by the authorities respectively referred to in sub-section (2), to be seriously in debt, he may be removed from his office by the authority which appointed him."

**74. . :-**

**1 \*\*\*\*\***

1. Sec. 74 om. by W.B. Act 51 of 1980 which was as under:- "74. Relationship of candidates for employment in the municipality,- Every person applying for employment In a municipality shall, if he is related by a blood relationship to, or is closely connected by marriage with, the Chairman. Vice-Chairman or any Commissioner. or any of the officers mentioned in sub-section (1) of section 73, notify in writing the fact and the nature of such relationship or connection to the authority making the appointment before the appoinment is made, and In default thereof the appointment, if made, shall be deemed to be Invalid."

**75. Power to Commissioners to make rules :-**

**<sup>1</sup>**The Commissioners at a meeting may, subject to the sanction of the State Government, make rules as to-

(i) the duties, appointment and leave of municipal officers and other employees and other conditions of service and the manner of preparing a panel of candidates for appointment to the posts of such officers and other employees;

(ii) the nature and amount of security to be furnished by different classes of municipal officers or other employees for the proper discharge of their duties: **2\*\*\*\*\* 2 \*\*\*\*\***

1. Sec. 75 subs, by W.B. Act 51 of 1980 which was earlier as under:- "75. Power to Commissioners to make rules.-The Commissioners at a meeting may, subject to the sanction of the State Government, make rules as to- (I) the duties, appointment, leave, fining, suspension and removal of municipal officers and servants; (ii) the nature and amount of security to be furnished by different classes of municipal officers or servants for the proper discharge of their duties: Provided that the age of superannuation of municipal officers and servants shall be such as may be prescribed by the State Government and no officer or servant after retirement shall be re-employed In any post without the prior sanction of the State Government."

2. First and second provisos om. by W.B. Act 13 of 1992 which were as under:- "Provided that the age of superannuation of municipal officers and other employees shall be sixty years: Provided further that the Commissioners at a meeting may, after recording the reasons therefor, extend the tenure of service of a municipal teacher year to year, considering the physical fitness and mental alertness of such teacher, subject to a maximum limit of 65 years."

### **75A. Age of superannuation of municipal officers and other employees :-**

<sup>1</sup> Notwithstanding anything contained in this Chapter or elsewhere in this Act or in any rules made thereunder, the age of superannuation of municipal officers and other employees shall, with effect from such date as may be fixed by the State Government by notification, be determined by the State Government and no such officer or employee shall, with effect from the said date, be re-employed after retirement in any post without the prior sanction of the State Government.

1. Sec. 75A ins. by W.B. Act 13 of 1992.

### **76. Power to State Government to make rules :-**

The <sup>1</sup>[State Government] may make rules- <sup>2</sup>\* \*\*\*\*\*

(a) prescribing the qualifications of candidates for employment by the Commissioners <sup>3</sup>[as Executive Officers, Secretaries, Office Superintendents, Engineers], Health Officers, Superintendents of Waterworks. Sanitary Inspectors, Assessors, Accountants, Overseers, female medical practitioners, nurses, health visitors, midwives <sup>4</sup>[veterinary practitioners and municipal teachers;]

(b) prescribing the proportion of the pay and allowances of <sup>5</sup>(servants of the Government] employed by the Commissioners which shall be borne by the Commissioners, and providing for the

control of such officers; and

(c) prescribing the division of Health Officers and Sanitary Inspectors into classes or grades according to their qualifications: <sup>6</sup>

Provided that where the services of any servant of the <sup>7</sup>[Government] are lent or transferred by any Government other than the <sup>8</sup> [State] Government, the rules to be made under clause (b) of this section shall be made by that Government, Conduct of Business.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India [Adaptation of Indian Laws] Order, 1937 and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

2. Clause (a1) first Ins. by W.B. Act 27 of 1955, then om. by W.B. Act 51 of 1980 which was as under:- "(a 1) prescribing the qualifications of candidates for appointment as Executive Officers and the terms and conditions of service of such officers;".

3. Words subs, for the words "as Engineers" by W.B. Act 51 of 1980.

4. Words subs, for the words "and veterinary practitioners;" by W.B. Act 13 of 1992.

5. Words "servants of the Crown" first subs, for the words "Government Officers" by the Government of India (Adaptation of Indian Laws) Order, 1937 and, thereafter, the word "Government" subs, for the word "Crown" by the Adaptation of Laws Order. 1950.

6. Proviso ins. by the Government of India (Adaptation of Indian Laws) Order. 1937.

7. Word subs, for the word "Crown" by the Adaptation of Laws Order. 1950.

8. Word subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

## **77. Meetings :-**

**1**

(1) The Commissioners shall meet for the transaction of business at their office, at least once in every month, and as often as a meeting shall be called by the Chairman, or, in his absence, by the Vice-Chairman: <sup>2</sup>

Provided that seven days' notice shall be necessary for a meeting.

(2) If there shall be no business to be laid before the Commissioners at any monthly meeting, the Chairman shall, instead of calling the meeting, give notice of the fact to each Commissioner three days before the date which is appointed for the

monthly meeting.

### **3**

(3) An emergent meeting for the transaction of business of an emergent nature may at any time be called by the Chairman, or, in his absence, by the Vice-Chairman after giving three days' notice to the Commissioners.

1. Word "Ordinary" om. by W.B. Act 51 of 1980.
2. Proviso ins. by W.B. Act 51 of 1980.
3. Sub-sec.(3) ins. by W.B. Act 51 of 1980.

### **78. Meeting on requisition by Commissioners :-**

(1) The Chairman, or, in his absence, the Vice-Chairman, shall call a special meeting of the Commissioners on a requisition signed by not less than one-third of the number of Commissioners of the municipality.

(2) If the Chairman or Vice-Chairman fails to give notice of a special meeting to be held within fifteen days after such requisition has been made, the meeting may be called on seven days' notice by any three of the Commissioners of the municipality.

### **79. Person to preside at meetings :-**

The Chairman, or, in his absence, the Vice-Chairman, shall preside at every meeting, and, in the absence of both the Chairman and Vice-Chairman, the Commissioners shall choose some one of their number to preside.

### **80. Decision of questions and casting vote :-**

(1) All questions which may come before the Commissioners at a meeting shall be decided by a majority of votes, questions unless otherwise provided in this Act.

(2) In case of equality of votes, the person presiding shall have a second or casting vote.

### **81. Commissioners disqualified from voting on certain questions :-**

No Commissioner or member of a standing or other committee shall vote on any matter affecting his own pecuniary interest or on any question which regards exclusively the assessment of himself or the valuation of any property in respect of which he is in any way directly interested or of any property of or for which he is manager

or agent or his liability to any tax. rate, toll or fee,

## **82. Quorum and adjournment for want thereof :-**

(1) No business shall be transacted at any meeting of the Commissioners unless such meeting has been called by the Chairman or Vice-Chairman, or, under section 45 or section 78, by persons signing a requisition, or under section 45 by the Magistrate, <sup>1</sup>[or under section 61,] nor except for the election of a person to preside for the purposes of sub-section (3) unless a quorum shall be present.

**2**

(2) One-third of the total number of Commissioners holding office for the time being shall form the quorum.

(3) If, at the time appointed for a meeting, or within half an hour thereafter, a quorum is not present, the meeting shall stand adjourned to some future day to be appointed by the Chairman or in his absence the Vice-Chairman and three days' notice of such adjourned meeting shall be given. The members present at such adjourned meeting shall form a quorum, whatever their number may be.

1. Words and figures Ins. by W.B. Act 27 of 1955.

2. Sub-sec.(2) subs, by W.B. Act 51 of 1980 which was earlier as under;- ~(2) A quorum shall be, in any municipality in which the Commissioners are more than fifteen, five; in any other municipality, a number being not less than one-third of the total number of Commissioners holding office for the time being: Provided that in cases where the total number of Commissioners holding office for the time being is not evenly divisible by three, the one-third shall be ascertained by taking the number next above such total number which is evenly divisible by three, as the number to be divided.".

## **83. Notice of list of business and of meetings :-**

A list of the business to be transacted at a meeting and, in the case of a meeting called on a requisition, the terms of the requisition shall be sent to every Commissioner at least three days before the date appointed for the meeting, and no business of which such notice has not been given shall be brought forward at a meeting.

## **84. Minutes of proceedings :-**

(1) Minutes of the proceedings of all meetings of the Commissioners <sup>1</sup>[In which shall be recorded inter alia the names of

all Commissioners present] shall be entered in a book to be kept for the purpose, and shall be signed by the person presiding over the meeting, and such book shall be open to the inspection of the taxpayers. <sup>2</sup>

(1a) Whenever at any meeting of the Commissioners a motion or resolution is passed authorising any expenditure or authorising any action leading to or involving expenditure, the names of the Commissioners who vote for such motion or resolution shall be recorded in the minutes.

(2) A copy of the minutes of the proceedings of all meetings of the Commissioners shall within "[fifteen days] be forwarded by the Chairman to the District Magistrate.

(3) The minutes shall be laid before the next meeting of the Commissioners for confirmation and shall be also signed at such meeting by the person presiding thereat.

1. Words ins. by W.B. Act 27 of 1955.

2. Clause/MoJ ins. by W.B. Act 27 of 1955.

#### **85. Inspection of books by Commissioners :-**

A Commissioner shall have the right to inspect all books <sup>1</sup>[and records] of the municipality at such times as the Commissioners at a meeting may fix for this purpose:

Provided that the Chairman may, for reasons to be recorded by him in writing, direct that any particular book <sup>2</sup> [or record] shall not be inspected without the direction of the Commissioners at a meeting.  
Standing Committees.

1. Words ins. by W.B. Act 27 of 1955.

2. Words ins. by W.B. Act 27 of 1955.

#### **86. Constitution of Standing Committees :-**

**1**

(1) At the first meeting of the Commissioners in each year or as soon as may be at any meeting subsequent thereto, the Commissioners of every municipality in which the total number of Commissioners is not less than thirteen shall, and the Commissioners of any other municipality may, constitute the following Standing Committees:-

(a) Finance and Establishment Standing Committee,

(b) Public Health and Sanitation Standing Committee,

(c) Public Works Standing Committee:

Provided that Standing Committees, other than those mentioned above may be constituted by the Commissioners if they so think fit.

(2) Each Standing Committee shall consist of such number of Commissioners, not being more than nine or less than three, as the Commissioners may by a specific resolution determine and the number so determined shall be elected by the Commissioners from amongst themselves:

Provided that no Commissioner shall be a member of more than two Standing Committees:

Provided further that the Chairman or the Vice-Chairman shall not be eligible for election as a member of a Standing Committee.

(3) The Commissioners at a meeting may, from time to time, by resolution associate with any Standing Committee such persons not being Commissioners and not exceeding one-half of the number of Commissioners in such Committee and for such term as they think fit. Any officer or other employee of the Commissioners and any officer of the State Government having requisite expertise for development of municipal services and their maintenance may be associated with any Standing Committee under this sub-section.

(4) Persons associated with a Standing Committee under sub-section (3) shall be deemed to be members thereof but shall not have the right to vote at the meeting of the Standing Committee.

(5) Every Standing Committee shall at its first meeting In each year elect one of its members to be the President and another member to be the Vice- President. The President or the Vice-President shall hold office from the time of his election until the election of his successor in office.

(6} Any casual vacancy in the office of a member of a Standing Committee, other than a member referred to in sub-section (4), shall be filled by the election of another member by the Commissioners at a meeting.

1. Secs. 86 and 86A subs, for previous sec. 86 by W.B. Act 51 of 1980. Previous sec. 86 was as under- "86. Formation of standing committees.-(1) The Commissioners at a meeting may, from time to time, appoint standing committees and by specific resolution,

delegate to, or withdraw from such committees any of their functions, powers and duties and may also from time to time, by like resolution, refer to them for inquiry and report, or for opinion such subjects relating to the powers or duties of the Commissioners, as the Commissioners at a meeting may think fit. (2) Each standing committee shall consist of Commissioners who shall not be less than two-thirds of the whole number of the members of the committee and of such other persons not exceeding one-third in number as the Commissioners at a meeting may, from time to time, by a specific resolution, determine and elect for this purpose. (3) Each such committee shall perform the duties assigned to it by this Act or the rules made thereunder, and may exercise the powers delegated to it. and shall be liable to all the obligations imposed by this Act on Commissioners in respect of such powers. (4) All the proceedings of any such committee shall be subject to confirmation or modification by the Commissioners at a meeting, unless in special cases the Commissioners at a meeting otherwise direct. (5) All questions regarding the removal or resignation of members of a committee shall be settled by the Commissioners at a meeting."

#### **86A. Powers, functions and duties of Standing Committee :-**

(1) Each Standing Committee shall perform such functions, exercise such powers and discharge such duties of the Commissioners as the Commissioners at a meeting may delegate to it by rules made under clause (f) of section 91.

(2) The Commissioners at a meeting may, from time to time, by specific resolution refer to a Standing Committee for inquiry or report or for opinion such subjects relating to the powers or duties of the Commissioners as the Commissioners may think fit.

(3) All the proceedings of any Standing Committee shall be subject to confirmation or modification by the Commissioners at a meeting, unless the Commissioners at a meeting otherwise direct.

#### **87. Formation of joint committees :-**

(1) Subject to the prescribed restrictions the Commissioners of any municipality may join with any other local authority in constituting out of their respective bodies a joint committee, for any purpose in which they are jointly interested, and in delegating to any such joint committee any power which might be exercised by the Commissioners or any of the local authorities concerned.

(2) Such joint committee may, from time to time, make rules as to its proceedings, and as to the conduct of correspondence relating to



the purpose for which it is constituted.

**88. Decision of disputes between local authorities :-**

(1) If a dispute arises between the Commissioners of a municipality and any other local authority on any matter in which they are jointly interested, such dispute shall be referred to the <sup>3</sup>[State Government] whose decision shall be final and shall not be questioned in any court: <sup>1</sup>

Provided that if the dispute is between the Commissioners and a Cantonment Authority or the Port Authority of a major port, the decision of <sup>2</sup>[State] Government shall be subject to the concurrence of the Central Government.

(2) If such dispute arises between the Commissioners of two municipalities who have for any purpose constituted or who may, for the specific purpose of settling the dispute, constitute a joint committee under the provisions of section 87 such joint committee shall, in the first instance, inquire into the said dispute and after taking such evidence, and calling for such papers as it may think fit, shall deliver a written award on the matters in dispute, which shall be binding on the Commissioners of both municipalities, provided that the Commissioners of either of the said municipalities may appeal against such decision to the <sup>3</sup>[State Government], whose orders shall be final and shall not be questioned in any court:

Provided that no dispute shall be decided under this section until the Commissioners of the municipalities or the local authorities concerned have been heard or have had a reasonable opportunity of being heard.

(3) The <sup>3</sup> [State Government] may regulate by rules the relations to be observed between Commissioners of municipalities and other local authorities in any matter in which they are Jointly interested :

Provided that any rules regulating the relations to be observed between the Commissioners of Municipalities and Cantonment Authorities or the Port Authorities of major ports, shall have no effect until they are approved by the Central Government.

1. Proviso ins. by the Government of India (Adaptation of Indian Laws) Order, 1937.

2. Word subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

3. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and. thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order, 1950.

**89. Formation of special committees :-**

(1) The Commissioners at a meeting may, from time to time, by specific resolution, appoint a special committee to inquire into and report upon any matter (to be specified in such resolution) which may arise in connection with any of the powers, functions or duties of the Commissioners and which is not at the time under consideration by a standing committee constituted under section 86.

(2) The provisions of sub-sections (3), (4) and (5) of section 86 shall be deemed to apply to every such special committee, which shall confine its enquiry to the matter specified in the resolution whereby it was constituted.

**90. Appointment of persons other than Commissioners as members of committees :-**

Notwithstanding anything contained in this Act, the Commissioners at a meeting may associate with any committee appointed under section 89 for such period as they may think fit any person of either sex who is not a Commissioner, but who may, in the opinion of the Commissioners, possess special qualifications for serving on such committee and such persons shall have a right to vote at meetings of the special committee, and shall be deemed to be members thereof for all purposes for such period :

Provided that the number of persons so appointed on any committee shall not exceed one-third of the whole number of the members of such committee. Rules of Business

**91. Power to make rules as to business of Commissioners and committees :-**

The Commissioners at a meeting may, subject to the sanction of the <sup>1</sup> [State Government], make rules as to-

(a) the time of their meetings, the business to be transacted at meetings and the period of notice of meetings and the manner in which such notice shall be given;

(b) the conduct and control of proceedings at meetings, the due record of all dissents and discussions, and the adjournment of

meetings ;

(c) the custody of the common seal;

(d) the division of duties among the Commissioners and the powers to be exercised by members to whom particular duties are assigned ;

(e) the manner of appointment and the constitution of committees and the regulation and conduct of their business ; and

(f) the delegation of powers or duties to committees or to the Chairman of a committee.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and. thereafter, the word "State" subs, for the word "Provincial" by the. Adaptation of Laws Order, 1950.

## **92. Validation of acts and proceedings :-**

(1) No act done or proceeding taken under this Act shall be questioned on the ground merely of-

(a) the existence of any vacancy in or any defect in the constitution of, the municipality or any standing, joint or special committee or any disqualification in less than half of the Commissioners or members of the committee present when the act or proceeding was done or taken;

(b) any Commissioner having voted or taken part in any proceeding in contravention of the proviso to section 62; or

(c) any defect or irregularity not affecting the merits of the case.

(2) Every meeting of the Commissioners, or of any standing joint or special committee, the minutes of the proceedings of which have been duly signed by the person presiding over the meeting shall be deemed to have been duly convened and when the minutes are confirmed at a subsequent meeting shall be deemed to be free from all defects and irregularity and the accidental omission to serve notice of a meeting on any Commissioner shall not affect the validity of the meeting. Administration Report.

## **93. Annual administration report :-**

(1 ) As soon as may be after the first day of April in every year and not later than such date as may be fixed by the <sup>1</sup>[State

Government], the Commissioners shall submit to the<sup>1</sup>[State Government] a report on the administration of the municipality during the preceding year in such form and with such details as the<sup>1</sup>[State Government]<sup>4</sup> [may direct, provided that in respect of a municipality within the hill areas, such report shall be submitted through the Council.] A copy of the report shall be submitted by the Commissioners to the District Magistrate.

(2) The report shall be published in such manner as the Commissioners at a meeting may direct.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order, 1950.

4. Words subs, for the words "may direct" by W.B. Act 17 of 1988.

#### CHAPTER 3A

##### Notified Areas

#### **93A. Constitution of notified areas :-**

**1**

(1) Whenever, in the opinion of the State Government, it is necessary to make provisions for all or any of the purposes of this Act in respect of-

(i) any area which does not fulfil the conditions for being constituted a municipality under this Act,

(ii) any area which is comprised in a newly-developing town, or

(iii) any area in which new industries have been or are being established, the State Government may, by notification, specifying such area, declare its intention to do so.

(2) Any inhabitant of the area in respect of which a notification has been . published under sub-section (1) may, if he objects to the action intended to be taken,, submit his objection in writing to the State Government within three months from the date of the publication of the notification.

(3) The State Government may, after considering the objections, if any, received by it during the period referred to in sub-section (2), make an order-

(a) withdrawing the notification under sub-section (1), or

(b) constituting the area specified in the notification or any part thereof, as a notified area for purposes of this Chapter.

**2**

(4) The State Government may, by order made after declaration by notification of its intention so to do followed by consideration of any objection thereto received within three months from the date of the publication of the notification, and new areas to a notified area constituted under this section.

1. Chapter IIIA containing secs. 93A to 93J Ins. by W.B. Act 25 of 1960.

2. Sub-sec.(4) Ins.by W.B. Act 51 of 1980.

**93B. Power to apply enactments to, and constitute Authority in notified areas :-**

**1**

(1) The State Government may, by order to be published in the Official Gazette,-

(i) extend to a notified area with such incidental or consequential modifications as the State Government may consider necessary for giving effect to the provisions of this Chapter-

(a) any provision of this Act which applies to a municipality, or

(b) any rule or by-law in force in any municipality ; and

(ii) appoint for a notified area a Committee consisting of not less than five and not more than nine members, to be known as the notified area Authority, to carry out all or any of the purposes of this Chapter

(2) The State Government shall appoint a Chairman and may also appoint a Vice-Chairman from amongst the members of the Committee referred to in clause (ii) of sub-section (1).

1. Chapter IIIA containing sees. 93A to 93J Ins. by W.B. Act 25 of 1960.

**93C. Consequences of the application of the Act to a notified area :-**

**1**

(1) When any tax is imposed in a notified area under any oi\\,he provisions of this Act as extended under sub-section (1) of section 93B, the proceeds of such tax shall be expended in the same

manner in which and for the same purposes for which the municipal fund may be expended by a municipality.

(2) When any provision of this Act or any rule or by-law is extended with or without modification to a notified area, such provision or rule or by-law shall, unless a different intention appears, operate as if the notified area were a municipality and as if the powers and duties of the Commissioners of a municipality were vested in the notified area Authority.

1. Chapter III A containing secs. 93A to 93J Ins. by W.B. Act 25 of 1960.

**93D. Abolition or alteration of a notified area :-**

**1** The State Government may, at any time, and accordance with the provisions of this Act, by notification,-

(i) constitute the notified area or any part thereof to be a municipality, or

(ii) include the notified area or any part thereof within a municipality.

1. Chapter III A containing secs. 93A to 93J Ins. by W.B. Act 25 of 1960.

**93E. Consequences of such abolition or alteration :-**

**1**

(1) When the whole of a notified area is constituted to be a municipality, the notified area shall cease to exist and the properties, funds and other assets vested in the notified area Authority and all the rights and liabilities of such Authority shall vest in and devolve on the municipality.

(2) When a part of a notified area is constituted to be, or is included in, a • municipality, such part shall be deemed to have been excluded from the area specified in the notification issued under clause (b) of sub-section (3) of section 93A and so much of the properties, funds and other assets vested in the notified area Authority and such of the rights and liabilities of such Authority as may be allocated by the State Government by order in this behalf shall vest in and devolve on the municipality.

1. Chapter III A containing secs. 93A to 93J Ins. by W.B. Act 25 of 1960.

**93F. Notified area Authority to be deemed Town Committee**

:-

<sup>1</sup>The notified area Authority shall, for purposes of section 6 of the West Bengal Panchayat Act, <sup>2</sup> [1957] be deemed to be a Town Committee.

1. Chapter III A containing secs. 93A to 93J ins. by W.B. Act 25 of 1960.

2. Figures subs, for the figures "1956" by W.B. Act 51 of 1980.

### **93G. Officers and employees :-**

**12**

(1) The notified area Authority may, subject to the approval of the State Government, appoint such officers and <sup>3</sup>[employees] as may be necessary for the purpose of giving effect to the provisions of this Chapter.

**2**

(2) Notwithstanding anything contained in this section or in any other provision elsewhere in this Act. any officer or employee appointed by any Notified Area Authority without the approval of the State Government, before the 31st December, 1978, shall be deemed to have been duly appointed with the approval of the State Government and no such appointment shall be invalid merely on the ground that such approval has not been taken.

1. Chapter III A containing secs. 93A to 93J ins. by W.B. Act 25 of 1960.

2. Sec. 93G renumbered as sub-sec. (1) and sub-sec (2) ins. by W.B. Act 20 of 1981.

3. Figures subs, for the figures "1956" by W.B. Act 51 of 1980.

### **93H. Removal of difficulties :-**

<sup>1</sup> If any difficulty arises in giving effect to the provisions of this Chapter or the rules made thereunder, the State Government may take such steps or issue such orders not inconsistent with the said provisions as may be necessary for the removal of the difficulty.

1. Chapter III A containing secs. 93A to 93J ins. by W.B. Act 25 of 1960.

### **93I. Vesting of additional powers :-**

The State Government may by order vest the notified area Authority with such powers and duties exercisable by any other authority within the whole or any part of the notified area under any local or special law as the State Government thinks fit.

### **93J. Power to make rules :-**

(1) The State Government may, by notification In the Official Gazette, make rules for carrying out the purposes of this Chapter.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the qualifications for appointment of the members of the notified area Authority and the manner of filling casual vacancies among such members;

(b) the term of office of the members, the Chairman and the Vice-Chairman of the notified area Authority ;

(c) the number of members necessary to constitute a quorum at a meeting of the notified area Authority ; and

(d) any other matter relating to the constitution and functions of the notified area Authority.

#### **CHAPTER 4**

#### **MUNICIPAL PROPERTY AND FINANCE.**

### **94. Commissioners may acquire and hold property within or without municipality. :-**

The Commissioners of a municipality may acquire by gift, purchase or otherwise and hold property whether movable or immovable within or without the limits of the municipality.

### **95. Municipal property :-**

(1) All property within the municipality of the nature hereinafter in this section specified, other than property maintained [by the Centra or the State Government) or another local authority, shall vest in and belong to the Commissioners, and shall, with all other property of whatsoever nature or kind which may become vested in the Commissioners, be under their direction, management and control, that is to say-

(a) all public streets, including the soil, the pavements, stones and other materials thereof and all drains, bridges, culverts, trees, erections, materials, implements and other things provided for such streets ;

(b) all public channels, water courses, springs, tanks, ghats, reservoirs, cisterns, wells, aqueducts, conduits, tunnels, pipes,



pumps, and other waterworks, whether made, laid or erected at the cost of the Commissioners or otherwise, 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 :

Provided that water-pipes and any waterworks connected therewith or appertaining thereto which with the consent of the Commissioners are laid or set up in any street by the owners of any mill, factory, dockyard, workshop or the like primarily for the use of their employees shall not be deemed to be public water-works by reason of their use by the public ;

(c) all public sewers and drains, and all works, materials and things appertaining thereto and other conservancy works : Provided that for the purpose of enlarging, deepening or otherwise repairing or maintaining any such sewer or drain the subsoil appertaining thereto shall also be deemed to vest in the Commissioners:

Provided also that where any installation or work for the treatment or disposal of sewage is constructed by the owners of any mill, factory, dockyard, workshop or the like primarily for the use of their employees, the laying of sewers and other things appertaining thereto in a street, with the consent of the Commissioners, shall not by virtue of this clause or by reason of their use by the public cause such installation or sewers or works appertaining thereto to vest in the Commissioners ;

(d) all sewage, rubbish and offensive matter deposited on streets or collected by the Commissioners from streets, latrines, urinals, sewers, cesspools and other places ;

(e) all public lamps, lamp-posts and apparatus connected therewith or appertaining thereto ; and

(f) all buildings erected by the Commissioners and all lands, buildings or other property transferred to the Commissioners <sup>1</sup>[by the Central or the State Government] or acquired by gift, purchase or otherwise for local public purposes.

(2) The <sup>2</sup>[State Government] may, by notification, exclude any street, bridge, sewer or drain from the operation of this Act or of any specified section of this Act:

Provided that, if the cost of the construction of the work shall have

been paid from the Municipal Fund, such works shall not be excluded from the operation of this Act or of any specified section of this Act<sup>3</sup> [except after consideration of the views] of the Commissioners at a meeting.

(3) All property movable or immovable, and all interest of any kind whatsoever, derived under any of the enactments specified in Schedule I, or otherwise and, vested in, or held in trust for, the late Commissioners under the Bengal Municipal Act, 1884, shall become vested in the Commissioners, and all rights of whatsoever description used, enjoyed or possessed by the late Commissioners under any such enactment shall become vested in the Commissioners for the purposes of this Act.

1. Words "by the Central or the Provincial Government" were first subs, for the words "by Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation Laws Order, 1950.

2. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order, 1950.

3. Words subs, for the words "without the consent" by W.B. Act 28 of 1951.

#### **96. Transfer of private streets, etc., to Commissioners :-**

The Commissioners at a meeting may agree with the person in whom the property in any street, bridge, tank, ghat, well, channel or drain is vested to take over the property therein or the control thereof, and after such agreement may declare by notice in writing put up thereon or near thereto, that such street, bridge, tank, ghat, well, channel or drain has been transferred to the Commissioners. Thereupon the property therein or the control thereof, as the case may be, shall vest in the Commissioners and such street, bridge, tank, ghat, well, channel or drain shall thenceforth be repaired and maintained out of the Municipal Fund.

#### **97. Transfer of certain public institutions to be Commissioners :-**

(1) Any hospital, dispensary, school, library, museum, rest-house, ghat or market within a municipality, not being private property or the property of a religious institution or society, and all furniture and other articles appertaining thereto, not being such property, may, by order of the<sup>1</sup>[State Government] duly published on the

spot, be vested in the Commissioners of the municipality ; and thereupon all endowments or funds belonging thereto shall be transferred to, and vested in, such Commissioners as trustees for the purposes to which such endowments and funds were lawfully applicable at the time of such transfer:

Provided that no such order shall be published until one month after notice of the intention to transfer such property shall have been published in the <sup>2</sup>[Official Gazette] and in Bengali within the municipality.

(2) If the Commissioners at a meeting, after publication of the said notice, object to the transfer to themselves of any hospital, dispensary, school, library, museum, rest-house, ghat or market on the ground that their funds cannot bear the charge, then such transfer shall not be made save under such conditions, as the Commissioners at a meeting may agree to accept.

(3) Sub-section (1) shall not apply to any hospital, dispensary, school, library, museum, rest-house, ghat or market which is vested in the Official Trustee of <sup>3</sup> [West Bengal], or to any hospital, dispensary, school, library, museum, rest-house ghat or market, which is under the control of a properly constituted committee of management without the previous consent in writing of such committee of management. Power to acquire property.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and. thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order, 1950.

2. Words subs, for the words ~ Calcutta Gazette" by the Government of India (Adaptation of Indian Laws) Order. 1937.

3. Words subs, for the word "Bengal" by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

## **98. Acquisition of land :-**

(1) When any land, whether within or without the limits of a municipality, is required-

(a) for the purposes of the Act, or

(b) for the recoupment of the cost or any portion of the cost of carrying out any such purpose, <sup>1</sup> [State Government] may, at the request of the Commissioners at a meeting, proceed to acquire it under the provisions of the Land Acquisition Act, 1894.

(2) Before requesting the 51 [State Government] to acquire land for the purposes referred to in clause (b) of sub-section (1) the Commissioners shall obtain previous sanction of the 51 [State Government] and give due notice of their intention and an opportunity to any objector, who appears within such period as they may fix, to be heard in this connection.

(3) On payment by the Commissioners of the compensation awarded under the Land Acquisition Act, 1894, and of any other charges incurred acquiring the land including costs, if any, incurred by the 51[State Government] in proceedings subsequent to acquisition concerning enhancement of the award for the land, the land shall vest in the Commissioners.

(4) The Commissioners shall be bound to pay to the 51[State Government] the cost, including all charges and costs referred to in sub-section (3), of any land acquired for the Commissioners on their application under the provisions of sub-section (1).  
Abandonment of acquisition.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order. 1937 and. thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

## **99. Abandonment of acquisition in consideration of special payment :-**

(1) In any case in which the <sup>1</sup>[Commissioners at a meeting] propose to acquire any land for the recoupment of the cost of carrying out any of the purposes of this Act, the owner of the land or any person having an interest therein greater than a lease for years having seven years to run may make an application to the <sup>1</sup>[Commissioners at a meeting] requesting that the acquisition of the land be abandoned in consideration of the payment by such person of a fee to be fixed by the <sup>1</sup> [Commissioners at a meeting] in that behalf.

(2) The Commissioners shall admit every such application if it reaches them before the time fixed by the Collector under section 9 of the Land Acquisition Act, 1894, for making claims in reference to the land :

Provided that unless the application is made by all persons who have an interest in the land greater than a lease for years having

seven years to run, the application shall not be deemed to be admitted unless the person applying undertakes to pay in one instalment the full fee payable under sub-section (3) and thereafter pays such fee.

Explanation-A mortgagee shall not be deemed to be a person having an interest in the land greater than a lease for years having seven years to run.

(3) If the Commissioners decide to admit any such application they shall forthwith inform the Collector; and the Collector shall thereupon stay proceedings for the acquisition of the land for such period as the Commissioners may request and the Commissioners shall proceed to fix a fee in consideration of which the acquisition of the land may be abandoned.

(4) In fixing the fee to be paid in consideration of the abandonment of the acquisition of the land, the Commissioners shall, so far as to them appear to

(5) Such fee shall be and remain a charge on the land, in respect of which it has been fixed, until the repayment thereof with interest in the manner hereinafter provided and shall be payable by the applicant on or before a date to be fixed by the Commissioners in this behalf; and such date shall not be less than four years from the publication of the notification under section 6 of the Land Acquisition Act, 1894, nor shall such date be a date before that on which the scheme is declared by the Commissioners to be completed in so far as it affects such land.

(6) Before the date so fixed, the person from whom the Commissioners have arranged to accept the said fee, may, if the Commissioners are satisfied that the security offered by him is sufficient, execute an agreement with the Commissioners either-

(i) to leave the said fee outstanding as a charge on his interest in the land subject to the payment in perpetuity of interest at a rate not exceeding seven per cent, per annum, the said interest to run from the date fixed under sub-section (5), or

(ii) to pay the said fee by such number of equal yearly or half-yearly instalments of principal or of principal and interest, as may be approved by the Commissioners, interest in both cases being calculated at a rate not exceeding seven per cent, per annum on the amount outstanding.

(7) When the said fee has been paid on or before the date-fixed under subsection (5), or when an agreement has been executed in pursuance of subsection (6) in respect of any land, the proceedings for the acquisition of land shall be deemed to be abandoned.

(8) If the said fee be not paid on or before the date fixed under sub-section (5), the Collector shall then proceed to acquire the land.

(9) If any sum payable under an agreement executed in pursuance of subsection (6) be not paid on the date on which it is due, or on such later date as the Commissioners may in their discretion fix in this behalf, so much of the fee fixed by the Commissioners under sub-section (3) as is still unpaid, shall be payable on that date in addition to the said sum.

(10) At any time after an agreement has been executed in pursuance of clause (i) of sub-section (6) any person may pay off the balance outstanding of the charge created thereby with interest due, if any, at a rate not exceeding seven per cent, per annum, up to the date of such payment.

1. Words subs, for the word "Commissioners by W.B. Act 51 of 1980.

#### **100. Recovery of money payable in pursuance of section 99**

**:-**

When an agreement has been executed by any person in pursuance of sub-section (6) of section 99 in respect of any land, and any money payable in pursuance of that section is not duly paid, the same shall be recoverable by the Commissioners (together with interest up to the date of realization, at a rate not exceeding seven per cent per annum), under the provisions of this Act; and, if not so recovered, the Commissioners may, after giving public notice of their intention to do so, and not less than one month after the publication of such notice, sell the Interest of the said person or successor in such land by public auction, and may deduct the said money and the expenses of the sale from the proceeds of the sale, and shall pay the balance (if any) to the defaulter.

#### **101. Agreement or payment under section 99 not to bar acquisition under a fresh declaration :-**

If any land in respect of which an agreement has been executed, or a payment has been accepted in pursuance of subsection (6) of section 99 be subsequently required for any of the purposes of this

Act, the agreement or payment shall not be deemed to prevent the acquisition of the land in pursuance of a fresh declaration published under section 6 of the Land Acquisition Act, 1894. Power to purchase, sell, lease or exchange.

**102. Power to purchase, lease and sell lands :-**

**12**(1) Commissioners at a meeting may-

(a) purchase, take on lease or otherwise acquire any land for the purposes of this Act,

(b) sell, lease, exchange or otherwise transfer-

(i) any land which they have acquired for the purposes of recoupment, or

(ii) "3[except in the case referred to in sub-section(2), with the previous sanction] of the State Government, any land which is not required for the purposes of this Act: 3a\*\*\*\*\* 2 (2) Previous sanction of the State Government shall not be necessary for granting a lease for a period not exceeding five years, whether or not such lease contains a stipulation for renewal at the option of the lessee:

Provided that where such lease contains such stipulation, there shall be a further stipulation that the renewal shall be subject to revision of the terms and conditions of the lease by the Commissioners at a meeting.

1. Sec. 102 subs, by W.B. Act 16 of 1966 which was earlier as under:- "102. Power to purchase, lease and sell lands.- The Commissioners at a meeting may purchase, take on lease or otherwise acquire any land for the purpose of this Act, and may sell, lease, exchange or otherwise dispose of any land not required for such purposes or which they have acquired for purposes of recoupment."

2. Sec. 102 renumbered as sub-sec( 1) and sub-sec.(2) ins by W.B. Act 51 of 1980.

3. Words, figure and brackets subs, for the words "with the previous sanction" by W.B. Act 51 of 1980.

**102A. Power to transfer public streets to the State Government :-**

The Commissioners at a meeting may transfer to the State Government any public street or part of a public street which is vested in and belongs to the Commissioners on such terms and conditions as may be agreed upon between the State Government

and the Commissioners. Contracts and liabilities.

### **103. Execution of contracts :-**

(1) The Commissioners may enter into and perform any necessary for the purposes of this Act

.

(2) Every contract made on behalf of the Commissioners in respect of any sum exceeding <sup>1</sup>[five hundred rupees], or which shall involve a value exceeding <sup>1</sup>[five hundred rupees], shall be sanctioned by the Commissioners at a meeting and shall be in writing, and signed by at least two of the Commissioners, one of whom shall be the Chairman or Vice-Chairman, and shall be sealed with the common seal of the Commissioners :

"Provided that in the case of a municipality the income of which during the preceding year was two and a half lakhs of rupees or more the provisions of this sub-section shall apply as if the words "<sup>3</sup>[one thousand rupees]" were substituted for the words "<sup>1</sup> [five hundred rupees]."

(3) Unless so executed, such contract shall not be binding on the Commissioners.

(4) Where the "(Registration] Act, 1908, or any rule made thereunder, requires or permits any act to be done with reference to a document by a person executing or claiming under the same, and the document has been

1. Words subs, for the words "two hundred rupees" by W.B. Act 27 of 1955.

3. Proviso ins. by Ben. Act 11 of 1936,

### **104. . :-**

**1 \*\*\*\*\***

1. Sec. 104 om. by W.B. Act 27 of 1955 which was as under:- "  
104. Personal liabilities of Commissioners.-(1) A person shall be- (I) liable for the loss or waste of any money or other property belonging to or under the control of. the Commissioners, if such loss or waste Is a direct consequence of his misconduct while Chairman. Vice-Chairman or Commissioner : and (It) liable for any expenditure made from the Municipal Fund contrary to law, where such Illegal payment has been authorized by him while Chairman. Vice-Chairman or Commissioner, provided that the Local Government may. In Its discretion, for reasons to ue stated in



writing, condone any such illegal payment. (2) In any such case of - (i) loss or waste, and (ii) misapplication where such misapplication has not been condoned by the Local Government, a suit for compensation may be instituted by the Commissioners, In pursuance of a decision at a meeting. Explanation.-The institution of a case which is found by the court by which the case is heard to be mala fide is misconduct within the meaning of clause(i) of sub-section(1)."

#### **105. Municipal Fund :-**

There shall be constituted for each municipality a fund to be called the Municipal Fund and there shall be placed to the credit thereof-

(a) all sums received by or on behalf of the Commissioners under this Act or otherwise ;

**1**

(b)\*\*\*\*\*

(c) the balance, if any, standing at the credit of the Municipal Fund of the Municipality at the commencement of this Act.

1. Clause (b) om. by the Government of India (Adaptation of Indian Laws) Order. 1937. Clause (b) was as under:- "(b) all fines realized on conviction under the provisions of this Act or the rules of by-laws made thereunder or section 34 of the Police Act 1861, under the Prevention of Cruelty to Animals Act, 1920. the Bengal Vaccination Act 1880, the Bengal Food Adulteration Act, 1919, or under any other Act wherein or whereunder provisions is made for the credit of fine to the municipality;"

#### **106. Custody of Municipal Fund :-**

**1**\* \* \* \* \*all sums received on account of the Municipal Fund shall be paid into a Government treasury, or into any bank

**2**\*\*\*\*\*in or near to the municipality, and shall be credited to an account to be called the account of the municipality, to which they belong: Provided that the Commissioners may invest any moneys not required for immediate use'either in Government securities or in any other form of security which may be approved of by the **3**[State Government] or in fixed deposit in the **4** [State Bank of India or in any nationalised bank).

1. Words "unless the State Government otherwise directs," om. by W.B. Act 51 of 1980.

2. Words 'used as a Government treasury' om. by W.B. Act 51 of 1980.

3. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian

Laws) Order, 1937 and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order, 1950.

4. Words subs, for the words "Imperial Bank of India" by W.B. Act 51 of 1980.

**107. Priority of payments on account of, loans, trusts, establishment and audit. :-**

Except as is otherwise provided in this Act, the Commissioners shall set apart and apply annually out of the Municipal Fund-

(a) firstly, such sum as may be required for the repayment of, and the payment of interest on, any loan Incurred under the provisions of the Local Authorities Loans Act. 1914;

(b) secondly, such sum as is required for the discharge of the liabilities and obligations arising from any trust legally imposed upon or accepted by the Commissioners ;

(c) thirdly, such sums as they are by this Act required to provide for payment of the salaries and allowances of their own establishment, including such contributions as are referred to in section 70;

(d) fourthly, such sum as the <sup>1</sup> [State Government! may direct towards the cost of audit, towards the cost of establishment in any office of account or in any treasury and towards the salary and cost of establishment of any assessor or other special officer who may be appointed under this Act.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order. 1937 and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

**108. Purposes to which Municipal Fund is applicable :-**

(1)<sup>1\*</sup> \*\*\*\*\* subject to the payment of other sums, charges and costs necessary for carrying this Act into effect or duly directed or sanctioned for payment from the Municipal Fund by or under any of the provisions of this Act other than the provisions of this section or under any other enactment for the time being in force, the Commissioners at a meeting may apply the Municipal Fund to any of the following purposes within the municipality, that is to say-

(i) the construction, diversion, maintenance and improvement of streets, tramways, bridges, squares, gardens, tanks, ghats, wells, channels. drains, latrines and urinals;

(ii) the watering and cleansing of streets ;

(iii) lighting ;

(iv) water-supply ;

(v) conservancy and drainage including out-fall works and sewage disposal <sup>2</sup>[and preparation of compost manure from sewage];

(vi) the acquiring, keeping and equipping of open spaces for purposes of ventilation, or for the promotion of physical exercise and public recreation;

(vii) the planting and preservation of trees in streets and public places;

(viii) the construction, maintenance and improvement of offices and other buildings under the control of the Commissioners or required for municipal purposes;

### **3**

(viii a) the construction and maintenance of residential buildings for municipal employees;

(ix) the construction and maintenance of model dwelling houses for the working classes and for the poorer classes ;

(x) the construction, establishment, maintenance and improvement of schools <sup>4</sup>[and libraries] either wholly or by means of grants-in-aid;

(xi) the training of teachers and the establishment of scholarships;

(xii) the construction, establishment, maintenance and improvement of hospitals, dispensaries, leper asylums, orphanages, rescue houses, maternity houses, child welfare centres, sarais, <sup>5</sup>(tourists bungalows, rest-houses, town and community halls, passengers' sheds, poor- houses and dharamsalas, public latrines, and urinals] either wholly or by means of grants-in-aid ;

(xiii) the employment of vaccinators and the promotion of vaccination;

(xiv) the training and employment of Health Officers, Sanitary Inspectors, <sup>6</sup>\*\*\*\*\* medical practitioners, nurses, health visitors and midwives;

### **7**

(xiva) the training of Commissioners and their employees in

municipal administration, including attending seminars or conference on subjects relating to municipal administration;

(xu) the prevention of the spread of dangerous diseases;

(xvi) regulating and abating offensive or dangerous trades and removing noxious vegetation ;

(xvii) the payment of the expenses of indigent inhabitants of the municipality for journeys to and from any hospital established in any part of 7B[India] for the treatment of special diseases, and of their subsistence and proper clothing thereat, according to such scale as may be fixed by the Commissioners at a meeting ;

## **8**

(xviii)the maintenance of ambulances for carrying patients to hospitals and other places of treatment within or outside the municipality;

(xix) the construction, establishment, maintenance and improvement of veterinary dispensaries, and the training and employment of veterinary practitioners ;

(xx) the Improvement of the breed of cattle ;

(xxi) the payment of rewards for the destruction of noxious animals or diseased or unclaimed dogs ;

(xxii) all acts and things which are necessary for carrying out the purposes of the Prevention of Cruelty to Animals Act, 1890, and the Bengal Cruelty to Animals Act, 1920;

## **9**

(xxiii) the construction, establishment, maintenance and improvement of any municipal markets or slaughter-houses or the taking of any market or slaughter-house on lease or in any other manner as may be deemed fit by the Commissioners at a meeting or by acquisition, and the construction, establishment, maintenance or the taking on lease of warehouses, godowns, cold storages, cinemas and hotels;

(xxiv) the construction, establishment, maintenance and improvement of municipal dairy farms, grazing grounds and milk depots and acts and things that may be necessary for the Increase and Improvement of the milk-supply;

(xxiv) the establishment and maintenance of public places for the disposal of the dead ;

## **8**

(xxiua) the establishment and maintenance of public places for the disposal of carcass;

(xxv) the provision and maintenance of and assistance to public libraries and museums;

(xxvi) the establishment and maintenance of fire brigade ;

(xxvii) the holding of fairs and industrial, sanitary and health exhibitions ;

(xxviti) the taking of a census for the purposes of the municipality ;

(xxtx) the survey of buildings and lands and the preparation and maintenance from time to time of survey maps and plans and of other records relating to survey ;

(xxx) the giving of relief, and the establishment of relief works, in time of famine, scarcity, or any natural calamity ;

(xxx) the disposal of unclaimed corpses and the burial or cremation of paupers, and the payment of contributions to charitable institutions for assisting in such disposal, burial or cremation ;

(xxxii) the payment of compensation to any person sustaining any damage by reason of the exercise of any of the powers conferred by this Act;

(xxxiii) the payment to an officer or servant of the Commissioners of a bonus for good work done, or of compensation, for loss incurred in the execution of his duty;

(xxxiv) the carrying on of propaganda for public health and educational purposes <sup>11</sup>[and the publication of municipal journals and periodicals and souvenirs and purchase of books and subscription to journals, magazines, and newspapers];

## **12**

(xxxiva) the purchase and hoisting of the national flag ;

m(xxxivb) the payment of, or the payment of a contribution to, the cost incurred on the occasion of any public ceremony held <sup>13</sup>[or any meeting arranged by the Commissioners] within the limits of the

municipality;

**14**

(xxxiiuc) the presentation of addresses to or holding of civic receptions or other functions in honour of persons of distinction and placing of wreaths on dead body of persons of repute in such manner as may be deemed fit and necessary;

**13**

(xxxivd) the payment towards purchase of portraits, pictures or statutes;

**13**

(xxxive) the beautification of municipality by setting up fountains, planting trees and taking protective measures for river .banks including beautification thereof;

(xxxv) the re-excavation and repair of private tanks, wells and other sources of water-supply on such terms and conditions as to the Commissioners at a meeting may seem proper; and

(xxxui) all acts and things which are necessary for carrying out the purposes of this Act, or which are likely to promote the safety, health <sup>17</sup>[sanitation, education, culture,] welfare or convenience of the inhabitants of the municipality, expenditure whereon may be declared by the Commissioners, <sup>18</sup> [at a meeting] to be an appropriate charge on the Municipal Fund.

(2) The Commissioners may do all things, not being inconsistent with this Act, which may be necessary to carry out the purposes of this section.

(3) Nothing in this section shall affect any obligation of the Commissioners arising from a trust legally imposed upon or accepted by them.

1. Words and figures "Subject to the charges specified in section 107. and" om. by W.B. Act 51 of 1980.

2. Words ins. by W.B. Act 27 of 1955.

3. Clause (vain) ins. by W.B. Act 51 of 1980.

4. Words ins.by W.B. Act 51 of 1980.

5. Words subs, for the words "poor-houses and dharamsafas" by W.B. Act 51 of 1980.

6. Word "female" om. by Ben. Act 11 of 1936.

7. Clause (xtva) ins. by W.B. Act 51 of 1980.

8. Clause (xuiia) Ins. by W.B. Act 51 of 1980.

9. Clause" (xxti) subs, by W.B. Act 51 of 1980 which was earlier as under:- "(xxit) the construction, establishment, maintenance and Improvement of municipal markets or slaughter-houses or the taking of markets or slaughter-houses on lease;"

11. Words Ins. by W.B. Act 51 of 1980.

12. Clauses (xxxiva) and (xxxlvb) ins. by W.B. Act 27 of 1955.

13. Words ins. by W.B. Act 51 of 1980.

14. Clauses (xxxduc) to (xxxive) ins. by W.B. Act 51 of 1980.

17. Words Ins. by W.B. Act 51 of 1980.

18. Words subs, for the words "with the sanction of the State Government," by W.B. Act 51 of 1980.

**109. Power to Commissioners to incur expenditure beyond the limits of the municipality :-**

Notwithstanding anything contained in section 108, the Commissioners at a meeting may, with the sanction of the BB[State Government]-

(a) incur expenditure beyond the limits of the municipality-

(i) in the acquisition of land, or

(ii) in the construction, maintenance or repair of works, for the purpose of obtaining a supply of water or of lighting required for the inhabitants of the municipality or for establishing places for the disposal of the dead or of establishing slaughter-houses or places for the disposal of night-soil or sewage or carcasses of animals beyond the said limits or for drainage works or for dairy-farms and grazing- grounds or for any other purpose calculated to promote the health, safety or convenience of the inhabitants of the said municipality ; or

(b) make a contribution towards expenditure Incurred by the Commissioners of any other municipality or incurred out of any public funds for any of the purposes mentioned in section 108 or for measures affecting the health, comfort or convenience of the public and calculated to benefit the residents within the limits of the contributing municipality or towards the salary of any officer under any other authority whose services are employed by them; \*

\* \* \* **1** \*\*\*\*\*

(c) create scholarships tenable outside the limits of the municipality  
:

Provided that nothing in this section, or in any other provision of this Act, shall be deemed to make it unlawful for the Commissioners of a municipality, when with such sanction as

aforesaid they have constructed works beyond the limits of the said municipality for the supply of water or lighting or for drainage as aforesaid,-

(a) to supply or extend to, or for the benefit of any person or buildings or lands in any place, whether such place is or is not within the limits of the said municipality, any quantity of water or of gas or electric current not required for the purposes of this Act within the said municipality or the advantages afforded by the system of such drainage works, on such terms and conditions, with regard to payment and to the continuance of such supply or advantages as shall be settled by agreement between the Commissioners and such person or the owner or occupier of such buildings or lands ; or

(b) to incur any expenditure, on such terms with regard to payment as may be settled as aforesaid, for the construction, maintenance, repair or alteration of any connection pipes or other works necessary for the purpose of such supply or for the extension of such advantages.

1. Clause (bb) first ins. by W.B. Act 6 of 1963, then om. by W.B. Act 51 of 1980. Clause (bb) was as under:- "(bb) make a contribution to the National Defence Fund created by the Central Government for purposes relating to the defence of India: Provided that any such contribution made before the commencement of the Bengal Municipal (Amendment) Act, 1963, shall be deemed to be and to have always been validly made as if that Act had come into force when such contribution was made: or".

**110. Objects not provided for by this Act :-**

The [State Government] or any local authority may, at any time with the <sup>1</sup> [consent of the Commissioners at a meeting,] transfer to them the management of any institution or the execution of any work not provided for by this Act and it shall thereupon be lawful to the Commissioners to undertake the management of such institution or the execution of such works :

Provided that in every such case the funds necessary for such management or execution shall be placed at their disposal by the 88[State Government] or by the local authority concerned.

1. Words subs for the words "consent of the Commissioners" by or W.B. Act 51 of 1980.

**111. Restriction on application of moneys received for certain purposes :-**



Notwithstanding anything contained in section 108-

(1) all moneys collected, received or recovered by the Commissioners, <sup>1</sup>\* \*\*\*\*\* in any respect relating to -

(i) the water-supply ;

(ii) the lighting system ;

(iii) the cleansing of private latrines, urinals and cess-pools and conservancy; shall <sup>2</sup> \*\*\*\*\* be applied in defraying the expenses respectively-

(a) of making, extending or maintaining the water-supply,

(b) of making, extending or maintaining the lighting system,

(c) of cleansing latrines, urinals and cess-pools and of conservancy, as the case may be, and in repaying or paying interest on debts incurred in connection with the said purposes :

Provided that the [State Government] may at any time on the request of the Commissioners authorize the expenditure of surplus moneys accrued in respect of any of the services mentioned in sub-clauses (i), (ii) and (iii) of this clause on any other of the services mentioned in those sub-clauses or for general purposes :

Provided also that before authorizing such expenditure the 91a[State Government] shall give an opportunity for the submission of any objection to such expenditure by any rate-payer in the municipality and shall consider such objection ; and

(2) money which has been received by the Commissioners on account of any hospital or dispensary, or for any other specified purpose, or directed by them to be applied to the establishment or maintenance of any hospital or dispensary or any other specified purpose shall not, except as provided in clause (1), be expended on any other object.

1. Words "or fines" first om. by the Government of India (Adaptation of Indian Laws) Order, 1937, then again the words "whether as taxes or for the execution of works, for or" om. by W.B. Act 51 of 1980.

2. Words ". after deduction of such proportionate share of the cost of collection and supervision as the Commissioners at a meeting may fix." om. by W.B. Act 51 of 1980.

**112. Annual estimates to be prepared :-**

**<sup>1</sup>** At least two months before the close of the year, the Commissioners shall have prepared a complete account of the actual and expected receipts and expenditure for that year together with a budget estimate of the income and expenditure of the municipality for the next year.

1. Sec. 112 subs, by Ben. Act 11 of 1936 which was earlier as under:- "112. Annual estimates to be prepared.- (1) The Commissioners shall have prepared and laid before them at a meeting specially convened for the purpose at least three months before the close of the year, a complete account of the actual and expected receipts and expenditure for that year together with a budget estimate of the income and expenditure of the municipality for the next year. (2) Subject to the provisions of section 116. the Commissioners shall, at such meeting, decide upon the appropriations and the ways and means contained in the budget estimate and. by resolution, sanction a budget which shall be submitted to the Local Government or to such officer or officers as the Local Government may by order direct in this behalf. (3) Subject to the like provisions, the Commissioners may vary or alter from time to time, as circumstances may render desirable, by special resolution, the budget sanctioned under sub-section (2).

**113. Accounts and estimates to be published :-**

Copies of the accounts and estimates referred to in **<sup>1</sup> \* \* \* \*** section 112 and translations thereof in the vernacular of the district shall be lodged in the office of the Commissioners. During fourteen days after the estimates shall have been so lodged in the said office, of which due notice shall be locally published, the estimates and translations in the vernacular of the district shall be open to inspection at all reasonable times by any person paying municipal rates, tolls, fees or taxes to such municipality who may desire to inspect the same. Any written suggestion which may be deposited in the office of the Commissioners shall be recorded and laid before them for consideration **<sup>2</sup>** [at the special meeting referred to in sub-section (1) of section 113A.]

1. Words, figures and brackets "sub-section(1); of om. by Ben. Act 11 of 1936.

2. Word, figures and letter subs, for the words "at the next meeting" by Ben. Act 11 of 1936.

**113A. Accounts estimates and suggestions to be laid before the Commissioners :-**

**<sup>1</sup>**(1)The accounts and estimates referred to in section 112, together with any written suggestion deposited under section 113, shall be

laid before the Commissioners at a meeting specially convened for the purpose t least one month before the close of the year.

(2) Subject to the provisions of section 116, the Commissioners shall, at such meeting, decide upon the appropriations and the ways and means contained in the budget estimate and, by resolution, sanction a budget which shall be submitted to the [State Government] or to such officer or officers as the <sup>2</sup>[State Government] may, by order, direct <sup>3</sup> [ in this behalf, provided that where such budget relates to a municipality within the hill areas, the same shall be submitted through the Council.]

(3) Subject to the like provisions, the Commissioner may vary or alter from time to time, as circumstances may render desirable, by special resolution, the budget sanctioned under sub-section (2).

1. Sec. 113A ins. by Ben. Act 11 of 1936.

2. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order. 1937 and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order, 1950.

3. Words subs, for the words "in this behalf." by W.B. Act 17 of 1988.

#### **114. The revised budget :-**

As soon as may be after the first day of October, a revised budget for the year shall be framed and such revised budget shall, so far as may be, be subject to all the provisions applicable to a budget made under <sup>1</sup> [sections 112, 113 and 113A.]

1. Words, figures and letter subs, for the word and figures "section 112" by Ben. Act 11 of 1936.

#### **115. Minimum :-**

closing balance shown in budget.-In framing a budget the Commissioners shall provide for, the maintenance of such minimum closing balance (if any) as the <sup>1</sup> [State Government] may, by order, prescribe, for the service of municipal loans and for carrying out any duty or obligation specifically imposed upon them under this Act or any other enactment.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order. 1937 and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order, 1950.

#### **116. Budgets indebted boards :-**

Where, in the opinion of the <sup>1</sup>[State Government], the condition of indebtedness of any municipality is such as to make the control of Government over Its budget desirable, the <sup>1</sup>[State Government] may, by order declaring that such is the case, direct that the budget of such municipality shall be subject to the sanction of the 98a[State Government] or of the officer to whom it is to be submitted under the provisions of sub-section (2) of <sup>3</sup>[section 113A], as the case may be, and that the power to vary or alter the budget under sub-section (3) of <sup>2</sup> [section I ISA] shall be subject to conditions to be prescribed by rule.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order. 1937 and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order, 1950.

3. Word, figures and letter subs, for the word and figures "section 112" by Ben. Act 11 of 1936- 1. Sec. 118 subs, by W.B. Act 51 of 1980 which was earlier as under:- "118. Power of State Government, If work estimated to cost more than ten thousand rupees.-If any work is estimated to cost above ten thousand rupees, the State Government may require the plans and estimates of such work to be submitted for its approval, or for the approval of any servant of the Government before such work is commenced; and may require statements of the progress and completion of such work, with accounts of the expenditure on the same, to be submitted from time to time, in such form as it may prescribe, for its approval. or for the approval of such officer. Explanation.- Nothing In this section shall apply to the purchase of a motor vehicle the price of which does not exceed fifteen thousand rupees,".

### **117. Prohibition of expenditure in excess of budget :-**

(1) Where a budget has been passed the Commissioners shall not incur any expenditure under any of the heads of the budget, other than a head providing for the refund of taxes, in excess of the amount passed under that head without making provision for such excess by the variation or alteration of the budget.

(2) Where any expenditure under any head providing for the refund of taxes is incurred in excess of the amount passed under that head, provision shall be made without delay for such expenditure by the variation or alteration of the budget.

### **118. Approval of State Government if work estimated to cost more than rupees one lakh. :-**

No expenditure for any work or for purchase of any material as may

be necessary for the purpose of this Act the estimated cost of which exceeds rupees five thousand but does not exceed rupees one lakh shall be made without the approval of the Commissioners at a meeting:

Provided that where the estimated cost of such work or purchase exceeds rupees one lakh, approval of the State Government shall be obtained. III-General Disposal of Municipal Fund and property, on division, union withdrawal or revision of boundaries of municipalities,

**119. Apportionment and disposal of municipal property upon a division or union of municipalities :-**

When two or more municipalities are united or a municipality is divided or the boundaries of two or more municipalities are revised by a notification under section 8, the Municipal Funds or Fund and all property vested in the Commissioners of the municipalities or municipality concerned shall be consolidated, or apportioned in such manner as the [State Government] may direct.

**120. Disposal of fund and property on exclusion of local area from municipality or withdrawal of municipality from Act. :-**

(1) When a local area is excluded from a municipality by a notification under clause (c) or <sup>1</sup>[or in consequence of an order of any court or otherwise,] the <sup>2</sup>[State Government] shall, after consulting the Commissioners, frame a scheme determining what portion of the balance of the Municipal Fund and other property vested in the Commissioners shall vest in <sup>3</sup>[the State Government] and in what manner the liabilities of the Commissioners shall be apportioned between the Commissioners and the <sup>3</sup>[State Government]; and on the publication of such scheme in the <sup>4</sup>[Official Gazette] such property and liability shall vest and be apportioned accordingly.

(2) When the whole area comprised in any municipality is withdrawn from the operation of this Act by a notification under clause (b) of section 8 <sup>2</sup>[or in consequence of an order of any Court or otherwise,] the balance of the Municipal Fund and all other property at the time of the publication of the notification vested in the Commissioners shall vest in <sup>5</sup>[the State Government] and the liabilities of the Commissioners shall be transferred to the <sup>3</sup>[State Government].

(2A) The State Government may make such arrangement for administration of such portion of the balance of the Municipal Fund and other property as vests in the State Government under sub-section (1) or the balance of the Municipal Fund and all other property which vest in the State Government under sub-section (2) as it may consider necessary and may make such provisions for continuance of the civic services for the welfare of the inhabitants of the area affected as it may deem fit and proper.

(2B) Upon an arrangement made under sub-section (2A) the local area referred to in sub-section (1) or the whole area referred to in sub-section (2) shall be deemed to be a notified area within the meaning of sub-section (3) of section 93A.

(3)<sup>8</sup> \*\*\*\*\*

1. Words Ins. by W.B. Act 10 of 1982.
2. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order. 1937 and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order, 1950.
3. Words "for the purposes of the Province" first subs, for the words "the benefit of the inhabitants of local areas" by the Government of India (Adaptation of Indian Laws) Order, 1937 and, thereafter, the words "the State Government" subs, for the words "His Majesty for the purposes of the Province" by the Adaptation of Laws Order, 1950.
4. Words subs, for the words "Calcutta Gazette" by the Government of India (Adaptation of Indian Laws) Order. 1937.
5. Words "for the purpose of the Province" first ins. after the words "His Majesty" by the Government of India (Adaptation of Indian Laws) Order. 1937 and, thereafter, the words "the State Government" subs, for the words "His Majesty for the purposes of the Province" by the Adaptation of Laws Order. 1950.
6. Sub-sees. (2A) and (2B) ins. by W.B. Act 10 of 1982.
8. Sub-sec. (3) om. by the Government of India (Adaptation of Indian Laws) Order, 1937. Sub- sec. (3) was as under:- "(3) All property vested in His Majesty under this section shall be applied, under the orders of the Local Government, to the discharge of the liabilities imposed on the Secretary of State of India in Council thereby or for the promotion of the safety, health, welfare or convenience of the inhabitants of the area affected."

**121. . :-**

omited

## **122. Power to make rules :-**

The <sup>1</sup>[State Government) may make rules

(a) to regulate the application of the Municipal Fund to the purposes to which it is applicable ;

(b) to regulate the keeping, checking and publication of accounts and the periodical audit thereof;

(c) to regulate the preparation of the budget estimate and the expenditure of money for purposes provided therein ;

(d) to provide for the retention of adequate working and closing balances ;

(e) to provide for the preparation of plans and estimates for works referred to in section 118 to be partly or wholly constructed at the expense of the Commissioners, and to determine the persons by whom, and the conditions subject to which, such plans and estimates are to be sanctioned ;

(f) to regulate the preparation, submission and publication of returns, statements and reports by the Commissioners, and to prescribe registers and forms;<sup>2\*\*\*\*\*</sup>

(g) to determine the persons by whom orders for payment of money from the Municipal Fund may be signed, how such payments shall be made and by whom receipts <sup>3</sup>[may be given ; and ]

<sup>4</sup> (h) to provide for the supply of certified copies of municipal records to the public and the levy of fees for such supply.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and, thereafter, the word "State" subs. for the word "Provincial" by the Adaptation of Laws Order, 1950.

2. Word "and" om. by W.B. Act 27 of 1955.

3. Words subs, for the words "may be given" by W.B. Act 27 of 1955.

4. Clause (h) ins. by W.B. Act 27 of 1955.

### CHAPTER 4A

#### AUDIT

## **122A. Audit of accounts for Municipal Funds :-**

<sup>1</sup> (1) The accounts of Municipal Funds shall be examined and

audited by an auditor appointed in that behalf by the State Government at such time, to such extent and in such manner as the State Government may prescribe.

(2) An auditor appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

(3) The State Government may direct that the whole or any portion of the cost of audit as determined by it including the salary of the auditor, shall be paid from the Municipal Fund within such time as it may fix.

1. Chapter IVA containing secs. 122A to 122L ins. by W.B. Act 27 of 1955.

**122B. Submission of accounts to audit :-**

The Chairman shall produce or cause to be produced to the auditor all such accounts of the Municipal Fund as may be required by the auditor.

**122C. Powers of auditors :-**

<sup>1</sup> For the purposes of an audit under this Act, an auditor may

(1) require in writing the production before him of any document or the supply of any information which he considers to be necessary for the proper conduct of the audit;

(2) require in writing the personal appearance before him of any person accountable for, or having the custody or control of, any such document or having, directly or indirectly, and whether by himself or his partner, any share or interest in any contract made with, by or on behalf of Commissioners; and

(3) require any person so appearing before him to make and sign a declaration with respect to any such document or to answer any question or prepare and submit any statement.

1. Chapter IVA containing secs. 122A to 122L ins. by W.B. Act 27 of 1955.

**122D. Penalty :-**

<sup>1</sup> (1) Any person who neglects or refuses to comply with a requisition made by an auditor under section 122C, within such time or such extended time as may be specified, shall, on conviction by a Court, be punishable with fine which may extend to



one hundred rupees in respect of each item included in the requisition.

(2) No complaint in respect of an offence punishable under sub-section (1) shall be made except with the previous sanction in writing of the State Government.

(3) [No Judicial Magistrate other than a Judicial Magistrate] of the first or second class shall try an offence punishable under sub-section (1).

1. Chapter IVA containing secs. 122A to 122L ins. by W.B. Act 27 of 1955.

**122E. Audit report :-**

<sup>1</sup> (1) Within three months from the date on which an audit under this Act is completed, the auditor shall prepare a report on the accounts audited and shall send the report to the Chairman and a copy thereof to 16[the State Government, provided that in respect of the audit of the accounts of the Municipal Fund of a municipality within the hill areas, a copy of the report shall also be sent to the Council.]

(2) The auditor shall include in the report a statement showing

(a) any material impropriety or irregularity which he may observe in the expenditure" or in the recovery of monies due to the Commissioners or in the accounts of the Municipal Fund ;

(b) any loss or waste of money or other property owned by or vested in the Commissioners which has been caused by neglect or misconduct on the part of the Commissioners or their employees.

1. Chapter IVA containing secs. 122A to 122L ins. by W.B. Act 27 of 1955.

**122F. Action by Commissioners and by State Government :-**

(1) Within three months from the receipt of the report referred to in section 122E, the Commissioners at a meeting shall remedy any defect or irregularity pointed out in the report and shall report to the auditor the action taken by them. In their report the Commissioners shall give reasons or explanations for not remedying any defect or irregularity.

(2) If, within the period prescribed in sub-section (1), no report is received from the Commissioners by the auditor or if the reason or

explanation given by them for not remedying any defect or irregularity as aforesaid is not considered sufficient by the auditor, the auditor shall, if he has not already exercised or does not propose to exercise the powers conferred upon him by section 122G, submit to the State Government a statement of the facts of the case within such time and in such manner as the State Government may prescribe.

(3) On receipt of a statement under sub-section (2), the State Government may issue to the Commissioners such order as it may think fit, which shall not be questioned, and the Commissioners shall comply with the order within the period specified therein.

(4) If the Commissioners fail to comply with the order within the period specified therein, the State Government may appoint a person to carry out the order, and may determine the remuneration payable to such person, and may direct that such remuneration and any cost incurred in carrying out the order shall be paid from the Municipal Fund.

(5) A person appointed under sub-section (4) shall, for the purpose of carrying out the order, exercise any of the powers which might have been exercised by the Commissioners or the Commissioners at a meeting under any law for the time being in force.

**122G. Power of auditor to disallow any illegal payment or loss incurred by negligence or sum not brought into account :-**

<sup>1</sup> (1) The auditor, after giving the persons concerned an opportunity to submit an explanation within a time to be specified by him and after considering any such explanation, shall disallow every item of account contrary to law and surcharge the same on the person making or authorising the making of the illegal payment and shall charge against any person responsible for the amount of any loss incurred by the negligence or misconduct of that person and shall in every such case certify the amount due from such person:

Provided that the auditor may in his discretion waive the charge in cases where the amount involved does not exceed 16b[two hundred and fifty rupees.]

(2) For the purposes of this section, any Commissioner or member of a Standing Committee or a Joint Committee or a member associated with a Committee under section 90 who is present at a

meeting at which a motion or resolution is passed authorising any expenditure which is subsequently disallowed under sub-section (1) or authorising any action which results in any such expenditure, shall be deemed to be a person authorising such expenditure if he votes in favour of such motion or resolution, and all persons so voting shall be held jointly and severally liable for such expenditure.

(3) The auditor shall record in writing his reasons for every disallowance, surcharge and charge made under sub-section (1) and shall, in such manner as may be prescribed, send a certificate of the amount due and a copy of the reasons for his decision to the person in respect of whom the certificate is made, and shall also furnish copies thereof to the Chairman and the State Government.

(4) The State Government may, of its own motion and within one year from the receipt by it of the copy of the certificate, set aside or modify any disallowance, surcharge or charge and any certificate in respect thereof made by the auditor.

1. Chapter IVA containing sees. 122A to 122L ins. by W.B. Act 27 of 1955.

### **122H. Appeal :-**

(1) Any person from whom any sum has been certified by the auditor to be due under section 122G may, within three months from the receipt by him of the certificate,

(a) apply to the District Judge to set aside or modify the disallowance, surcharge or charge in respect of which the certificate was made. and the District Judge after taking such evidence as he considers necessary, may confirm. set aside or modify the disallowance, surcharge or charge and the certificate, and may make such order as to costs as he may think proper in the circumstances ; or

(b) in lieu of making an application under clause (a), appeal to the State Government, who may pass thereon such order as it thinks fit, and such order shall be final.

(2) Where a person referred to in section 122G, sub-section (2), who has been surcharged as authorising an illegal expenditure appeals to the State Government under this section, the State Government shall set aside such surcharge if it is proved to its satisfaction that such person voted for the resolution or motion in

good faith.

**122I. Payment of certified sums :-**

(1) The sum certified by the auditor to be due from any person under section 122G or where an application is made under clause (a) of sub-section (1) of section 122H or an appeal is made under clause (b) of that sub-section such sum as may be decreed or ordered by the Court or the State Government to be due from such person shall, within three months of the date of certification, decree or order, as the case may be, be paid by such person to the Commissioners who shall credit the sum to the Municipal Fund.

(2) Any sum not paid in accordance with the provisions of sub-section (1) shall be recoverable as a public demand and the Collector of the district shall, for the purposes of section 4 of the Bengal Public Demands Recovery Act, 1913, be deemed to be the person to whom such demand is payable.

(3) The Collector of the district shall pay to the Commissioners any sum recovered by him under sub-section (2).

**122J. Certain costs and expenses payable out of Municipal Funds :-**

(1) All expenses incurred by the Commissioners in complying with any requisition of an auditor under section 122C and in prosecuting an offender under section 122D shall be paid from the Municipal Fund.

(2) All costs allowed by the District Judge against an auditor under section 122H, and all expenses incurred by the Collector of the district in connection with the proceedings for recovery of any sum under sub-section (2) of section 122I from a person, if not recovered from the person shall be paid from the Municipal Fund.

(3) If the Commissioners fail to pay from the Municipal Fund any costs or expenses referred to in sub-sections (1) and (2) within such period as may be determined by the State Government in this behalf, the State Government may attach the Municipal Fund or any portion thereof.

(4) After such attachment no person except an officer appointed in this behalf by the State Government shall in any way deal with the

attached fund or portion thereof, but such officer may do all such acts in respect thereof as the Commissioners might have done if the attachment had not taken place, and may apply the proceeds of the fund in satisfaction of the costs and expenses due, the interest accruing in respect of such costs and expenses and any additional expenses resulting from the attachment and any subsequent proceedings:

provided that no such attachment shall defeat or prejudice any charge or debt for which the fund attached was previously liable in accordance with law but all such prior charges and debts shall be paid out of the proceeds of the fund before any part of the proceeds of the funds is applied to the satisfaction of the costs and expenses payable to the State Government under this section.

**122K. Certain expenses not chargeable to Municipal Funds without previous sanction :-**

<sup>1</sup> The Commissioners shall not incur any expenditure in connection with any application or appeal against a surcharge or charge in respect of which a certificate is issued by the auditor without the previous sanction of the State Government.

1. Chapter IVA containing secs.122A to 122L ins. by W.B. Act 27 of 1955.

**122L. Power to make rules :-**

<sup>1</sup> (1) The State Government may, after previous publication, make rules for carrying out the purposes of this Chapter and matters ancillary thereto.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for

(a) the manner and form in which the accounts of the Municipal Fund shall be maintained ;

(b) the powers and duties of the auditor and the procedure to be followed by him and the time and place at which such audit shall be held ;

(c) the agency by which and the manner in which prosecutions under sub-section (1) of section 122D shall be instituted ;

(d) the period within which and the manner in which the statement referred to in sub-section (2) of section 122F shall be submitted ;

(e) the manner of sending a certificate under sub-section (3) of section 122G and the form of such certificate.

1. Chapter IVA containing secs.122A to 122L ins. by W.B. Act 27 of 1955.

#### CHAPTER 5

#### MUNICIPAL TAXATION AND APPLICATION FEE

### **123. Power to impose taxes :-**

<sup>1</sup>The Commissioners may, from time to time, at a meeting convened expressly for the purpose, subject to the provisions of this Act, impose within the limits of the municipality the following rates, taxes, tolls and fees or any of them:

(a) a graduated consolidated rate on the annual value of holding,

(b) a tax on carriage and on horses and other animals mentioned in Schedule III.<sup>2</sup> \*\*\*\*\*

(d) a tax on advertisement,

(e) a fee for mutation for change of ownership of a holding,

(f) a fee on the registration of carts,

(g) a fee for grant of permission to erect a building other than a hut,

(h) tolls on ferries and on bridges.

(i) a fee on vessels moored within the limits of the municipality at ghats or landing places constructed and maintained by the Commissioners,

(j) a fee for parking of buses, lorries, taxis and other vehicles where parking facilities or terminus for buses, lorries, taxis and other vehicles are provided by the municipality, and

(k) any other tax which the Commissioners are empowered to impose under any law for the time being in force.

(l) The Commissioners may, from time to time, at a meeting convened as aforesaid and in accordance with a scale of fees to be approved by the State Government, charge a fee in respect of issue and renewal of any licence which may be granted by them under this Act and in respect of which no fee or tax is leviable under sub-section (1).

1. Sec. 123 subs. by W.B. Act 51 of 1980 which was earlier as under: "123. Power to impose taxes. (1) The Commissioners may, from time to time, at a meeting convened expressly for the purpose, subject to the provisions of this Act, impose within the limits of the municipality the following rates, taxes, tolls and fees, or any of them : (a) a rate on holdings situated within the municipality assessed on their annual value : (b) a water-rate on the annual value of holdings: (c) a lighting-rate on the annual value of holdings : (d) a conservancy, latrine and drainage rate (hereafter known as the conservancy-rate) on the annual value of holdings: (e) a tax on carriages and on horses and other animals mentioned in Schedule III; (f) a tax on the trades, professions and callings specified in Schedule IV at such rates as may be fixed by the Commissioners within the maximum rates fixed in the said Schedule: (g) a fee on the registration of carts: (gg) a fee for grant of permission to erect a building other than a hut: (h) tolls on ferries and on bridges; (i) a fee on vessels moored within the limits of the municipality at ghats or landing places - constructed and maintained by the Commissioners; and (j) any other tax which the Commissioners are empowered to Impose under any law for the time being in force. (2) The Commissioners may, from time to time, at a meeting convened as aforesatd, and in accordance with a scale of fees to be approved by the State Government charge a fee in respect of the issue and renewal of any license which may be granted by them under this Act and in respect of which no fee or tax is leviable under sub-section (1). (3) The Commissioners may, from time to lime, at a meeting convened expressly for the purpose, impose on any holding which is used wholly or in part for commercial or other non-residential purpose surcharges at such rates not exceeding, (i) fifty percent, of the rate on holding referred to in clause (a) of sub-section (1), (ii) fifty per cent, of the water-rate on the annual value of holdings referred to in clause (b) of sub-section (1). (til) fifty per cent. of the lighting-rate on the annual value of holdings referred to in clause (c) of sub-section (I), and (iv) fifty per cent, of the conservancy-rate referred to in clause (d) of sub-section (1), as may be determined by the Stale Government by notification in the Official Gazette."

2. Clause (cj om. by W.B. Act 13 of 1992 which was as under: "(c) a tax on trades, professions and callings specified in Schedule IV at such rates as may be fixed by the Commissioners within the maximum rates fixed in the said Schedule."

**123A. Exemption of diplomatic or consular mission of a foreign State from payment of any rate, tax, toll or fee :-**

<sup>1</sup> The State Government may. by order, exempt from the payment of any rate, tax, toll or fee payable under the provisions of this Act. any diplomatic or consular mission of a foreign State and the diplomatic and consular officers of such mission.

1. Sec. 123A ins. by W.B. Act 28 of 1951.

**123B. Exemption from consolidated rate :-**

**<sup>1</sup>** The Commissioners may at a meeting exempt from the consolidated rate any holding or portion thereof used exclusively for the purposes of public worship or any public burial or burning-ground or other places for the disposal of the dead duly registered under Chapter XX and declared as such by the State Government by notification.

Explanation. The following holdings shall not be deemed to be used exclusively for public worship within the meaning of this section, namely:

- (a) holdings in or on which any trade or business is carried on;
- (b) holdings in respect of which rent is derived; and
- (c) holdings to which the public do not have the right of free access without payment.

1. Sec. 123B ins. by W.B. Act 10 of 1982.

**124. Rate of imposition of tax :-**

**<sup>1</sup>** (1) The following consolidated rate of tax upon the annual value of holdings determined under this Chapter may be imposed by the Commissioners of a municipality upon all holdings within the limits of the municipality for the purpose of this Act:

- (i) ten per cent on the annual valuation where the annual valuation does not exceed two hundred rupees,
- (ii) eighteen per cent, on the annual valuation where the annual valuation exceeds two hundred rupees but does not exceed five hundred rupees, City twenty-five per cent, on the annual valuation where the annual valuation exceeds five hundred rupees but does not exceed two thousand rupees.
- (iv) thirty per cent, on the annual valuation where the annual valuation exceeds two thousand rupees but does not exceed ten thousand rupees,
- (v) thirty-five per cent, on the annual valuation where the annual valuation exceeds ten thousand rupees, but does not exceed twentyfive thousand rupees,
- (vi) forty per cent, on the annual valuation where the annual



valuation exceeds twenty-five thousand rupees:

Provided that the holdings the annual value of which does not exceed one hundred rupees shall be exempt from the consolidated rate:

Provided further that the Commissioners at a meeting may either wholly or partially exempt from the consolidated rate any holding which is used exclusively for the purpose of public charity.

(2) A surcharge at such rate not exceeding fifty per cent. of the total amount of consolidated rate calculated under sub-section (1) as the Commissioners may, from time to time, at a meeting convened expressly for the purpose determine, may be imposed on any holding which is used wholly or in part for commercial, industrial or other non-residential purposes.

(3) Out of the amount of the consolidated rate or surcharge calculated in terms of the provisions of sub-sections (1) and (2), ten per cent. shall be deemed to be the amount due as water-rate and the State Government may require the Commissioners to keep such amount of water-rate under a separate account to be expended in such manner as may be prescribed.

1. Sec. 124 subs. by W.B. Act 51 of 1980 which was earlier as under: "124. Restrictions on the imposition of the tax on holdings. (I) The rate on holdings shall not be imposed (a) in any municipality included in Schedule V at a rate exceeding fifteen per centum, or in any other municipality at a rate exceeding ten per centum, on the annual value of holdings; (b) on any holding which is used exclusively as a place of worship to which the public have the right of free access without payment or as a mortuary or which is duly registered as a public burial or burning ground under this Act. (2) The Commissioners at a meeting may, either wholly or paritally. exempt from the rate on holdings any holding which is used exclusively for purposes of public charity. (3) Where the aggregate annuat value of all the holdings held by any one owner within a munlciapality does not exceed fifty rupees, the rate on holdings shall not be imposed on any of the holdings of the said owner. (4) The State Government may on the recommendation of the Commissioners, at any time, include in. or exclude from. Schedule V the name of any municipality."

## **125. OMITED :-**

Sec. 125 om. by W.B. Act 51 of 1980 <sup>1</sup> \*\*\*\*\*

1. Sec. 125 om. by W.B. Act 51 of 1980 which was as under: "125. Restrictions on the Imposition of the water and lighting-rates. (1)

The imposition of a water-rate or of a lighting-rate shall be subject to the following restrictions, namely.- (a) that the rate shall be imposed only on holding within an area for the supply of water to which or for the lighting of which, as the case may be. a scheme involving the laying of pipes, wires, cables or other similar apparatus has been sanctioned by the State Government: Provided that where the Commissioners (i) distribute water by means of water-carts or other like agency or provide a water-supply, approved by the State Government, by means of welts or tanks or other reservoirs, or (ii) provide acetylene lamps, or such other means of lighting as may be approved by the State Government: the Commissioners at a meeting may impose in case (i) a water-rate and in case(ii) a lighting- rate under such conditions and limitations as may be prescribed by the State Government: (b) that the rate shall not be imposed on land used exclusively for purposes of agriculture, or on any holding referred to in clause (b) of sub-section (1) of section 124 of consisting only of tanks, or. in the case of the water-rate on any holding, no part of which is within a radius, to be fixed by the Commissioners at a meeting, from the nearest standpipe or other supply of water available to the public: (c) that the water-rate shall not be levied at more than seven-and-a-half per centum, and the lighting-rate at more than three per centum, on the annual value of holdings; (d) that the rate shall not be leviable until a supply of water has been provided In the area to be supplied, or until the lamps in the area to be lighted have been lighted, as the case may be. (2) Nothing in this section shall prevent the Commissioners at a meeting from making any special arrangement consistent with this Act for a supply of water or electric current or gas to persons residing beyond the radius fixed by the Commissioners at a meeting and for the levy of charges for the same. (3) With the sanction of the Commissioners at a meeting the amount of the water-rate may vary with the distance of holdings from the nearest standpipe or other sources of water-supply, and the amount may be higher in the case of premises to which communication pipes are attached than in the case of other premises."

#### **126. OMITED :-**

Sec. 126 om. by W.B. Act 51 of 1980 **1** \*\*\*\*\*

1. Sec. 126 om. by W.B. Act 51 of 1980 which was as under: "126. Restrictions on the imposition of the conservancy-rate. (1) The imposition of the conservancy-rate shall be subject to the following restrictions, namely, (a) that where there is no underground sewerage system the rate on any Jail, reformatory or lunatic asylum in which an establishment is maintained for the cleansing of latrines, urinals and cesspools therein shall not exceed such proportion of the rate in force for the municipality as the State Government may fix; (al) that the rate shall not be imposed on any holding referred to in clause (b) of sub-section (1) of section 124;

(b) that the rate shall not be leviable in any area until the Commissioners have made provision for the cleansing of private latrines, urinals and cesspools within such area ; (c) that the rate shall not be levied at more than ten per centum on the annual value of any holding. (1A) A rebate of twenty-five per centum of the conservancy-rate levied on a holding shall be allowed if the holding is provided with one or more sanitary-type latrines and with no service- privy or service-urinal. (2) The Commissioners at a meeting at their discretion may compound for any period not exceeding one year with the person liable to pay the rate on any railway premises or on any premises used as a mill, factory, dockyard, workshop, cooly-depot. school, hospital, market. court-house or other similar place for a certain sum to be paid by such person in lieu of the rate or, in the case of such premises or places may in lieu of levying the rate on the annual value of the holding levy it at a certain amount per head, to be fixed by the Commissioners at a meeting, on the number of persons living within or habitually resorting to such premises or places. (3) Notwithstanding anything contained In this section any person otherwise liable to pay the rate on any railway premises or on any premises used as a mill, factory, dockyard, workshop, cooly-depot, school, hospital, market, court-house or other similar place may, from year to year by application to the Commissioners, require that the rate shall be levied on such premises at a percentage not exceeding three-fourth of the percentage fixed under subsection (I) , provided that he proves to the satisfaction of the Commissioners that all latrines and urinals on such premises are served, cleansed and kept in a satisfactory condition by an establishment maintained at his own cost, and that the sewage therefrom undergoes such treatment at his cost, by means of septic tanks or other similar works constructed to the satisfaction of the Commissioners, as to render the effluent innocuous and inoffensive and capable of being discharged Into the municipal drains, and the Commissioners shall levy such rate accordingly: Provided that the exemption from paying the full rate conferred under this subsection (i) shall not apply where the Commissioners have, before the conservancy arrangements referred to in this sub-section were made, provided an underground sewerage system which Is, in the opinion of the State Government, of sufficient capacity and in every respect adequate for the efficient treatment and disposal of all sewage In the area served by it: (ii) shall, where the Commissioners have, after the conservancy arrangements referred to in this sub-section were made, provided an underground sewerage system which In the opinion of the State Government, fulfils the requirements specified in clause (i) terminate after a term of years to be determined by the State Government in each case ; (iii) may, subject to the approval of the State Government be granted by the Commissioners at a meeting to a mill, factory, dockyard, workshop, cooly-depot. school, hospital, market. court-house or other similar place which contributes or has contributed

towards the construction of an underground sewerage system."

**127. Power to call for list of occupants of holdings :-**

The Commissioners: may, for the purposes of conservancy, 27\* \* \* \* \* by a notice in writing, require the owner or occupier of any holding to furnish, within a time to be specified in the notice, a true and correct list of the number of persons living within, or habitually resorting to, such holding. Assessment of rates on the annual value of holdings.

**128. Annual value of holdings :-**

(1) The annual value of a holding shall be deemed to be the gross annual rental <sup>1</sup>[including service charges] at which the holding may reasonably be expected to let <sup>2</sup>[less, in the case of a building an allowance of ten per centum, for the cost of repairs and for all other expenses necessary to maintain the building in a state to command such gross rental.]

(2) If such gross annual rental cannot in the opinion of the assessor, be easily estimated or ascertained, the annual value of such holding shall be deemed to be an amount which may be equal to, but may not exceed, <sup>3</sup>[nine per centum.] on the value of the building or buildings on such holding at the time of such assessment plus a reasonable ground rent for the land comprised in the holding: <sup>4</sup>\* \* \* \* \*

<sup>5</sup>Provided that in the case of a holding comprising vacant land only, the annual value of such holding shall be deemed to be an amount which may be equal to but may not exceed five per centum on the estimated present value such land.

(3) The value of any <sup>33</sup>(plant or machinery excepting those enumerated Schedule IIIA) <sup>34</sup>\* \* \* \* \* which may be on a holding shall not be taken in consideration In estimating the annual value of such holding under this section: <sup>35</sup>Provided that

(a) if any dispute arises as to whether any parts of a plant or a combination of plant and machinery should be included in estimating the annual

(b) the referee shall thereupon decide the dispute after giving the Commissioners, the owner and the occupier an opportunity of being heard, and after considering the facts and circumstances of the case, and, if necessary, after inspection of the plant or machinery,

and the decision of the referee shall be final and conclusive;

(c) the costs of the reference shall be borne by the Commissioners and the owner or both the owner and the occupier in such proportion as the referee may direct:

**6** Provided that the value of any furniture which may be on a holding and which adds to convenience of occupation of that holding shall be taken into consideration in estimating the annual value of such holding.

**7** (4) Notwithstanding anything contained in sub-sections (1). (2) and (3), where a holding comprises a building which, or part of which, is used as a public cinema house or theatre or other similar place of public resort, recreation or amusement, the gross annual rental of such holding shall be deemed to be seven-and-half per centum of the gross annual receipts in respect of the cinema house or theatre or place of public resort, recreation or amusement, including receipts from rent and advertisements and sale of admission tickets but excluding taxes on the sale of such tickets.

1. Words ins. by W.B. Act 10 of 1982.

2. Words ins. by W.B. Act 51 of 1980.

3. Words subs. for the words "seven and half per centum" by W.B. Act 51 of 1980.

4. Proviso om. by W.B. Act 7 of 1969 which was as under: "Provided that, where the value of the building or buildings on the holding exceeds three lakhs of rupees, the percentage on the annual value to be levied in respect of so much of the value as is excess of three lakhs of rupees shall not exceed one half of the percentage determined by the Commissioners under section 135.".

5. Proviso ins. by W.B. Act 51 of 1980.

6. Proviso ins. by W.B. Act 51 of 1980.

7. Sub-sec. (4) ins. by W.B. Act 51 of 1980.

**129. Power of Commissioners to decide questions arising out of the definition of "holding" :-**

For the purpose of, and subject to, clause (21) of section 3

(a) if a question arises whether any land is included within one holding, the decision thereof shall rest with the Commissioners at a meeting ;

(b) the Commissioners at a meeting shall determine what class of ownership shall be accepted as the test for determining whether lands within a municipality are held under one title or agreement,

**130. Assessment in case of land or building subdivided into separate shares :-**

If, during the currency of any period prescribed by sub-section (1) of section 137, the ownership of any land or building, or portion thereof is subdivided into separate shares, the Commissioners may on the application of any of the co-owners, after giving the other co-owners an opportunity to be heard, divide the assessment of such land, building or portion in the following manner, namely :

(i) if the ownership be subdivided into two or more shares without separate allotments, or if as the result of such subdivision there is a separate allotment of such land, building or portion into two or more separate portions, which are not entirely Independent, the Commissioners may, if they think fit, apportion the assessment among the shareholders according to the value of their respective shares without assigning any separate number;

(ii) if, as the result of such subdivision, there are separate allotments of such land, building or portion and, if such allotments are made entirely independent and capable of separate enjoyment but not in conformity with the provisions of this Act or of any rules or by laws made thereunder relating to buildings, the Commissioners may, If they think fit, assess ' such portions separately after assigning to them separate numbers :

Provided that by such separate assessment the total assessment for the entire premises shall not be increased ;

(iii) if such separated portions of such land, building or portion are, or are made, entirely independent and capable of separate enjoyment in conformity with the provisions of this Act or of any rules or by-laws made thereunder, relating to buildings, the Commissioners shall assess each portion separately by assigning a separate number thereto :

Provided that by such separate assessment the total assessment for the entire premises shall not be increased :

Provided also that such apportionment or separation of the numbers and assessment, as the case may be, shall remain in force and the rate shall be levied accordingly until the expiration of the said period.

**131. Assessment in case of land or building being amalgamated :-**

If any land or building, bearing two or more municipal numbers, or portions thereof, be amalgamated into one or more new premises, the Commissioners shall assess them on amalgamation after assigning to them one or more numbers, as the case be:

Provided that no assessment on amalgamation of premises shall be made by the Commissioners unless there is a cause for the revaluation of any such premises except on an application being made to them by the owner or owners thereof in which case such assessment, if made, shall remain in force for the unexpired period of valuation :

Provided also that the total assessment on amalgamation shall not be greater than the sum of the previous assessments of the several premises amalgamated.

### **132. Taxes by whom payable :-**

**1** Except as otherwise provided by this Act, one-half of any rate which is assessed on the annual value of a holding shall be payable by the owner of the holding and the other half by the occupier thereof.

1. Sec. 132 subs, by W.B. Act 50 of 1976 which was earlier as under: "132. Taxes by whom payable. Except as otherwise provided by this Act. any rate which is assessed on the annual value of a holding shall be payable by the owner of the holding: Provided that where any holding owned by the State Government is in the occupation of any person under an agreement with the State Government entitling such person to have the ownership of such holding transferred to him on the performance by him of the terms and conditions of the agreement, any rate assessed on the annual value of such holding shall be payable by such person."

### **132A. Surcharge by whom payable :-**

**1** Notwithstanding anything contained in section 132 or in any other provisions of this Act, a surcharge imposed on any holding under sub-section (2) of section 124 shall be payable by the owner or the occupier, as the case may be, who uses such holding for commercial, industrial or other non-residential purpose.

1. Sec. 132A first ins. by W.B. Act 50 of 1976. then subs, by W.B. Act 51 of 19,80. Previous sec. 132A was as under: "132A. .Surcharge by whom payable. Notwithstanding anything contained in section 132 or arty other provisions of this Act, (a) when a surcharge has been imposed on any holding under sub-section (3) of section 123. the surcharge shall be payable by the owner or the occupier, as the case may be, who uses such holding for

commercial or other non-residential purpose; (b) when any portion of any holding is used for commercial or other non-residential purpose. the amount of the rate on holdings, the water-rate, the lighting-rate or the conservancy- rate, payable in respect of such portion shall, while determining the rate on holding, the water-rate, the lighting-rate or the conservancy-rate, as the case may be, of the entire holding, be separately calculated and the surcharge shall be imposed on that amount: (c) the surcharge referred to in clause (b) shall be payable by the owner or the occupier, as the case may be, who uses such portion of the holding for commercial or other nonresidential purpose."

### **133. Preparation of valuation list :-**

<sup>1</sup> (1) When it has been decided to impose consolidated rate to be assessed on the annual value of holdings, the Commissioners shall cause a valuation list to be prepared of the annual value of all holdings within the municipality by their Assessor or, if there is no Assessor among their own officers, by a person possessing the prescribed qualifications to be appointed by the Commissioners at a meeting as Assessor for the purpose of preparing the valuation list on such "[remuneration] and with such establishment as may be fixed by them.

(2) The Assessor shall determine the annual value of all holdings within the municipality in the manner provided in this Chapter and enter such value in the valuation list.

1. Sec. 133 subs, by W.B. Act 51 of 1980 which was earlier as under: "133. Preparation of valuation list. When it has been decided to impose any rate to be assessed on the annual value of holdings, the assessor, after making such inquiries as may be necessary, shall determine the annual value of all holdings within the municipality in the manner provided in this chapter. and shall enter such value in a valuation list."

### **133A. Realisation of holding-rate, water-rate, etc., in special circumstances :-**

<sup>1</sup> Notwithstanding anything contained in this Chapter, if the State Government is satisfied, on an application made to it by the Commissioners of any municipality to the effect that the valuation list of the annual value of holdings within the municipality could not be prepared and published as required under this Act before the 1st day of April, 1983 for circumstances beyond the control of the Commissioners, the State Government may, by order, allow the Commissioners to realise holding-rate, water-rate, lighting-rate and conservancy-rate at such rates as were in force within the limits of



the municipality on the 31st day of March, 1983, for such period as may be specified in the order.

1. Sec. 133A ins. by W.B. Act 24 of 1983.

**133B. Special provision for notified area :-**

<sup>1</sup> (1) Notwithstanding anything contained in this Act, if in any area including any Government Township as defined in clause (c) of section 2 of the West Bengal Government Townships (Extension of Civic Amenities) Act, 1975. prior to its being constituted as a notified area under section 93A,

(i) any tax, fee or charge was imposed in respect of any land or building, or

(ii) any assessment was made in respect of any land or building but no tax, fee or charge could be imposed in respect of such land or building on the basis of such assessment, or

(iii) no assessment could be made in respect of any land or building, under any provisions of any Act, other than this Act, as extended to such area, the State Government may, upon the constitution of such area as a notified area under section 93A, by order allow the notified area Authority for such notified area

(a) to continue to impose such tax, fee or charge in respect of such land or building, or

(b) to impose tax, fee or charge on the basis of such assessment in respect of such land or building, or

(c) to make assessment, and to impose tax, fee or charge on the basis of such assessment, in respect of such land or building, in accordance with the provisions of that Act and at the rates as were in force in such area immediately before the constitution of such area as a notified area, for such period and subject to such conditions, if any, as may be specified in the order.

(2) The provisions of this section shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

1. Sec. 133B ins. by W.B. Act 22 of 1990. w.e.f. 1.4.1989.

**134. Returns required for ascertaining annual value :-**

The assessor, in order to prepare the valuation list, may, whenever he thinks fit, by notice require the owners or occupiers of all

holdings to furnish him within one week with true and correct returns of the rent or annual value thereof and a true and correct description of the holdings containing such particulars as the assessor may direct, and the assessor, or any person authorized by him in writing in that behalf, may enter, inspect and measure any such holding at any time between sunrise and sunset:

Provided that at least twenty-four hours' previous notice of the intention to enter, inspect and measure any holding shall be given to the occupier thereof, unless he waives his right to such notice.

### **135. . :-**

**1 \*\*\*\*\***

1. Sec. 135 om. by W.B. Act 51 of 1980 which was as under: "135. Determination of percentage of rate on holdings. Subject to the provisions of this Act, the Commissioners, at a meeting to be held before the close of the year next preceding the year to which the rate will apply, shall determine the percentage on the valuation of holdings at which any rate on the annual value of holdings shall be levied, and the percentage so fixed shall remain in force until the Commissioners at a meeting shall determine some other percentage on the valuation of holdings at which the rate will be levied from the beginning of the next year: Provided that, when this Act is first extended to any place, the first rate or rates shall be levied from the beginning of the quarter next after that in which the percentage has been fixed by the Commissioners at a meeting: Provided further that, where the amount standing to the credit of the Commissioners in the Municipal Fund in any municipality is, in the opinion of the State Government, insufficient to meet the liabilities of the Commissioners, no decrease shall be made in the percentage of any rate levied by them without the previous sanction of the State Government."

### **136. Preparation of assessment list :-**

**1\* \*\*\*\*\*** the Commissioners shall cause to be prepared **2\* \*\*\*\*\*** an assessment list, which shall contain the following particulars and any others which the Commissioners may think proper to include:

(a) the name of the street in which the holding is situated;

(b) the number of the holding on the register;

**3**(c) the names of the owner and the occupier;

(d) the annual value of the holding;

(e) the name of the owner <sup>4</sup>\*\*\*\*\*.

(f) the amount of rate payable for the year <sup>5</sup> \*\*\*\*\*;

(g) the amount of quarterly instalment;

(h) if the holding is exempted from assessment, a note to that effect.

1. Words and figures "As soon as possible after the percentage at which the rate or rates shall be levied for the next year has been determined under section 135." orn. by W.B. Act 51 of 1980.

2. Words "by an assessor" orn. by Ben. Act 11 of 1936.

3. Clause (c) subs, by W.B. Act 50 of 1976 which was as under: "(c) a description of the holding;"

4. Words "and occupier" om. by Ben. Act 11 of 1936.

5. Words and brackets "(each rate to be shown separately)" om. by W.B. Act 51 of 1980.

### **137. Revision and duration of the list :-**

(1) A new valuation <sup>50</sup>\*\*\*\*\* list shall unless otherwise ordered by the <sup>1</sup>[State Government) be prepared, in the same manner as the <sup>2</sup>[original list], once in every five years:

<sup>3</sup> Provided that if an existing valuation list is not revised for any unavoidable reason, the validity of operation of such valuation list shall not be called in question till a new valuation list takes effect under this Act.

(2) Subject to any alteration or amendment made under section 138 and to the result of any application under section 148 every valuation and assessment entered in a valuation or assessment list shall be a valid from the date on which the list takes effect in the municipality and until the first day of April next following the preparation of a new list.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and. thereafter, the word "State" subs. for the word "Provincial" by the Adaptation of Laws Order, 1950.

2. Words subs, for the words "original lists" by Ben. Act 11 of 1936.

3. Proviso ins. by W.B. Act 10 of 1982.

### **138. Amendment and alteration of list :-**

(1) The Commissioners at a meeting may <sup>1</sup>[for reasons to be recorded in writing], at any time, direct alteration or amendment of the assessment list

(a) by entering therein the name of any person or any property which in their opinion ought to have been entered, or any property which has become liable to taxation after the authentication of the assessment list under section 147; or

(b) by substituting therein for the <sup>2</sup>[name of the owner and the occupier] <sup>3</sup>\* \* \* \* \* of any holding the name of any other person who has <sup>4</sup>.. \* \* \* \* \* of the holding; or

(c) by altering the valuation of or assessment of any holding which in their opinion has been incorrectly valued or assessed; or

<sup>5</sup>(cc) by re-valuing or re-assessing any holding, the valuation or assessment of which has been set aside or declared to be void by an order of a Court; or

<sup>6</sup>(ccc) by increasing the valuation and assessment of any holding which, in their opinion, has been substantially undervalued by reason of fraud, misrepresentation, mistake or error; or

(d) by re-valuing or re-assessing any holding, the value of which has been increased by additions or alterations to buildings; or

(dd) by altering the valuation or assessment of any holding where such alteration is necessitated by the amendment of any of the provisions of this Act; or <sup>7</sup>\* \_ \* \* \* \* \*

(f) by reducing, upon the application of the <sup>8</sup>[owner or occupier] <sup>63</sup>\* \* \* \* \* the valuation of any holding which has been wholly or partly demolished or destroyed, or the value of which has been diminished from any cause beyond the control of the <sup>8</sup>[owner or occupier] <sup>10</sup>\* \* \* \* \* the operation of which could not have been prevented with due precaution; or

(g) by correcting any clerical or arithmetical error.

(2) The Commissioners shall give at least one month's notice to <sup>64</sup>[the recorded owner or owners] <sup>11</sup>[or occupier or occupiers] of any alteration which the Commissioners propose to make under clauses (a), (b), <sup>12</sup>[(c) {(cc), (ccc) or (d)}] of sub-section (1) and of the date on which the alteration will be made.

<sup>13</sup>(2A) Before making any alteration under clause (b) of sub-section (1) the Commissioners shall realise from the person who has succeeded by transfer or otherwise to the ownership of a

holding a mutation fee which shall be,

(a) in the case of transfer by sale, gift or otherwise,

(i) Rs. 25 where the consideration money or the value of the property as expressed in the instrument of transfer does not exceed Rs. 5,000;

(ii) Rs. 50 where such consideration money or such value exceeds Rs. 5,000, but does not exceed Rs. 25,000;

(iii) Rs. 100 where such consideration money or such value exceeds Rs. 25,000;

(b) in the case of inheritance,

(i) Rs. 10 where the annual value of the holding exceeds Rs. 50, but does not exceed Rs. 500;

(ii) Rs. 15 where the annual value of the holding exceeds Rs. 500, but does not exceed Rs. 1,000;

(iii) Rs. 25 where the annual value of the holding exceeds Rs. 1,000.

(3) The provisions of sections 148 to 151 applicable to objections shall, so far as may be, apply to any objection made in pursuance of a notice issued under sub-section (2) and to any application made under clause (f) of subsection (1).

(4) Every alteration made under sub-section (1) shall be signed by the Chairman, 68[Vice-Chairman or Secretary,] and subject to the result of an application under section 148, shall take effect from the beginning of the quarter next following that in which the alteration was made, but the Commissioners by such alteration shall not be deemed to have made a new or revised assessment list:

**14** Provided that an alteration made under clause (cc) of sub-section (1) shall take effect from the date on which the valuation or assessment which has been set aside or declared to be void would have taken effect.

1. Words ins. by W.B. Act 27 of 1955.

2. Words subs, for the words "name of the owner" by W.B. Act 50 of 1976.

3. Words "or occupier" and "or occupation" om. by Ben. Act 11 of 1936.

4. Words subs, for the word "ownership" by W.B. Act 50 of 1976.

5. Clause (cc) ins. by W.B. Act 16 of 1966.
6. Clause (ccc)ins. by W.B. Act 51 of 1980.
7. Clause (e) om. by W.B. Act 51 of 1980 which was as under: "(e) where the percentage on the annual value at which any rate is to be levied has been altered by the Commissioners under the provisions of section 135, by making a corresponding alteration in the amount of rate payable in each case: or."
8. Words subs. for the word "owner" by W.B. Act 50 of 1976.
10. Words "or occupier" om. 'by Ben. Act 11 of 1936.
11. Words ins. by W.B. Act 50 of 1976.
12. Letters and brackets "(c). (cc) or (d)" first subs, for the letters and brackets "(c) or (d) by W.B. Act 16 of 1966, then the letters and brackets within second brackets subs, for the letters and brackets '(cc) or (d)' by W.B. Act 51 of 1980.
13. Sub-sec. (2A) ins. by W.B. Act 51 of 1980.
14. Proviso ins. by W.B. Act 16 of 1966.

### **139. Conclusiveness of entries in list :-**

An entry in an assessment list shall be conclusive proof

(a) for any purpose connected with a rate 70\* \*\*\*\*\* to which the list refers, of the amount leviable in respect of any holding during the period to which the list relates, and

(b) for the purpose of assessing any other municipal rate, of the annual value of any holding during the said period.

### **140. Power to assess buildings and lands together where land is let on a building lease :-**

(1)If any house belongs to one owner and the land on which it stands as also the adjacent land if any, usually occupied therewith, belongs to another, the Commissioners may treat such house and land as a single holding and assess them to rates accordingly.

(2) The total amount of the rate <sup>1</sup> \* \*\*\*\*\* shall be payable by the owner of the house, who shall thereafter be entitled to deduct from the rent which he pays for the land such proportion of the rate 70\* \*\*\*\*\* so paid by him as is equal to the proportion which such rent bears, to the annual value of the holding.

(3) In case of dispute the Commissioners shall determine what amount the owners of the house and of the land shall pay respectively.

1. Words "or rates" om. by W.B. Act 51 of 1980.

### **141. Power to reduce rates in cases of excessive hardship :-**

Whenever, from the circumstances of the case, the levy of a rate **1\*\*\*\*\*** on any holding in the municipality would be productive of excessive hardship to the person liable to pay the same, the Commissioners at a meeting may reduce the amount payable on account of such holding, or may remit the same<sup>2</sup> [or may realise the same by instalment]:

Provided that such reduction or remission shall not unless renewed by the Commissioners at a meeting, have effect for more than one year.

1. Words "or rates" om. by W.B. Act 51 of 1980.

2. Words ins. by W.B. Act 51 of 1980.

#### **142. Remission or refund on account of vacant holdings :-**

(1) When any holding <sup>1</sup>[comprising of land and building] has been unoccupied and unproductive of rent for sixty or more consecutive days <sup>2</sup>[the Commissioners shall

(a) remit one-half of the owner's share of the rate 70\* \* \* \* \* due on account of such period, or

(b) if the whole of such share has been paid, refund one-half of such share:

Provided that

(i) the person liable to pay the rate **3\*\*\*\*\*** or his agent has given to the Commissioners notice in writing of the vacancy and that the application for remission or refund is made within six months from the date on which such notice is delivered at the office of the Commissioners; and

(ii) the amount of rate **3\*\*\*\*\*** to be remitted or refunded shall not be calculated from any date prior to the date of delivery of such notice.

(2) When any such holding as aforesaid consists of separate tenements, one or more of which has, or have been unoccupied and unproductive of rent for any period of not less than sixty consecutive days, the Commissioners may, subject to the proviso to sub-section(1), remit such portion (if any) 74[of the owner's share of the rate **3\* \* \* \***] not exceeding <sup>6</sup> [one-half]. as they may think equitable.

(3) The burden of proving the facts entitling any person to claim relief under this section shall be upon him.

(4) For the purposes of this section

(i) neither the presence of a caretaker nor the mere storing in one room of an otherwise unoccupied dwelling-house of the furniture habitually used in it shall constitute occupation of the house, unless such house is maintained as a pleasure resort or as a temporary place of residence for a person ordinarily residing elsewhere, and

(ii) a house shall be deemed productive of rent if let to a tenant who has continuing right of occupation thereof, whether it is actually occupied by such tenant or not.

1. Words ins. by W.B, Act 28 of 1951.

2. Words, letters and brackets subs. for the words "the Commissioners shall remit, and If the rate or rates have been paid, shall refund one-half of the amount due on account of such period:" by W.B. Act 50 of 1976.

3. Words "or rates" om. by W.B. Act 51 of 1980.

6. Word subs, for the word "three-fourths" by W.B. Act 28 of 1951.

**143. Owner to give notice of re-occupation :-**

Even person who is the owner of any holding for which a remission or refund of the rate <sup>1</sup> \* \* \* \* has been made under section 142 shall give notice of the re-occupation of such holding within ten days of such re-occupation.

1. Words "or rates"om. by W.B. Act 51 of 1980.

**143A. Refund of occupiers share of the rate\* \* \*, :-**

<sup>1</sup>When any person has, in respect of any holding comprising of land and building, paid the occupier's share of the rate <sup>1</sup>\* \* \* \* \* for the whole of any quarter or where such holding consists of separate tenements, and any person has. in respect of such tenement or tenements, paid the occupier's share of the rate <sup>1</sup>\* \* \* \* \* for the whole of any quarter, such person shall be entitled to a refund of the rate <sup>1</sup> \* \* \* \* \* so paid for any period in that quarter during which such holding or such tenement or tenements, as the case may be, remained unoccupied, provided such person has given notice in writing of the facts to the Commissioners.

1. Words "or rates" om. by W.B. Act 51 of 1980.

**143B. Rate payable from the date of occupation :-**

When any holding comprising of land and building which has been



unoccupied is re-occupied or when such holding consists of separate tenements one or more of which has or have been unoccupied and is or are re-occupied during any quarter, the occupier's share of the rate in respect of such holding or such tenement or tenements, as the case may be shall be payable from the beginning of that quarter.

**143C. Power of Commissioners to levy entire rate on owner in certain cases :-**

<sup>1</sup> If any holding comprising of land and building is ordinarily occupied by more than one person holding in severally, the Commissioners may, notwithstanding anything contained in section 132, levy the entire rate 77\* \* \* on the owner of such holding.

1. Secs. 143A to 143F ins. by W.B. Act 50 of 1976.

**143D. Recovery from occupier a portion of rate paid by the owner :-**

<sup>1</sup>When the entire rate <sup>2</sup>\* \* \* \* is or are paid by the owner of any holding under section 143C, such owner may, if there be only one occupier of the holding, recover from such occupier half of the rate <sup>2</sup>\* \* \* \* so paid, and may if there be more than one occupier, recover from each occupier half of such sum as bears to the entire amount of the rate <sup>2</sup> \* \* \* \* so paid by the owner the same proportion as the value of the portion of the holding in occupation of such occupier bears to the entire value of such holding.

1. Secs. 143A to 143F ins. by W.B. Act 50 of 1976.

2. Words "or rates" om. by W.B. Act 51 of 1980.

**143E. Requisition for name of owner :-**

<sup>1</sup> The Commissioners may, by written notice, require the occupier of any holding to furnish within fifteen days the name and address of the owner of such holding.

1. Secs. 143A to 143F ins. by W.B. Act 50 of 1976.

**143F. Occupier liable to owners rate on failure to furnish owners name and address :-**

<sup>1</sup>If the occupier of any holding refuses or neglects to comply with a notice served under section 143E, he shall be liable to pay the rate <sup>2</sup>\* \* \* \* payable by the owner on account of such holding, and on nonpayment thereof, the Commissioners may recover the same by distress and sale of any movable property found on the holding:

Provided that no arrear of the rate <sup>2</sup> \* \* \* \* which has remained due from the owner of any holding for more than one year shall be so recovered from the occupier thereof.

1. Secs. 143A to 143F ins. by W.B. Act 50 of 1976.
2. Words "or rates" om. by W.B. Act 51 of 1980.

**144. Notice to be given to the Chairman of all transfers of title of persons primarily liable to payment of [rate] :-**

<sup>1</sup>(1) Whenever the title to or over any land or building of any person primarily liable for the payment of <sup>1</sup>[rate] on such property is transferred, both the transferor and the transferee shall, within three months of the registration of the deed of transfer, if it be registered, or if it be not registered, within three months of its execution, or, if no instrument be executed, within three months of the actual transfer, give notice in writing of such transfer to the Chairman.

(2) Every person primarily liable for the payment of 78[rate] on any land or building, who transfers his title to or over such property, without giving notice of such transfer to the Chairman, as aforesaid, shall, unless the Commissioners, on grounds of hardship arising out of special circumstances, otherwise direct, in addition to any other liability which he incurs through such neglect, continue liable for the payment of all such 78(rate] from time to time payable in respect of the said property until he gives such notice, or until the transfer shall have been recorded in the municipal books.

(3) Nothing in this section shall be held to diminish the liability of the transferee for the said <sup>1</sup>[rate] or to affect the prior claim of the Commissioners for the recovery of the <sup>1</sup> [ratel due thereupon and the Commissioners may revise the assessment list as against the transferee with effect from the date on which they are satisfied that the transfer was made.

1. Word subs, for the word "rates- by W.B. Act 51 of 1980.

**144A. Persons succeeding to lands or buildings to give notice to the Chairman :-**

<sup>1</sup> Every person succeeding to any land or building by inheritance shall within three months from the date of such succession give notice in writing of such succession to the Chairman and the provisions of sub-section (3) of section 144 shall apply mutatis

mutandis to such a case. General provisions relating to assessment.

1. Sec. 144A ins. by Ben. Act 11 of 1936.

**145. OMITED :-**

**1\*\*\*\*\*1 \*\*\*\*\***

1. Secs. 145 and 146 om. by W.B. Act 51 of 1980 which were as under: "145- Appointment of assessors of municipal rates. (1)The State Government shall prepare a list of persons qualified in its opinion to be appointed as municipal assessors. (2) When a new valuation list is to be prepared for any municipality the Commissioners at a meeting shall appoint from the list referred to in sub-section (1) a person as an assessor for the purposes of this chapter, on such salary and with such establishment as may be fixed by them with the approval of the State Government. (3) Notwithstanding anything in this section the State Government may, at the request of the Commissioners at a meeting, appoint, or authorise the Commissioners at a meeting to appoint, any person or persons approved by the State Government with or without salary to prepare the valuation list of such municipality.

**146. Appointment of assessor by State Government in case of default :-**

(1) If the Commissioners fail to comply with the provisions of section 145 within such period as the State Government may fix, the State Government may appoint for such period as may be necessary a suitable person from among the persons included in the said list to prepare the valuation list of such municipality.

(2)If there is no person for the time being available for appointment as assessor from among the persons Included in the list referred to in sub-section (1) of section 145, the Commissioners at a meeting, or in case of default by the Commissioners, the State Government may appoint any person approved by the State Government on such salary, for such period, and with such establishment as the Commissioners with the approval of the State Government, or the State Government in the case of default, may determine.

(3) An assessor appointed by the Slate Government under this section shall be paid monthly out of the Municipal Fund such salary and cost of establishment as may be fixed by the Slate Government."

**147. Publication of notice of assessment :-**

(1) When the assessment list mentioned in section 136 has been prepared or revised, the Chairman shall sign the same and shall cause it to be deposited in the office of the Commissioners and shall give public notice of the place where the list may be inspected.

(2) In all cases in which any property is for the first time assessed or the assessment is increased, the Chairman shall also give notice thereof to the owner or occupier of the property, if known.

#### **148. Application for review :-**

(1) Any person who is dissatisfied with the amount assessed upon him or with the valuation or assessment of any holding, or who disputes his occupation of any holding, or his liability to be assessed, may apply to the Commissioners to review the amount of assessment or valuation or to exempt him from the assessment of rate.

(2) No such application shall be received after one month from the date of publication of the notice required under sub-section (1) of section 147, or the service of the notice required under sub-section (2) of that section or after the expiration of one month from the date of service of the first notice of demand for payment at the rate in respect of which the application is made, whichever period shall last expire.<sup>1</sup> \*\*\*\*\*

1. Sub-sec.(3) om. by Ben. Act 11 of 1936 which was as under:  
{3) Notice of every such application shall be given by the Commissioners to the assessor.".

#### **149. Hearing and determination of applications by Committee :-**

<sup>1</sup>(1) Every application presented under section 148 shall be heard and determined by a Committee consisting of 83[the Chairman or Vice-Chairman and not less than two and not more than four Commissioners appointed by the Commissioners at a meeting, and there may be more than one such Committee for the purposes of this sub-section:]

Provided that in the case of municipality which is divided into wards under section 20, no Commissioner of the ward from which the application is made shall take part in the hearing or determination of such application.

(2) The Committee shall give notice to the applicant of the time and place at which his application will be heard, and after taking such evidence and making such inquiry as it may deem necessary, in the presence of the objector or his agent if he appears, pass such orders as it thinks fit in respect of the application.

<sup>2</sup>(3) The quorum shall be fixed by the Commissioners at a meeting.

<sup>2</sup>(4] The decision in such cases of the Committee, or of a majority of the members present, shall be final.

<sup>2</sup> (5) In case of equality of votes, the person presiding shall have a second or casting vote.

1. Sub-sec.(1) subs, by W.B. Act 28 of 1951 which was earlier as under: "(I) Every application presented under section 148 shall be heard and determined by a committee consisting of the Chairman, and two Commissioners who shall be appointed by the Commissioners at a meeting and shall not, in case of a municipality which is divided into wards under section 20, be Commissioners of the ward from which the application is made.". 83. Words subs, for the words "the Chairman and not less than two and not more than four Commissioners appointed by the Commissioners at a meeting:" by W.B. Act 24 of 1983.

2. Sub-sees. (3), (4) and (5) subs. for previous sub-sec. (3) by Ben. Act 11 of 1936. Previous sub- sec. (3) was as under: "(3) The decision of the committee, or of a majority of the members thereof in such cases, shall be final.".

#### **149A. Municipal Assessment Tribunal :-**

The Government may, by notification, appoint a Municipal Assessment Tribunal consisting of such number of member or members as may be specified in the notification for the purpose of hearing applications for review presented under section 148.

<sup>1</sup> (1A) The member or members referred to in sub-section(1) shall be appointed by the State Government from among persons other than any Commissioner or officer or other employee of a municipality recommended by the Commissioners of a municipality.

(2) When a Municipal Assessment Tribunal is appointed under sub-section (1), all applications presented under section 148 shall, notwithstanding anything contained in section 149, be heard by the Tribunal and the Tribunal shall pass such orders in such case as it thinks fit.

(3) An order of the Tribunal under sub-section (2) shall be final.

1. Sub-secs. (1) and (1A) subs, for previous sub-sec. (1) by W.B. Act 51 of 1980. Previous sub- sec. (1) was as under: "(I) The State Government may, by notification, appoint a Municipal Assessment Tribunal consisting of such person or persons as may be specified in the notification for the purpose of hearing applications for review presented under section 148.". 87. Words, figures, letter and brackets ins. by W.B. Act 27 of 1955. 88. Words, figure and brackets "or sub-section (6)" om. by W.B. Act 16 of 1966. Where a Revenue Statute provides for a person aggrieved by an assessment thereunder a particular remedy to be sought in a particular forum, in a particular way it must be sought in that forum and in that manner and all other forums and modes of seeking it are excluded. The principle deducible is that if there is an assessment made by the Municipality and the assessment is within the jurisdiction of the Municipality, or in other words if the assessment is intra vires, an aggrieved assessee must seek the remedy of review under section 148 or under section 149A, seek redress before Municipal Assessment Tribunal, Civil Court remedy is barred. *Munshi Ram vs. Municipal Committee, Chheharta*, AIR 1979 SC 1250: 1979 (3) SCC 83 : 1979 (3) SCR 463. If the assessment is made in accordance with the provisions of the Act, the fact that there has been an error in arriving at certain conclusion would not give the Civil Court any jurisdiction to question the legality and validity of the assessment. It is only if the assessment is not made in substantial accordance with the procedure laid down in the Act, that the finality of the assessment can be questioned in a Civil Court. *Swadeshi Industries Ltd. Administrator vs. Panihati Municipality*, AIR 1959 Cal 477; *P. K. Mondal vs. Commissioner, Krishnagar Municipality*, 1978 (1) CLJ276 : 82 CWN 457; *Barsi Municipal Council vs. Shankarlana Gundel*, AIR 1979 Bom125 : ILR 1980 Bom 1649 : 80 Bom LR 718.

#### **150. Assessment to be questioned only under Act :-**

No objection shall be taken to any assessment or valuation in any other manner than in this Act is provided [and no valuation or assessment made under this Act and no order passed under sub-section(4)88\* \*\*\*\*\* of section 149 or sub-section (2) of section 149A shall be called in question in any Court.]

#### **151. Payment of rate how affected by objections to valuation :-**

<sup>1</sup> (1) When an objection to an assessment of valuation has been made under section 148, the amount entered in the preceding assessment list shall, pending the final determination of the objection, be paid and the objection shall fail unless the said amount is paid or continued to be paid till the objection is finally determined.

(2) If. when the objection has been finally determined, the previous assessment or valuation is altered, then

(a) any sum paid in excess shall be refunded or allowed to be set off against any present or future demand of the Commissioners under this Act; and

(b) any deficiency shall be deemed to be an arrear of the rate and recoverable as such.

1. Sub-sec.(1) subs, by W.B. Act 24 of 1983 which was earlier as under: "(1) When an objection to an assessment or valuation has been made under section 148 the rate shall, pending the final determination of the objection, be paid on the revised assessment or valuation, and the objection shall fail unless the rate is paid or continued to be paid on such assessment or valuation till the objection is finally disposed of.".

**151A. Payment of rate when assessment or valuation set aside :-**

<sup>1</sup> (1) When an assessment or valuation is set aside or declared to be void by an order of a Court, the rate shall notwithstanding anything contained in sub- section(2) of section 137, be paid on the previous assessment or valuation until a reassessment or revaluation is made under clause (cc) of sub-section (1) of section 138.

(2) If upon such reassessment or revaluation the previous assessment or valuation is altered, the provisions of sub-section(2) of section 151 shall apply in respect of any sum paid in excess or any deficiency. Recovery of taxes.

1. Sec. 151A ins. by W.B. Act 16 of 1966.

**152. Office hours for payment of taxes :-**

By notification to be posted up in their office, the Commissioners shall declare at what hours of each day (not being a Sunday or other recognised holiday the office shall be open for the receipt of money and transaction of business.

**153. Amount of tax payable, and tax to be paid in advance :-**

(1) Unless the amount entered in such lists is subsequently altered by the Commissioners

(2) Such rate shall be payable in quarterly instalments and every

such instalment shall be deemed to be due on the first day of the quarter in respect of which it is payable.

**154. Receipts to be given :-**

For all sums paid on account of any tax, toll, fee or rate under this Act a receipt stating the amount and the tax, toll, fee or rate on account of which it is paid shall be given, signed by the tax-collector, or by some other officer authorized by the Commissioners to grant such receipts.

**155. Bill and notice of demand to be presented :-**

<sup>1</sup>(1) As soon as may be after any sum has become due on account of any tax, toll, fee or rate, the Commissioners shall cause to be presented to the person liable a bill for the sum due.

(2) Every such bill shall contain a statement of the period and of the tax, toll, fee or rate for which the charge is made.\*

<sup>2</sup> (3) The Commissioners at a meeting may by a resolution direct that a rebate of five per cent of the amount of any bill shall be allowed if payment of the amount for which the bill has been presented under sub-section (1) is made into the municipal office within thirty days from the date of such presentation, and thereupon rebate shall be allowed accordingly:

Provided that the Commissioners at a meeting may withdraw the rebate allowed under this sub-section.

Explanation. A bill shall be deemed to be presented under this section if it is sent by post under certificate of posting to the person liable, and in such case, the date borne on such certificate of posting shall be deemed to be the date of presentation of the bill to the person liable.

(4) If the said amount is not paid within thirty days from the date of presentation of the bill, a notice of demand in the prescribed form shall be served on the person liable. Such notice shall be signed by the Chairman, Vice-Chairman or any officer authorised by the Commissioners in that behalf and shall be served by a person authorised to receive payment 94[or by registered post]:

Provided that no charge shall be made in respect of the service of such notice.

(5) On the amount of a bill remaining unpaid after its presentation,



interest shall be payable at the rate of 95[ten per cent per annum] on the said amount from the day next after the expiry of thirty days from the commencement of the quarter following that in which the bill is presented.

Explanation. In calculating the interest payable under this sub-section, a fraction of a rupee in the amount of the bill on which interest is to be calculated shall

(a) where it is less than [ifty paise], be left out of account, and

(b) where it is not less than [fifty paise], be taken as one rupee.

1. Sec. 155 subs, by W.B. Act 27 of 1955 which was earlier as under: "155. Bill and notice of demand to be presented. (1) Within three months after any sum has become due on account of any tax, toll, fee or rate the Commissioners shall cause to be presented to the person liable to the payment thereof a bill for the said sum, which shall contain a statement of the period and of the tax. toll, lee or rate on account of which the charge is made. (2) If the amount mentioned in such bill is not paid on presentation thereof, a notice of demand in the prescribed form with copy of the bill appended thereto, shall be served on the person liable to pay the same. Such notice of demand may be served at any time after presentation of the bill: Provided that no charge shall be made in respect of the service of such notice. (3) Such notice shall be signed by the Chairman, Vice-Chairman or an officer authorized by the Commissioners in that behalf, as shall be served by a person authorised to receive payment.".

2. Sub-sec.(3) first subs, by W.B. Act 2 of 1975. then again subs, by W.B. Act 51 of 1980. Previous sub-sec.(3) was as under: "(3) If the amount for which any bill has been presented under this section Is paid Into the municipal office within fifteen days from the date of such presentation, a rebate of three and one-eight per cent, of each amount shall be allowed to the payer. Explanation. A bill shall be deemed to be presented under this section if it is sent by post under certificate of posting to the person liable, and in such case, the date borne on such certificate of posting shall be deemed to be the date of presentation of the bill to the person liable.".

### **156. Levy by distress on failure to pay tax, toll, fee or rate** :-

If any person, <sup>1</sup>[does not, within thirty days of the service of a notice of demand under sub-section (4) of section 155, pay the sum due. either to the Commissioners at their office, or to some person authorized by them to receive the money, or show to the Commissioners sufficient cause for not paying the same, the amount of the arrear due, [along with interest and] with costs

according to the prescribed scale of fees, may, at any time <sup>2</sup> \*  
\*\*\*\*\*, be levied by distress and sale of any movable property  
belonging to the defaulter, except ploughs, plough-cattle, tools or  
implements of agriculture or trade, wherever found, or of any  
movable property belonging to any other person, subject to the  
same exceptions, which may be found within the holding in respect  
of which such defaulter is liable to such tax, toll, fee or rate :

Provided that, when the holding in respect of which the default is  
committed is a place of business and the movable property  
distrained is shown to the satisfaction of the Commissioners to have  
been left there for repairs or safe custody in the ordinary course of  
business, it shall be released :

Provided also that, if the said property or any part thereof belongs  
to any person other than the defaulter, the defaulter shall be liable  
to indemnify the owner thereof for any damage he may sustain by  
reason of such distress, or by reason of any payment he may make  
to avoid such distress or any sale under the same.

1. Words subs, for the words "after service upon him of such bill  
and nolicc. does not. within fifteen days of the service of such  
notice." by W.B. Act 27 of 1955.

2. Words "within one year after the date of service of the said  
notice" om. by W.B. Act 27 of 1955.

### **157. Distress how to be made :-**

(1) Every warrant of distress and sale under section 156 shall be  
issued by the Commissioners, and shall be in the prescribed form.

(2) When a warrant of distress is issued it shall not be discharged  
before it is executed except upon payment of the sum due together  
with one-fourth of the costs referred to in section 156.

(3) Distress shall be made by actual seizure of movable property,  
and the officer charged with the execution of the warrant shall be  
responsible for the due custody thereof.

(4) Such officer shall make in the presence of two witnesses an  
inventory of all movable property seized under the warrant and  
shall give not less than ten days' previous notice of the sale, and of  
the time and place thereof by beat of drum, in the municipality or  
ward in which the property is seized, and by serving on the  
defaulter a notice in the prescribed form :

Provided that if the property is of a perishable nature, it may be

sold at once with the consent of the defaulter, or without such consent at any time after the expiry of six hours from the seizure.

**158. Officer may break open door :-**

The officer charged with the execution of the warrant may, under the special order of the Chairman or Vice-Chairman, between sunrise and sunset, break open any outer or inner door or window of a house, in order to make the distress, if he has reasonable ground for believing that such house contains any movable property belonging to the defaulter, and if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance ;

Provided that he shall not enter or break open the door of any room appropriated to women, except after reasonable notice and opportunity given to enable the women to remove to some part of the premises where their privacy may be preserved.

**159. Sale how to be conducted :-**

(1) If the sum due be not paid with costs before the time fixed for the sale, or if the warrant be not discharged or suspended by the Commissioners, the movable property seized shall be sold by auction, at the time and place specified, in the most public manner possible, and the proceeds shall be applied in discharge of the arrears and costs.

(2) The surplus sale-proceeds (if any) shall be credited to the Municipal Fund, and may be paid on demand to any person who establishes his right to the satisfaction of the Commissioners or in a court of competent jurisdiction.

(3) The tax-collector or other officer authorized by the Commissioners in that behalf shall make a return of all such sales to the Commissioners in the prescribed form.

**160. Sale of property beyond limits of municipality :-**

If the Commissioners are unable to recover under section 159 the sum due with costs, the <sup>1</sup>[Judicial Magistrate] may, on the application of the Commissioners, issue his warrant to any officer of his court for the distress and sale of any movable property or effects belonging to the defaulter within any other part of the jurisdiction of the <sup>1</sup>[Judicial Magistrate] or for the distress and sale of any movable property belonging to the defaulter within the jurisdiction of any other <sup>1</sup>[Judicial Magistrate] exercising

jurisdiction within <sup>4</sup>[West Bengal], and such other <sup>1</sup>[Judicial Magistrate] shall endorse the warrant so issued, and cause it to be executed and the amount, if levied, to be remitted to the <sup>1</sup>[Judicial Magistrate] issuing the warrant, who shall remit the same to the Commissioners.

1. Words subs, for the word "Magistrate" by W.B. Act 51 of 1980.

4. Words subs, for the word "Bengal" by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

### **161. Commissioners to keep account of distresses and sales**

**:-**

The Commissioners shall cause a regular account to be kept of all distresses levied, and sales made, for the recovery of taxes, tolls, fees and rates under this Act. 3162. Power to Commissioners to apply certificate procedure. (1) After a defaulter has been proceeded against under the foregoing provisions of this Chapter unsuccessfully or with only partial success, the sum due may be .recovered by certificate under the Bengal Public Demands Recovery Act, 1913. <sup>1</sup> \*\*\*\*\*

1. Sub-sec.(2) om. by W.B. Act 23 of 1961 which was as under: "  
(2) Instead of proceeding by distress and sale, or by certificate as prescribed in sub-section (1) or in the event of failure in either case to recover the whole or any part of the sum due, the Commissioners may sue the person liable to pay the same in any Court of competent jurisdiction."

### **162. Power to Commissioners to sue for arrears :-**

(1) In the event of failure to recover the whole or any part of the sum due by certificate as prescribed in section 162 the Commissioners may sue the person liable to pay the same in any Court of competent jurisdiction.

(2) Notwithstanding any decision of any Court to the contrary, any proceeding instituted in accordance with the provisions of sections 156 to 162 and pending on the date of commencement of the Bengal Municipal (Second Amendment) Act, 1961 may be continued after such commencement and any such proceeding or any order made, anything done or any action taken therein, shall not, in any manner, be called in question merely on the ground that the Bengal Municipal (Second Amendment) Act, 1961 was not in force when such proceeding was instituted, such order was made, such thing was done or such action was taken.

### **163. Irrecoverable taxes :-**

<sup>1</sup>(1) The Commissioners may order to be struck off the books the amount of any tax, toll, fee, rate or other money due under this Act which may appear to them to be irrecoverable.

<sup>2</sup> (2) In passing an order under sub-section (1) the Commissioners shall in each case briefly record the reasons therefor and a statement of the steps taken to recover the amount ordered to be struck off.

1. Sec. 163 renumbered as sub-sec.(1) and sub-sec. (2) ins. by W.B. Act 27 of 1955.

2. Sec. 163 renumbered as sub-sec.(1) and sub-sec.(2) ins. by W.B. Act 27 of 1955.

### **164. Certain persons prohibited from purchasing at sales :-**

All Commissioners, municipal officers and servants, and all chaukidars, constables and other officers of police are prohibited from purchasing any property at any sale made under this chapter. Recovery in special cases.

### **165. Recovery from occupier of tax due from non-resident owner and deduction from rent :-**

If the sum due from the owner of any holding remains unpaid after the notice of demand has been duly served, and such owner is not resident within the municipality or the place of abode of such owner is unknown, the same may be recovered from the occupier for the time being of such holding, who may deduct from the next and following payments of his rent, the amount which may be so paid by or recovered from him :

Provided that no arrear of rate shall be so recovered from the occupier of any holding if it has remained due from the owner thereof for more than one year or if it is due on account of any period during which such occupier was not in occupation of such holding :

Provided also that if any such holding is occupied in severalty by more than one person, the sum recovered from any one of such persons shall not exceed such amount as shall bear to the total sum due the same proportion as the value of the part of the holding in the occupation of such person bears to the entire value of the holding.

### **165A. Recovery of tax from unauthorised occupier of**

**holding :-**

Where any holding is in the occupation of any person, not being the owner or occupier, as defined in section 3, of such holding the amount of any tax, toll, fee, rate or other money due under this Act and assessed on the annual value of such holding may be recovered from such person as if he were an occupier of such holding as defined in clause (36) of section 3 :

Provided that no sum shall be recovered from such person if it is not due in respect of the period during which such person has been in occupation of the holding :

Provided further that the assessment or recovery made under this section shall not by itself be deemed to confer upon such person any right or title as the lawful occupier of the holding.

**165B. Separate assessment and recovery of tax in respect of portions of holdings in unauthorised occupation of different persons :-**

Where several persons, not being the owners or occupiers, as defined in section 3, are each in possession of a distinct portion of a holding, then, notwithstanding anything contained in this Act, the Commissioners may treat each such portion of holding as a separate holding and assess it as such to any tax, toll, fee, rate or other money due under this Act, and the amount of such tax, toll, fee, rate or other money assessed on the annual value of any such separate holding shall be recovered from the person in occupation of such holding as if he were an occupier of such holding as defined in clause (36) of section 3:

Provided that the assessment or recovery made under this section shall not by itself be deemed to confer upon any such person any right or title as a lawful occupier of any such holdings.

**166. Liability of purchaser for vendors share of rate :-**

The purchaser of any holding or part of a holding in respect of which any sum is due at the time of purchase on account of any rate under this Act shall, subject to the provision of sub-section (2) of section 144, be liable for the said sum.

**167. Rate to be a charge on holdings :-**

The sum due on account of any rate under this Act from any person in respect of any holding shall subject to the prior payment of the land revenue (if any) due to the Government <sup>1</sup> \*\*\*\* \* \* be a first

charge upon the said holding. The tax on carriages, and on horses and other animals.

1. Words, brackets and figures "or of the rent (if any) due to a landlord under the Bengal Tenancy Act. 1885. thereupon," om. by W.B. Act 51 of 1980.

**168. Tax on carriages, horses and other animals :-**

(1) When it has been determined that a tax on carriages, and on horses and other animals mentioned in Schedule III shall be imposed, the Commissioners at a meeting shall, subject to the provisions of section 199, make an order that the owner of every carriage, and every horse and other animals of the kind mentioned in the said schedule, which is kept or is used in the ordinary course of business within, or which is let for hire within or without the municipality, and is used in the ordinary course of business within it, shall pay the tax at the rate fixed under sub-section(2) in respect of such carriage, horse or other animal and they shall cause such order to be published in the manner prescribed.

(2) Such order shall be published at least one month before the beginning of the half-year in which such tax will first take effect; and shall specify at what rates, not exceeding the rates given in the said schedule, such tax shall be levied.

(3) Such tax shall not be imposed on

(a) horses or ponies belonging to officers doing regimental duty at the rate of one animal for each officer;

(b) horses and other means of conveyance exempt from any municipal tax <sup>1</sup>[under any law];

(c) carriages or animals <sup>2</sup>[belonging to the Government] or to the Commissioners or for keeping which for the execution of their duty an allowance is made <sup>3</sup> [by the Central or any State Government] or by the Commissioners to any of their officers;

1. Words subs, for the words and figures "under section 34 of the Auxiliary Force Act, 1920, or under section 16 of the Indian Territorial Force Act, 1920" by W.B. Act 51 of 1980.

2. Words "belonging to the Crown" first subs, for the words "belonging to the Government" by the Government of India (Adaptation of Indian Laws) Order. 1937 and, thereafter, the word "Government" subs, for the word "Crown" by the Adaptation of Laws Order. 1950.

3. Words "by the Central or any Provincial Government" first subs, for the words "by the Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and. thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order, 1950. WBL-2nd Ed-Vol-11/19 (d) animals used by, or exclusively for the purposes of, any regiment; (e) horses or ponies used by police-officers, at the rate of not more than one for each officer ; (f) carriages the wheels of which do not exceed twenty-four Inches in diameter; and (g) carriages or animals kept for sale by any bona fide dealer in such carriages or animals, and not used for any other purpose.

**169. Powers to exempt carriages or class of carriages from taxation :-**

In making an order under section 168 or by a subsequent order, the Commissioners at a meeting may exempt from the tax, imposed under section 168, any carriage or class of carriages mentioned in Schedule III.

**170. Duration of tax :-**

The order of the Commssioners imposing a tax under section 168 shall continue in force until rescinded and the tax shall be levied at the rates specified in the order published as aforesaid, unless and until the Commissioners at a meeting, held not less than fifteen days before the end of the year, make and publish an order specifying any different rates at which the tax shall be payable for the ensuing year.

**171. Half-yearly statement of liability and payment of tax :-**

(1) In any municipality in which a tax has been imposed idea section 168 the owner of every carriage, horse, and other animal mentioned in Schedule III shall, within the first month of each half-year, forward to the Commissioners a statement in writing, signed by him, containing a description of the carriages, horses and other animals liable to the tax, for which he is bound to take out a license.

(2) Such owner shall, at the same time, pay to the Commissioners such sum as shall be payable by him for the current half-year for the carriages, horses and other animals specified in such statement, according to the rates specified In any order for the time being-in force under section 168.

**172. Proportionate tax on carriages, etc., acquired during the half- year :-**



If any person acquires possession, at any time after the commencement of any half-year of any carriage, horse or other animal mentioned in Schedule III, In respect of which no license has been given for such half-year, he shall forward a statement as required under section 171 within one month of the date on which he may have acquired possession thereof and shall pay such amount of the tax as shall bear the same proportion to the whole tax for the half-year as the unexpired portion of the half-year bears to the half-year; and such amount shall be calculated from the date on which such person may have acquired possession as aforesaid.

**173. Grant of license on payment of tax :-**

(1) On receiving the amount of the tax due the Commissioners, or some person authorised by them, in that behalf, shall give to the person paying the same a license for the several carriages, horses and other animals for the period in respect of which the amount is received.

(2) Such licence shall be for the current half-year and no longer.

**174. Liability in absence of owner :-**

Whenever the owner of any carriage, horse or other animal who is liable to pay the said tax is not resident within the limits of the municipality to the Commissioners of which the tax is due, the person in whose immediate possession the carriage, horse or other animal is for the time being kept shall pay the tax and take out a license for the same.

**175. Carriages, etc., not to be kept without a license :-**

No person shall keep, or be in possession of any carriage, horse or other animal without the license required under this Act:

Provided that no carriage which has not been brought into use or which is so damaged as in the opinion of the Commissioners to be unfit for use shall be liable to the tax.

**176. Composition with livery stable keepers :-**

The Commissioners at their discretion may compound for any period not exceeding one year with livery stable-keepers and other persons keeping carriages, horses or other animals for hire for a certain sum to be paid for the carriages, horses or other animals so kept by Such persons, in lieu of the tax at the rates specified in any order made by the Commissioners under sections 168 and 170.

**177. Preparation of list of persons licensed :-**

The Commissioners shall, from time to time, cause to be prepared and entered in a book, to be kept by them and to be open to the inspection of any person interested therein, a list of the persons to whom during the then current half-year a license has been given, and of the carriages, horses and Other animals in respect of which they have paid the tax.

**178. Power to inspect stable, etc., and to summon persons liable to the payment of the tax. :-**

(1) The Commissioners, or any person authorized by them in this behalf, may, at any time between sunrise and sunset enter and inspect any stable or coach house, or any place wherein they may have reason to believe that there is any carriage, horse or other animal liable to the tax, for which a license has not been taken out,

(2) The Commissioners may summon any person whom they have reason to believe to be liable to the payment of any such tax, or any servant of such person, and may examine such person or servant as to the number and description of the carriages, horses and other animals in respect of which such person is liable to be taxed.

<sup>1</sup>(3) Where the owner or the keeper of any carriage, horse or other animal in respect of which no license has been taken out is unknown, the Commissioners may take possession of such carriage, horse or other animal, and shall thereupon make such order as they may think fit in respect of the custody of such carriage, horse or other animal.

<sup>1</sup>(4) If any person, within one month from the date of an order made under sub-section (3), establishes, to the satisfaction of the Commissioners, his claim to the possession of such carriage, horse or other animal, the

<sup>3</sup> (5) If no person within the period referred to in sub-section (4) prefers any claim or satisfies the Commissioners that he is entitled to the possession of such carriage, horse or other animal, the Commissioners may,

(a) cause the same to be sold, and

(b) order the sale-proceeds, after deducting therefrom the tax due and cost referred to in sub-section (4) (together with the cost of

the sale), to be paid to any person who, within six months from the date of such sale, establishes, to the satisfaction of the Commissioners, his claim to such proceeds.

1. Sub-secs. (3), (4) and (5) ins. by W.B. Act 51 of 1980.

3. Sub-secs. (3), (4) and (5) Ins by W.B. Act 51 of 1980.

**179. Refund of tax in certain cases :-**

On proof being given to the satisfaction of the Commissioners that a carriage, horse or other animal for which a license has been taken out for any half-year has ceased to be kept or to be used within the municipality during the course of such half-year, the Commissioners shall order a refund of so much of the tax for the half-year as shall bear the same proportion to the whole tax for the half-year as the period during which such carriage, horse or other animal has not been kept or used in the municipality bears to the half-year ; but no such refund shall be allowed unless notice be given to the Commissioners within one month of the time when such keeping or use of such carriage, horse or other animal ceased, and, except for special cause shown, the Commissioners shall pass no order for refund until after the close of the half-year in respect of which the refund is claimed.

**180. Prohibition of double tax :-**

Nothing in sections 168 to 179 shall be deemed to authorise the levy of more than one tax for the same period In respect of any carriage, horse or other animal which is used in the ordinary course of business in more than one municipality. In such cases the tax shall be levied by the Commissioners of the municipality within the jurisdiction of which the carriage, horse or other animal is kept.

**181. Meaning of used in the ordinary course of business :-**

A carriage, horse or other animal shall be deemed to be used in the ordinary course of business within the meaning of section 168, if it is used on business on an average thrice a week. <sup>1</sup> [Professtons, trades and calling.

1. Sub-heading subs, for the sub-heading "The tax on professions, trades and callings." by W.B. Act 13 of 1992.

**182. Certificate of enlistment for profession, trade and calling :-**

<sup>1</sup> (1) Every person engaged or intending to be in any profession, trade or calling in

Provided that such enlistment or renewal thereof shall not absolve such person from any liability to take out any licence under this Act or any other law for the time being in force.

(2) The Executive Officer or, in his absence the officer authorised to function as the Executive Officer shall, after making such enquiry as may be necessary and within thirty days of the receipt of the application, grant him such certificate if the application is in order, or shall reject the application if it is not in order.

1. Sec. 182 subs, by W.B. Act 13 of 1992 which was earlier as under: "182. Tax on professions, trades and callings, When it has been determined that a tax shall be imposed on professions, trades and callings, every person who exercises in the municipality, either by himself or by an agent or representative, any of the professions, trades or callings, specified In Schedule IV, shall take out a half-yearly license and pay the tax imposed under clause (e) of sub-section {1} of section 123, Explanation. Manufacture or storage of goods in a municipality for the purpose of carrying on business outside the municipality shall be deemed to be carrying on a trade or calling within the municipality.".

**182A. Tax on, and grant of license for, advertisements :-**

<sup>1</sup> (1) When it has been determined that a tax shall be imposed on advertisements, every person who erects, exhibits, fixes or retains upon or over any land, building, wall, hoarding or structure any advertisement, or who displays any advertisement to public view in any manner whatsoever, visible from a public street or other public place, shall pay for every advertisement which is so erected, exhibited, fixed, retained or displayed to public view, a tax at such rate, not exceeding the rate prescribed in Schedule IVA, as may be determined by the Commissioners at a meeting.

(2) When any person pays any tax under sub-section(1) for any advertisement the Commissioners shall grant him a license in respect of such advertisement.

1. The heading and secs. 182A to 182G ins. by W.B. Act 51 of 1980.

**182B. Prohibition of advertisement without payment of tax :-**

No <sup>1</sup> advertisement for which tax is payable under section 182A shall be erected, exhibited, fixed or retained under or over any land, building, wall, hoarding or structure, or shall be displayed to public view in any manner whatsoever in any place unless the tax is

paid and license obtained.

1. The heading and secs. 182A to 182G ins. by W.B. Act 51 of 1980.

**182C. Presumption in case of contravention :-**

Where any advertisement has been erected, exhibited, fixed or retained upon or over any land, building, wall, hoarding or structure or within a public street or a public place in contravention of the provisions of this Act or any rule made thereunder, it shall be presumed, until the contrary is proved, that the contravention has been committed by the person or persons or their agents on whose behalf the advertisement purports to be.

**182D. Power of Commissioners in case of contravention :-**

If any advertisement be erected, exhibited, fixed or retained in contravention of the provisions of section 182B, the Commissioners may require the owner occupier of the land, building, wall, hoarding or other structure upon or over which the same is erected, exhibited, fixed or retained, to take down or remove such advertisement or may enter any building, land or property and have the advertisement dismantled, taken down, removed, spoiled, effaced or screened,

**182E. Exemptions :-**

The provisions of sections 182A to 182D shall not apply to any advertisement which

(a) relates to a public meeting, or an election to any legislative body or an election of a municipal Commissioner or candidature in respect of such election;

(b) is exhibited within the window of any building if the advertisement relates to trade, profession or business carried on within the building;

(c) relates to the trade, profession or business carried on-within the land or building upon or over which such advertisement is exhibited or to any sale or letting of such land or building or any effects therein or to any sale, entertainment or meeting to be held on or in the same;

(d) relates to the name of the land or building upon or over which the advertisement is exhibited, or to the name of the owner or occupier of such land or building;

(e) relates to the business of a railway administration and is exhibited within any railway station or upon any wall or other property of a railway administration; or

(f) is not exhibited for the purpose of any trade and relates to any

(i) public charitable institutions, or

(ii) public educational institution and public library, or

(iii) public hospital, or

(iv) free dispensary, or

(v) place of worship, or

(vi) information or direction given to the public for their convenience.

**182F. Determination and payment of tax :-**

(1) The rates at which the tax under section 182A is to be imposed shall be determined annually by the Commissioners at a meeting before the preparation of the budget estimate under section 112.

(2) The tax payable under section 182A shall be paid at such time and in such manner as may be provided for by rules under section 182G.

**182G. Power of the Commissioner to make rules :-**

<sup>1</sup> The Commissioners may at a meeting make rules to provide for the time and manner of payment of tax under section 182A.

1. The heading and secs. 182A to 182G Ins. by W.B. Act 51 of 1980.

**183. Registration and numbering of carts :-**

(1) When it has been determined that a tax on registration of carts shall be imposed, the Commissioners at a meeting may make and publish an order that every cart, which is kept or is used in the ordinary course of business within the municipality, shall be registered by the Commissioners with the name and residence of the owner, and shall bear the number of registration in such manner as the said Commissioners shall direct:

Provided always that such order shall be published at least one month before the beginning of the half-year in which such order for registration shall be enforced,

(2) This section shall not apply to

(a) carts which are the property of the 19[Government] or of the Commissioners ;

(b) carts which are kept without the limits of the municipality, and are only temporarily and casually used within such limits ; and

(c) the municipality of Howrah.

(3) The registration of carts shall be made and the numbers assigned yearly or half-yearly on such days as the Commissioners shall notify.

**184. Fee for registration :-**

**1** (1)The fee payable for each registration under section 183 for every cart shall be such as the Commissioners at a meeting may fix from time to time:

Provided that such fee shall not, if the registration has effect for one year, exceed

(a) rupees ten, if the cart is fitted with pneumatic tyres,

(b) rupees eighteen, if the cart is fitted with solid rubber tyres, and

(c) rupees forty, if the cart is not fitted with pneumatic tyres or solid rubber tyres.

(2) Half of the fee specified in sub-section (1) shall be payable if the registration has effect for half a year.

1. Sec. 184. 8ubs. by W.B. Act 51 of 1980 which was earlier as under "184. Fee for registration. The fee payable for each registration under section 183 for every cart shall be such sum not exceeding six rupees as the Commissioners at a meeting may fix from time to time, if the registration has effect for one year and shall be half of this sum if the registration has effect for half a year."

**185. OMITED :-**

**1** \* \* \* \* \*

1. Sec. 185 om. by W.B. Act 51 of 1980 which was asunder: "185. Power to increase fees for carts with narrow tyres and rims. Notwithstanding anything contained in section 184, the Commissioners at a meeting may. with the sanction of the State Government increase by any amount not exceeding fifty per cent, the fee to be paid for registration of any cart any wheel of which

has a rim or tyre of less than two inches in width."

**186. Proportionate payment of fee :-**

Any person becoming possessed of any cart which has not been registered for the then current period of registration shall register the same within one month from the date on which he has become possessed thereof, and the Commissioners shall grant registration in any such case on payment of such amount of the fee as bears the same proportion to the whole fee for the current period of registration as the unexpired portion of the current period of registration bears to the whole of such period; and such fee shall be calculated from the date on which such person shall have become possessed as aforesaid.

**187. Transfer of ownership :-**

When the ownership of any registered cart is transferred within any period of registration, it shall be registered anew within one month of the transfer in the name of the person to whom it has been transferred, and a fee not exceeding 22[rupee one] shall be paid for every such re-registration.

**188. Carts not to be kept without being registered and without number :-**

No person shall keep, or be in possession of a cart not duly registered as required by this Act, nor shall any person, being the owner or driver of any cart, fail to affix thereto the registration number as required by this Act.

**189. Seizure and sale of unregistered carts :-**

(1) If any person owns or keeps any cart without registering the same as required by this Act, the Commissioners, or any person authorized by them in this behalf may seize and detain such cart (provided the same be not employed at the time of seizure in the conveyance of any passengers or goods) together with the animals, if any, drawing the same, and all police-officers are required, on the application of the Commissioners, or of any person duly authorized by them in that behalf, to assist in the said seizure,

(2) After such seizure the Commissioners shall forthwith issue a notice in writing that after the expiration of ten days they will sell such cart and animals, if any, by auction at such place as they may state in the notice; and, if any registration fee, together with the cost arising from such seizure and custody, remains unpaid for ten days after the issue of such notice, the Commissioners may sell the



property seized for payment of the said fee, and of all expenses occasioned by such non-payment, seizure, custody and sale,

(3) The surplus sale-proceeds (if any) shall be credited to the Municipal Fund, and may be paid on demand to any person who establishes his right to the satisfaction of the Commissioners or in a court of competent jurisdiction:

Provided that, If at any time before the sale is concluded, the person whose cart and animals, if any, have been seized tenders to the Commissioner, or to the person authorized by them to sell the property, the amount of all the expenses incurred and the registration fee payable by him, the Commissioners shall forthwith release the property so seized.

(4) Notwithstanding anything contained in this section the surplus of the sale proceeds of a cart and animals, if any, seized under this section, may be devoted to the payment of any fine imposed for a breach of the provisions of section 188; and any property which has been seized under this section may be sold for the realization of any such fine.

**190. Carts used or registered in more than one municipality**  
:-

(1) Nothing in section 183 to 189 shall be deemed to authorize the levy of more than one fee for the same period in respect of any cart which is used in the ordinary course of business in more than one municipality.

(2) When carts not kept within any municipality are so used in more than one municipality, the 23[State Government] may, if It thinks fit, apportion between all such municipalities the registration fees paid under this Act in respect of such carts.

(3) When a cart is registered under this Act in more than one municipality, the Commissioners of the municipality within which the cart is kept shall have a right to levy the registration fee in preference to the Commissioners of any other municipality:

Provided that such right is claimed by notice to the other municipality or municipalities concerned within two months of the date on which the fee becomes due.

(4) Where any dispute arises between the Commissioners of any two or more municipalities regarding any claim made under sub

section (3) of this section the matter shall be referred to the decision of the <sup>1</sup> [State Government] and the decision of the 23[State Government] shall be final.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and. thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950. On the cancelment of a lease the Commissioners may take possession of all boats and other appliances which have been used by the lessee in the working of the ferry; and may either retain the same permanently on payment of a fair price to the proprietor, or may retain them for such time as may be necessary, not exceeding three months, until they can make arrangements for such other boats and appliances as may be necessary, in which case the Commissioners shall pay a fair sum to the owners for the use of the said boats and appliances; Provided that within a week of taking such possession, the Commissioners shall be bound to give notice to the said lessee of their intention to retain the said boats and appliances permanently, or for a period- to be specified in the notice.

**191. Meaning of used in the ordinary course of business :-**

A cart shall be deemed to be used in the ordinary course of business, within the meaning of sections 183 to 190, if it is used on business on an average twice a week. Tolls of ferries.

**192. Ferries may be declared to be municipal :-**

The Commissioners may, with the sanction of the "(State Government]", declare that any ferry not being vested in any other local authority within or adjacent to the limits of the municipality is a municipal ferry, and the profits derivable therefrom shall thenceforward be carried to the credit of the Municipal Fund :

Provided that due compensation shall be made by the Commissioners to any person for the loss which he may have sustained in consequence of such ferry being declared to be a municipal ferry.

The amount of compensation due in such cases shall be ascertained and awarded by the Magistrate under the provisions of section 17 of the Bengal Ferries Act, 1885, or any similar law for the time being in force.

**193. Duties of Commissioners in regard to such ferries :-**

Every municipal ferry shall be maintained by the Commissioners, and they shall do all things necessary to provide for the safety and convenience of travellers, and the safety of property to be

conveyed on such ferry.

**194. Rate of tolls to be established and published :-**

When it has been determined to impose tolls on municipal ferries, the Commissioners at a meeting shall from time to time make and publish an order specifying the ferries and, with the sanction of the Commissioner of the Division, the rates at which such tolls shall be levied and shall cause a copy of such order to be permanently affixed on some conspicuous place at the ferry that.

**195. When persons crossing river not liable to toll :-**

No person shall be liable to pay any toll for crossing any river or stream at or near a municipal ferry, if he crosses the river or stream in a boat or other appliance which is kept for the personal use of such person.

**196. Cancellation of ferry lease, etc :-**

Every lease of a ferry given by the Commissioners as hereinafter provided shall be liable to be cancelled at once, if it shall appear to the Commissioner at a meeting that the lessee has failed to make due provision for the convenience or safety of the public within fifteen days after being required to do so by a notice in writing from the Commissioners.

**197. Toll must be prepaid :-**

Any collector or lessee of tolls, or his agent, may refuse to convey any person or goods across a municipal ferry until the proper toll has been paid, and may require any person who refuses to pay the toll to leave the boat or appliance and to remove his goods from it.

**198. Keeping of unauthorized ferry-boat :-**

No person shall keep a ferryboat whether or not plying for hire within a distance of two miles above or below any municipal ferry without the previous sanction

(i) of the Commissioners, if he plies within the limits of the municipality,

(ii) of the Magistrate of the district, if he plies without such limits, or

(iii) of the Magistrate of the district and the Commissioners, if one of the two banks between which he plies is within and the other bank is without, such limits.

This section shall not apply to any private ferry which was in

existence at the commencement of the Bengal Municipal Act, 1884.

### **198A. Power of Commissioners to make rules as to ferries**

:-

<sup>1</sup> The Commissioners at a meeting with the sanction of the "[State Government]" may make rules in all matters connected with the purposes of section 193, and for other matters relating to the management and leasing out of ferries.

1. Section 198A ins. by Ben. Act 11 of 1936.

### **199. Existing toll-bars :-**

The <sup>1</sup>[State Government] may, with the consent of Commissioners at a meeting, make over to the Commissioners any existing toll-bar on a bridge within the limits of the municipality to be administered by them until the <sup>1</sup>[State Government] shall otherwise direct; every toll-bar, while so administered shall be deemed to be a municipal toll-bar, and the profits, derivable therefrom, or such parts thereof as shall be agreed upon between the <sup>1</sup> [State Government] and the Commissioners, shall be parried to the credit of the Municipal Fund.

1. Words "Provincial Government" first subs, for the words, "Local Government" by the Government of India (Adaptation of Indian Laws) Order. 1937 and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950. on carriagee, carts and animals passing over such bridge; and the profits derivable therefrom shall be carried to the credit of the Municipal Fund; Provided that no such toll-bar shall be established or tolls levied, otherwise than for the purpose pf recovering the expenses incurred in constructing such bridge and in maintaining such bridge in repair for the five years next after the construction thereof, together with interest on such expenses as provided in section 201.

### **200. Commissioners may establish toll-bar :-**

The Commissioners at a meeting, with the sanction of the <sup>1</sup> [State Government], may establish a tollbar and levy tolls on any bridge which they may have constructed after the commencement of the Bengal Municipal Act, 1884, or at any place within the municipality adjacent to such bridge at which tolls may conveniently, be levied

1. Words "Provincial Government" first subs, for the words, "Local Government" by the Government of India (Adaptation of Indian Laws) Order. 1937 and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950. on carriagee, carts and animals passing over such bridge; and the

profits derivable therefrom shall be carried to the credit of the Municipal Fund; Provided that no such toll-bar shall be established or tolls levied, otherwise than for the purpose of recovering the expenses incurred in constructing such bridge and in maintaining such bridge in repair for the five years next after the construction thereof, together with interest on such expenses as provided in section 201.

**201. Commissioners to publish expenses, etc., of toll-bars :-**

Whenever a toll-bar shall have been established, and tolls shall be levied, as provided in section 200, the Commissioners shall at the end of each year publish, by causing it to be posted Up at their office, an abstract account showing

(i) the amount of expenses Incurred in the construction of such bridge and in the maintenance of the same ;

(ii) the amount of interest which has accrued due thereon, at the annual rate of six per centum ; and

(iii) the amount which has been received from the profits of the said toll- bar since its establishment;

and, as soon as such expenses and interests shall have been recovered as aforesaid, such toll-bar shall be removed and toll shall no longer be levied on such bridge.

**202. Rates of tolls to be established and published :-**

When it has been determined that tolls, shall be levied on any such bridge, the Commissioners at a meeting shall from time to time make and publish an order\* \*\*\*\*\* specifying rates at which such tolls shall be levied.

**203. Power of collector or lessee if the case of refusal to pay toll :-**

Any collector or lessee of tolls may refuse to allow any person to pass through any municipal toll-bar until the proper toll has been paid.

**204. penalty for refusing to pay or avoiding payment of toll :-**

No person taking through a toll-gate any motor vehicle carriage, cart or animal (not exempted from toll) shall refuse to pay the toll, nor shall any person fraudulently avoid taking through a toll-gate any such motor vehicle, carriage, cart or animal with intent to evade payment of the toll.

**205. In case of non-payment of toll, vehicle etc., may be seized and sold :-**

(1) If the toll due on any motor vehicle carriage, cart or animal is not paid on demand, the person authorised to collect the same may seize such motor vehicle, carriage, cart or animal, or any part of its load of sufficient value to defray the toll, and shall give immediate notice of such seizure to the Commissioners,

(2) After such seizure the Commissioners shall forthwith issue a notice in writing that, after the expiration of ten days, they will sell the property seized

(3) If the load or sufficient part thereof consists of articles which are subject to speedy and natural decay or consists of livestock, that load or part thereof may forthwith be sold under orders of the Commissioners.

(4) The surplus sale-proceeds (if any) shall be credited to the Municipal Fund, and may be paid on demand to any person who establishes his right to the satisfaction of the Commissioners or in a court of competent jurisdiction:

Provided that, if at any time before the sale has been concluded, the person whose property has been seized shall tender to the Commissioners, or to the officer appointed by them to sell the property, the amount of all the expenses incurred and of the toll payable, the Commissioners shall forthwith release the property seized.

(5) Notwithstanding anything contained in this section, the surplus of the sale-proceeds of any property seized under this section may be devoted to the payment of any fine imposed for contravention of section 204 ; and any property which has been seized under this section may be sold for the realisation of any such fine.

**206. Lease of ferry or toll-bar :-**

The Commissioners at a meeting may grant a lease

(a) of any municipal toll-bar for any period not exceeding three years, and

(b) of any municipal ferry for any period not exceeding three years or with the sanction of the <sup>1</sup> [State Government] for a longer period not exceeding nine years.

1. Words "Provincial Government" first subs, for the words "Local Government" by the 'Government of India (Adaptation of Indian Laws) Order. 1937 and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

**207. Table of tolls to be hung up :-**

The Commissioners shall cause a table of tolls legibly written in Bengali 28[and in such other language or languages commonly used in the districts may be decided by the Commissioners at a meeting] to be hung up by the toll collector or lessee of the municipal ferry or toll-bar. in some conspicuous position at each end of every municipal ferry, and in some conspicuous position near every municipal toll-bar so as to be easily read by all persons required to pay the toll.

**208. Composition in respect of tolls :-**

The Commissioners, or the lessee of any municipal ferry for toll-bar, may compound with any person for a certain sum to be paid by such person for himself, or for any vehicles or animals kept by him, in lieu of the ordinary toll payable.

**209. Exemptions :-**

(1) No tolls shall be paid for the passage of Government stores or the persons in charge of them; or of <sup>1</sup> [an officer of the State Government or of Central Government or of any local body] on duty, or of any person in their custody or of any property belonging to them or in their custody, or of any carriage, cart or animal employed by such persons for the transport of such property ; or of conservancy carts or other carriages, carts or animals belonging to the Commissioners or of the persons in charge of them :

Provided that tolls shall be leviable for conveying such animals over a ferry.

(2) The Commissioners or their lessees shall not be bound to allow any person or thing not specified in sub-section (1) to cross a ferry or to pass a toll-gate without payment of the proper toll :

Provided that the Commissioners at a meeting may from time to time exempt any class of persons or things not specified in sub-section (1) from payment of the said toll; and in granting a lease of any ferry or toll-bar may stipulate that any municipal servants and property and any other person or things shall be allowed to pass without payment of the toll.

1. Words subs, for the words "police-officers, or of any public or municipal or district board officer" by W.B. Act 51 of 1980.

**210. Police officers to assist :-**

In all cases of resistance to the person authorized to collect tolls, police-officers shall assist, when required, and for the purpose shall have the same powers as they have in the exercise of their ordinary police duties.

**211. Prohibition of taking unauthorized tolls :-**

No person who is authorized under this Act to collect tolls shall demand or take any higher tolls than the tolls authorized under this Act.

**212. Cancellation of lease :-**

Any lessee of a municipal ferry or toll-bar who demands or takes any higher tolls than the tolls authorized under this Act shall, in addition to any other penalty to which he is liable, be also liable to have his lease cancelled.

**213. Commissioners may be appointed to collect tolls in a navigable channel :-**

If the <sup>1</sup>[State Government] has declared that the provisions of the canals Act, 1864, or any other similar law for the time being in force, are applicable to any navigable channel which passes through the limits of a municipality it may, with the consent of the Commissioners at a meeting, appoint the Commissioners to collect tolls, as provided in section 8 of the said Act, until <sup>2</sup>[State Government] shall otherwise direct ; and the profits derivable therefrom, or such part thereof as shall be agreed upon between t h e <sup>2</sup> [State Government] and the Commissioners, shall thenceforward be carried to the credit of the Municipal Fund. In such case the Commissioners shall exercise all powers vested by such Act in the Collector.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and. thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

2. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and. thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order, 1950.

**214. State Government may order Commissioners to case levying tolls :-**



The <sup>1</sup> [State Government] may at any time order that the Commissioners, or any person authorized by them, shall cease to levy any tolls under section 213 and may at any time withdraw such orders. Rules.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and. thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order, 1950.

**215. Power to make rules as to taxation :-**

The <sup>1</sup>[State Government] may make rules

(a) prescribing the qualifications of, and the procedure to be followed by, an assessor <sup>2</sup>\* \* \* \* \* appointed under this Act;  
<sup>3</sup>\* \* \* \* \*

(b) prescribing the procedure to be followed by a committee appointed under sub-section (1) of section 149 to review an assessment or valuation ;

(c) prescribing the form of notices under section 147 of notices of demand under sub-section (2) of section 155, of warrants under sub-section (1) of section 157, and returns of sales under sub-section (3) of section 159;

(d) fixing the fees payable in connection with distraint under this Act; <sup>4</sup>\* \* \* \* \* # \*

(f) prescribing the conditions and limitations under which <sup>5</sup>[a certificate of enlistment may be granted for the purpose of carrying on] the trades, professions, and callings specified in Schedule IV; and

(g) regulating any other matter relating to taxes, tolls, fees or rates In respect of which this Act makes no provision or insufficient provision, and for Which provision is, in the opinion of the <sup>6</sup> [State Government], necessary, or which is directed to be prescribed.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and. thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order, 1950.

2. Words "of municipal taxes" om. by Ben. Act 11 of 1936.

3. Clause (aa) first ins by W.B. Act 50 of 1976, then om. By W.B. Act 51 of 1980. Clause (aa) was as under : "(aa) prescribing the age of superannuation of municipal officers and servants under the

proviso to section 75;".

4. ClausefeJ om. by W.B. Act 51 of 1980 which was as under ; "(e) prescribing the conditions and limitations under which a water-rate or lighting rate may be Imposed under the proviso to clause(a) of sub-section (1) of section 125;".

5. Words subs, for the words " a license may be granted for the purpose of a tax on" by W.B. Act 13 of 1992.

6. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India [Adaptation of Indian Laws) Order. 1937 and. thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

## CHAPTER 6

### STREETS

#### **216. Power of State Government to exempt a municipality from the operation of certain provisions :-**

On the application of the Commissioners at a meeting, the State Government may, by notification, exempt any municipality from the operation of all or any of the provisions contained in sections 217 to 220 and in sections 223 to 229. Building-lines and street alignments of public streets.

#### **217. Power to Commissioners to prescribe building line and street alignment :-**

(1) If the Commissioners at a meeting consider it expedient to prescribe for any public street a building-line or a street alignment, or both a building-line and a street alignment, they shall give public notice of their intention to do so ; Provided that no building-line shall ordinarily be prescribed for any street laid out and made before the commencement of this Act.

(2) Every such notice shall specify a period within which objections will be received, and a copy of such notice shall be sent by post to every owner of premises abutting on such street who is registered in respect of such premises on the books of the municipality :

Provided that failure or omission to serve such notice on any owner shall invalidate proceedings under this section,

(3) The Commissioners shall consider all objections received within the said period and shall hear any objector who comes forward within such period as they may fix in this behalf, and may then make an order prescribing a building-line or a street alignment or both a building-line and a street alignment for such public street. A register or book with plans attached shall be kept by

Commissioners showing all public streets <sup>1</sup>[within the municipality including in particular, those] in respect of which a building-line or street alignment has been prescribed, and such register shall contain such particulars as to the Commissioners may appear to be necessary and shall be open to inspection by any person upon payment of such fee as may from time to time be fixed by the Commissioners at a meeting.

(4) A building-line shall not be prescribed so as to extend further back than the main front wall of any building (other than a boundary wall) abutting on the street at its widest part.

(5) Every order made under sub-section (3) shall be published in the <sup>2</sup> [Official Gazette], and shall take effect from the date of such publication.

1. Words ins. by W.B. Act 51 of 1980.

2. Words subs, for the words "Calcutta Gazette" by the Government of India (Adaptation of Indian Laws) Order. 1937.

**218. Restrictions on creation of, or addition to, buildings or walls within street alignment or building-line :-**

(1) No portion of any buildings or boundary wall shall be erected or added to within a street alignment prescribed under section 217 :

Provided that the Commissioners at a meeting may, in their discretion, permit, additions to a building to be made within a street alignment, if such additions merely add to the height of, and rest upon, an existing building or wall, upon the owner of the building executing, if required to do so by the Commissioners, an agreement binding himself and his successors in interest

(a) not to claim compensation in the event of the Commissioners at any time thereafter calling upon him or such successors, by written notice to remove any addition made to any building in pursuance of such permission, or any portion thereof, and

(b) to pay the expenses of such removal,

(2) If the Commissioners refuse to grant the permission applied for to add to any building on the ground that the proposed site falls wholly or in part within a street alignment prescribed under section 217 and if such site, or the portion thereof which falls within such alignment, be not acquired by the Commissioners within six months after the date of such refusal, they shall pay reasonable

compensation to the owner of the site.

(3) No person shall erect or add to any building between a street alignment and the building-line without first obtaining the permission of the Commissioners at a meeting to do so : Provided that it shall not be necessary to obtain permission under this sub-section to erect, between a street alignment and the building-line,

(a) a porch or balcony, or,

(b) along not more than one-third of the frontage, an out-house not exceeding <sup>1</sup> [4.57 metres] in height.

(4) If the Commissioners grant permission under sub-section (3), they may require the applicant to execute an agreement in accordance with the proviso to sub-section (1).

1. Word and figures subs, for the words "fifteen feet" by W.B. Act 51 of 1980.

**219. Power to Commissioners to take possession of, and add to street, land situated within prescribed street alignment or covered by projecting buildings :-**

(1) The Commissioner may at any time after notice to the owner of the land of their intention take possession of

(a) any land (abutting on a public street) upon which any portion of any building or wall, projecting beyond the front of the adjoining building or wall, which is on either side of such first-mentioned building or wall, has collapsed or been demolished or burnt down, and

(b) any land not covered by buildings (including land on which a building has collapsed or been demolished or burnt down) which is situated within a street alignment prescribed under section 217, after making full compensation to the owner thereof for any direct damage which he may sustain thereby and shall take possession of any land, as specified in clause (b), if the owner thereof calls upon them to do so.

(2) Any land taken possession of under sub-section (1) shall forthwith be added to and become part of the said street, and shall vest in the Commissioners.

Explanation. The expression "direct damage" as used in sub-section (1) with reference to land, means the market value of the land

taken and the depreciation, if any, in the ordinary market value of the rest of the land resulting from the area being reduced in size ; but does not include damage due to any particular use to which the owner may allege that he intended to put the land, although such use may be injuriously affected by the reduction of the site.

**220. Power to Commissioners to set buildings forward to improve line of public street :-**

The Commissioners at a meeting may, upon such terms as they think fit, allow any building or wall to be set forward for the purpose of improving the line of a public street. Opening, improvement and closing of public streets, squares and gardens.

**221. Power to Commissioners to make, improve and close public streets, squares and gardens :-**

The Commissioners in pursuance of a decision arrived at a meeting may

- (a) lay out and make new streets, squares and gardens ;
- (b) construct new bridges, causeways, culverts and sub-ways ;
- (c) turn, divert, or temporarily or permanently close any public street or part thereof, or permanently close any public square or garden ;
- (a) widen, open, enlarge, or otherwise improve any public street, square or garden ;
- (e) provide at their discretion building sites of such dimensions as they think fit to abut on, adjoin or obtain access from any public street WBL-2nd Ed-Vol-11 /20 made, widened, lengthened, extended enlarged or improved by the Commissioners under clauses (a), (b), (c) or (d) or by the 40[State Government] ;
- (f) subject to the provisions of any rule made by the 40[State Government], prescribing the conditions on which the land may be acquired for the Commissioners, obtain, through the [State Government] the acquisition of any land, along with the buildings thereon, which they consider necessary for the purposes of any scheme or work undertaken or projected in exercise of the powers conferred by the preceding clauses including purposes of recoupment of the cost of any such scheme or work ; and

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- (g) subject to the provisions of any rule made by the[State

Government], prescribing the conditions on which land vested in the Commissioners may be transferred, lease, sell or otherwise dispose of any land acquired, for the Commissioners under clause (f) or any buildings erected thereon or any land used by the Commissioners for a public street, and in doing so impose any condition as to the description of any building to be erected thereon, as to the period within which such building shall be completed, as to the removal of any building existing thereon and as to any other matter that they deem fit.

**222. Power to Commissioners to dispose of so much of a permanently closed street, square or garden as is not required :-**

(1) When any public street, or part thereof or any public square or garden, is permanently closed under section 221, the Commissioners, in pursuance of a decision arrived at a meeting, may sell or lease the site of so much of the roadway and foot-path as is no longer required, or the site of the square or garden, as the case may be, making due compensation to, or providing means of access for, any person who may suffer damages by such closing.

(2) In determining such compensation allowance shall be made for any benefit accruing to the same premises or any adjacent premises belonging to the same owner from the construction or improvement of any other public street, square or garden at or about the same time that the public street, square or garden on account of which the compensation is paid is closed. Projected public streets.

**223. Projected public streets :-**

(1) The Commissioners at a meeting may from time to time prepare schemes and plans of projected public street, showing the direction of such street, the street alignment and building line on each side of them, their intended width and such other details as may appear desirable.

**224. Provisions of section 218 to apply to projected public streets :-**

The provisions of section 218 shall, with all necessary modifications, apply to public street projected under section 223. Special provisions as to private streets.

**225. Making of new private streets :-**

(1) Any person intending to make or lay out a new private street shall send to the Commissioners a written notice, with plans and sections, showing the following particulars of the

proposed street, namely

(a) the level, width and alignment thereof, and

(b) the arrangements to be made for levelling, paving, metalling, flagging, channelling, sewerage, draining and lighting the street.

(2) The provisions of this Act as to the width of public streets and the height of buildings abutting thereon, and as to projected public streets, shall respectively apply in the case of streets referred to in sub-section (1); and all the particulars referred to in that sub-section shall be subject to approval by the Commissioners at a meeting : Provided that the Commissioners at a meeting may allow a private street to be made or laid out of a width less than <sup>1</sup>[6.10 metres] but not less than <sup>2</sup> [4.88 metres].

(3) Within ninety days after the receipt of any notice under sub-section (1) the Commissioners at a meeting shall either sanction the making of the street, or disallow it, or ask for further information with respect to such street.

(4) Such sanction may be refused

(i) if the proposed street would conflict with any arrangements which have been made, or which are in the opinion of the Commissioners likely to be made within a reasonable period, for carrying out any general scheme of street improvement, or

(ii) if the proposed street does not conform to the provisions of this Act referred to in sub-section (2), or

(iii) if the proposed street is not designed so as to connect at one end with a street which is already open.

(5) If further information is asked for under sub-section (3), no steps shall be taken to make or lay out the street until orders have been passed upon receipt of such information, and such orders shall be passed within ninety days of the receipt of such further information,

(6) If within ninety days after the receipt of any notice under sub-section (1); or within ninety days after the receipt of any further information asked for under sub-section (3), the Commissioners

have not refused sanction to the making of the private street, it shall be deemed that sanction to the same has been granted.

1. Word and figures subs, for the words "twenty feet" by W.B. Act 51 of 1980.
2. Word and figures subs, for the words "sixteen feet" by W.B. Act 51 of 1980.

**226. Prohibition of breach of section 225 :-**

Except as provided in subsection (6) of section 225, no person shall make or lay out any street referred to in sub-section (1) of section 225

- (a) until he has obtained the sanction of the Commissioners under that section, or
- (b) in contravention of any orders made thereunder.

**227. Alteration or demolition of street made in breach of section 225 :-**

(1) If any person makes or lays out any street referred to in sub-section (1) of section 225, without having obtained the sanction of the Commissioners under that section, or in contravention of any orders made thereunder, the Commissioners may whether or not the offenders be prosecuted under this Act, by written notice,

(a) require the offender to show sufficient cause, by a written statement signed by him and sent to the Commissioners on or before such day as may be specified in the notice, why such street should not be altered to conform to the provisions of the rules made under sub-section (1) of section 228 or, if such alteration be impracticable, why such street should not be demolished, or

(b) require the offender to appear before them, either personally or by a duly authorized agent, on such day and at such time and place as may be specified in the notice, and show cause as aforesaid.

(2) if any person on whom such notice is served fails to show sufficient cause, to the satisfaction of the Commissioners, why such street should not be so altered or demolished, they may cause the street to be so altered or demolished, and the expenses thereof shall be paid by such person.

**228. Levelling etc. of private street :-**



(1) If any private street or any part thereof be not levelled, paved, metalled, flagged, channelled, sewered, drained or lighted in accordance with the rules to be made by the Commissioners at a meeting for this purpose, they may, by written notice to the owner of such private street or the respective owners of the land fronting, adjoining or abutting upon such street or part, as the case may be, from time to time require them to level, pave, metal, flag, channel, sewer, drain or light such street or part in accordance with the provisions of such rules.

(2) If such notice be not complied with and the Commissioners, under sub-section (2) of section 514, execute the works mentioned or referred to therein, the expenses thereby incurred shall be paid by the owner of such private street or the owners in default, in such proportion as may be settled by the Commissioners at a meeting.

**229. Power to Commissioners to take over private streets :-**

If any private street which conforms to the provisions of this Act referred to in subsection (2) of section 225 be levelled, paved, metalled, flagged, channelled, sewered, drained and lighted in accordance with the provisions of the rules made under sub-section (1) of section 228, and if a majority of

(a) the owners of land or buildings in such street, or

(b) the owners of the street, or

(c) the owners who have paid the expenses referred to in sub-section (2) of section 228, signify in writing their consent thereto, the Commissioners at a meeting shall declare the same, by written notice put up in any part of such street, to be a public street, and thereupon the same shall become a public street and shall vest in the Commissioners :

Provided that, where a private street has been in existence for not less than 45[fifteen years] and if used by the people of the locality as a thoroughfare. the Commissioners at a meeting may declare such street to be a public street, even though it does not strictly comply with the provisions of this chapter, if

(a) the owners of the lands and buildings in such street, or

(b) the owners of the street, signify in writing their consent thereto.

**230. Duties of Commissioners when constructing public streets, etc :-**

(1) The Commissioners shall, during the construction on repair of a public street or of any waterworks, drain or premises vested in them, or whenever any public street, waterworks, drain or premises vested in them have, for want of repairs or otherwise, become unsafe for use by the public, take all necessary precautions against accident by

(a) shoring up and protecting adjacent building, and

(b) fixing bars, chains, posts or other barriers across or in any street for the purpose of preventing or diverting traffic during such construction or repair, and

(c) guarding and providing with sufficient lighting from sunset to sunrise any work in progress.

(2) No person shall, without the authority or consent of the Commissioners, in any way interfere with any arrangement or construction made by the Commissioners under sub-section (1) guarding against accident.

**231. Hoardings to be set up during repairs :-**

(1) Every person intending to build take down any house, or to alter or repair the outward part of any house, shall, if any public street will be obstructed or rendered inconvenient or dangerous, by means of such work, before beginning the same causes hoardings or fences to be put up to the satisfaction of the Commissioners in order to separate the house where such works are being carried on from the street, and shall keep such hoardings or fences standing and in good condition, to the satisfaction of the Commissioners during such time as the public safety or convenience requires, and shall cause the same to be sufficiently lighted during the night:

Provided that, no person shall put up a hoarding or fence without the written permission of the Commissioners, nor shall he keep up the said hoarding or fence for a time longer than allowed in the said written permission.

(2) Any person who contravenes the provisions of sub-section(1) or who, without written permission, effects or sets up any hoarding, scaffolding or fence whatsoever, or who, being permitted, fails to put up such hoarding, scaffolding or fence or to continue the same

standing, or to maintain the same in good condition, or who does not, while such hoarding or fence is standing, keep the same sufficiently lighted during the night, or who does not remove the same within eight days when directed by the Commissioners, shall be liable to fine as provided in this Act.

**232. Leave to deposit materials temporarily on, or to excavate or close, a street :-**

The Commissioners may grant permission to any person, for such period and on such conditions as they may think fit, to deposit any movable property on any public street, or to make an excavation in any public street, or to enclose the whole or any part of any street, and may charge such fees as they may fix for such permission :

Provided that such person shall make due provision for the passage of the public and shall erect sufficient fences to protect the public from injury, danger or annoyance, and shall light such fences from sunset to sunrise sufficiently for such purpose.

**233. Power to close a street or part of a street for repairs or other public purpose :-**

The Commissioners may close temporarily any public street or part thereof for the purpose of repairing such street, or for the purpose of constructing any sewer, drain, culvert or bridge, or for any other public purpose:

Provided that the Commissioner so closing any street shall be bound to provide reasonable means of access for persons occupying holdings adjacent to such street.

**234. Power to close a street or part of a street to cart or motor traffic :-**

The Commissioners at a meeting may make an order closing any public street or part thereof to cart or motor traffic :

Provided that no such order shall remain in force for more than six months without the sanction of the <sup>1</sup> [State Government].

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and. thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950. (3) Every such license shall remain in force until rescinded by the Commissioners at a meeting. (4) For every such license there shall be paid annually a fee to be fixed by the Commissioners at a meeting : Provided that a platform erected, re-erected or extended

upon or over any public street or drain before the commencement of this Act with the permission of the Commissioners at a meeting shall be allowed to remain on the same terms and conditions including the payment of any rent or fee prescribed in the permission.

**235. Sanction of Commissioners to projection over streets and drains :-**

(1) No person shall put up any verandah, balcony, sunshade, weather- frame or the like to project over any public street without the written permission of the Commissioners.

(2) Subject to any rules made by the <sup>1</sup> [State Government] prescribing the conditions for the sanction by the Commissioners of projections over public streets or drains, the Commissioners at a meeting may, in their discretion, give written permission on such condition as they may think fit, and, on payment of such fees or rent as they may from time to time fix, to the owners or occupiers of buildings abutting on public streets to erect or re-erect verandahs, balconies, sunshades, whether-frames and the like, whether supported by pillars or not, to project from any building over a street or a drain in a street from any upper storey thereof, at such height from the surface of the street and to such an extent beyond the line of the plinth or basement wall as are specified in by-laws to be framed under section 245.

(3) In giving permission under sub-section (2), the Commissioners may prescribe the extent to which, and the conditions under which, any roofs, eaves, weather-boards, and the like may be allowed to project over such streets.

(4) At any time after any permission has been given under sub-section (2), the Commissioners at a meeting may, by written notice, require the owner or occupier of the building to remove the projection referred to in such permission and the owner or occupier shall be entitled to reasonable compensation out of the Municipal Fund for such removal.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and. thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950. (3) Every such license shall remain in force until rescinded by the Commissioners at a meeting. (4) For every such license there shall be paid annually a fee to be fixed by the Commissioners at a

meeting : Provided that a platform erected, re-erected or extended upon or over any public street or drain before the commencement of this Act with the permission of the Commissioners at a meeting shall be allowed to remain on the same terms and conditions including the payment of any rent or fee prescribed in the permission.

**236. Erection of platforms :-**

(1) No platform shall be erected or extended upon or over any public street or drain without the previous sanction of the Commissioners at a meeting.

(2) The owner of every platform, except platforms which are used for giving such access to the houses as the Commissioners may consider necessary, shall, if the Commissioners at a meeting so direct, take out a license for keeping the platform.

**237. Removal of fallen house, etc, obstructing street or drain :-**

Whenever any building, wall, revetment or other erection or any part thereof, or any tree, stone, soil or debris from private premises falls down or is caused to fall down and obstructs or encumbers any public street or drain, the Commissioners may remove such obstruction or encumbrance at the expense of the owner of the same, or may require him to remove the same within such time as to the Commissioners may seem fit.

**238. Prohibition for cutting street :-**

(1) No person shall, without the consent of the Commissioners, dig or cut up a public street in order to provide for the passage of water or for any other purpose.

(2) Whoever contravenes the provisions of this section shall, in addition to any other penalty imposed under this Act, be bound to pay the expenses incurred in filling up any excavation made by him or on his behalf in any such public street.

**239. Regulation of troughs and rain-water pipes affecting a street :-**

The Commissioners may, by notice, require the owner or occupier of any building or land abutting on a street to put up and keep in good condition proper troughs and pipes for receiving and carrying off the water from the building or land, and for discharging the same in such manner as the Commissioners may think fit, so as not

to inconvenience persons passing along the street.

**240. Removal of encroachments over house-gullies, etc :-**

**(1) The Commissioners**

(a) may, without notice themselves or by any officer authorized by them in writing in this behalf remove, alter or otherwise deal with any wall, hoarding, scaffolding, fence, rail, post, platform or other projection, obstruction or encroachment <sup>1\*\*\*\*\*</sup> which has, without first obtaining their written permission been erected or set up in, over, above or upon any house-gully, or any public street, sewer, drain, aqueduct, water-course or ghat;

(b) may issue a notice requiring any person to remove any wall, hoarding, scaffolding, fence, rail, post, platform or other projection, obstruction, or encroachment <sup>1\*\*\*\*\*</sup> which he may have erected or set up in, over, above, or upon any house-gully, or any public street, sewer, drain, aqueduct, water-course or ghat, and which remains so erected or set up when the period covered by any permission given in its behalf has expired ; and

(c) may, themselves or by any officer authorized by them in writing in this behalf, remove without notice any materials or goods or any movable property, which has, without their permission, been deposited in a public street, or in, over, above, or upon any house-gully, or any public sewer, drain, aqueduct, water-course or ghat, or which remains so deposited, when the period covered by any permission given in this behalf has expired, whether or not the offender be prosecuted under this Act or any rules or by-laws made thereunder, and the offender shall be liable to pay the expense of such removal.

(2) If the person who erected or set up any of the projections, obstructions or encroachments referred to in clause (b) of sub-section (1) is not known or cannot be found, the Commissioners may cause a notice to be posted up in the neighborhood of the said projection, obstruction or encroachment, requiring any person interested in the same to remove it, and it shall not be necessary to name any person in such requisition.

(3) Notwithstanding any prosecution which may be instituted, if the person on whom a notice has been issued under clause (b) of sub-section (1) fails to comply with the requisition within the period specified in the notice. or if where a notice has been posted up

under sub-section (2) the projection, obstruction or encroachment is not removed within the period specified in such notice,<sup>3</sup> [the Executive Magistrate having jurisdiction may], on the application of the Commissioners' order that the projection, obstruction or encroachment be removed and thereupon the Commissioners may, notwithstanding anything contained in sections 514 to 518, remove such projection, obstruction or encroachment, and the expenses thereby incurred shall be recovered from the person who erected or set up the same or by the sale of the materials removed.

(4) No person shall be entitled to compensation in respect of the removal of any projection, obstruction or encroachment under this section,

1. Words, figures and brackets "(not being a portion of a building or fixture referred to in section 241}" om. by W.B. Act 51 of 1980.

3. Words subs, for the word "the Magistrate may" by W.B. Act 51 of 1980.

**241. Power to Commissioners to remove or alter, verandah, etc., or fixtures attached to building which project, etc., over public street or land :-**

(1) When any verandah, platform or other similar structure or any fixture attached to a building so as to form part of the building, whether erected before or after the commencement of this Act, causes a projection, encroachment or obstruction over or on any house-gully or public street or any land vested in the Commissioners they may, by written notice, require the owner or occupier of the building to remove or alter such structure or Fixture.

(2) If the expense of removing or altering any such structure or fixture is paid by the occupier of the building in any case in which the same was not erected by himself, he shall be entitled to deduct any reasonable expense incurred for the purposes of such removal or alteration from the rent payable by him to the owner of the building.

(3) If the person on whom a notice is issued under sub-section (1) fails to comply with the requisition within the period specified therein, the <sup>1</sup>[Executive Magistrate having jurisdiction] may, on the application of the Commissioners, order that such structure or fixture be removed or altered, and thereupon the Commissioners may carry into effect the order of the <sup>1</sup> [Executive Magistrate

having jurisdiction] and recover from the owner or occupier of the building the cost thereby incurred :

Provided that if the owner or occupier proves that any such structure or fixture was erected before the District Municipal Improvement Act, 1864. or the District Towns Act, 1868, or the Bengal Municipal Act, 1876, as the case may be, took effect in the municipality or in the case of a municipality constituted under the Bengal Municipal Act, 1884, in which none of the aforesaid Acts was in force prior to the commencement of that Act, before the date of the constitution of that municipality, or, in the case of a municipality constituted after the commencement of this Act, before the date of the constitution of that municipality, the 49[Executive Magistrate having jurisdiction] shall order reasonable compensation to be paid to any person who suffers damage by the removal or alteration thereof. In determining the amount of compensation, the value of the land shall not be taken into consideration.

1. Words subs, for the word " Magistrate " by W.B. Act 51 of 1980.

**242. Commissioners may require landholders to trim hedges, etc :-**

The Commissioners may require the owner or occupier of any land within three days to trim or prune the hedges thereon bordering on any public street or drain and to cut and trim any trees thereon overhanging any public street or drain or tank or any well used for drinking purposes, or obstructing any public street or drain or any property of the Commissioners, or likely to cause damage to any person using any public street to fouling or likely to foul the water of any well or tank.

**243. Commissioners may require owners of land to repair damage to streets, etc :-**

Whenever any public street or drain or any other municipal property is damaged, washed away or eroded by any private pool, ditch, tank, pond, pit or other excavation which exists by the side of such street, drain or property, the Commissioners may, by written notice, require the owner or occupier of the land on which such pool, ditch, tank, pond, pit or excavation is situated to repair the damage and to restore the street, drain or property to its original condition as far possible within one month from the date of the service of such notice,



#### **244. Name of streets and squares and numbers of houses :-**

<sup>1</sup>(1) The Commissioners at a meeting may cause a name to be given to any public street or square and to be affixed in such place as they may think fit, and may also cause a number to be affixed to every house, and in like manner may, from time to time, cause such names and numbers to be altered.

(2) No person shall destroy, pull down, deface or alter any name or number put up by the Commissioners under the authority of sub-section (1). **2\*\*\*\*\* 2 \*\*\*\*\***

1. Secs. 244. 244A. and 244B first subs, for original sec. 244 by W.B.Act 28 of 1976, then sec.

2. Secs. 244A and 244B om. by W.B. Act 51 of 1980 which were as under : "244A. Names of streets and squares. (1) Whenever the Commissioners intend to determine the name by which any public street or square is to be known or change the name already determined, they shall refer the proposal to an Advisory Committee appointed under sub-section (2), for its consideration. (2) The Advisory Committee referred to in sub-section ( 1) shall be appointed by the State Government by notification in the Official Gazette, and it shall consist of such number of persons, not exceeding ten but not less than seven, as the State Government thinks fit. (3) The State Government shall appoint one of the members of the Advisory Committee as its Chairman who shall preside at its meetings. During the absence of the Chairman at any meeting the members present shall elect one of them to preside at such meeting. (4) The members of the Advisory Committee shall hold office for such period and on such terms as may be specified in the notification. (5} if there is a casual vacancy on account of the death, resignation or otherwise of a member, the State Government shall appoint another person as member in his place and the member so appointed shall hold office for the remainder of the term of office of the member whose place he fills. (6) Three members shall constitute a quorum for a meeting. (7) The Advisory Committee shall examine every proposal for determining the name of any street or square or for changing such name, in such manner as it thinks fit, and shall forward its recommendation to the Commissioners. The Commissioners at a meeting may accept the recommendation, but if in any case they are unable to accept the same they shall forward the proposal together with the recommendation of the Advisory Committee and their comments thereon to the State Government whose decision thereon shall be final. 244B. Name or number not to be destroyed. No person shall destroy, pull down, deface or alter any name or number put up by the Commissioners under the authority of section 244 or 244A."

#### **245. Power to make by-laws :-**

The Commissioners at a meeting may make by-laws

(a) to regulate or prohibit any description of traffic on public street, or on approaches to ghats or public ferries and to prevent obstructions, encroachments, or excavations on or near such streets, ghats or ferries;

(b) to prevent, prohibit or regulate the use or occupation of any or all public streets or places by any person for the sale of articles or for the

(c) to determine the information and plans to be furnished to the Commissioners under section 225 : and

(d) to regulate the conditions on which permission may be given under section 235 with reference to projections over public streets and drains and to provide for the payment of fees or rent for such user of the streets and drains and to provide for the removal of such projections.

#### CHAPTER 7

#### CONSERVANCY AND DRAINAGE

### **246. Duties of Commissioners in relation to conservancy :-**

The Commissioners at a meeting shall provide for the removal

(a) of sewage, rubbish and offensive matter from all public latrines, urinals and drains, and from all public streets and all other property vested in the Commissioners, and

(b) <sup>1</sup>\*\*\*\*\* of sewage and offensive matter from all private latrines, urinals and cess-pools, and for the disposal of <sup>2</sup> [and, if so required by the State Government, the preparation of compost manure from] such sewage, rubbish or offensive matter and for the cleaning of such latrines, urinals, drains and cess-pools, and shall maintain sufficient establishment, animals, carts, sewers, pumps, drains, outfall and disposal works, and implements for the said purposes.

1. Words and figures "in any municipality wherein a conservancy-rate has been imposed under section 123" om. by W.B. Act 51 of 1980.

2. Words ins. by Ben. Act 11 of 1936.

### **247. Control over night men :-**

(1)The Commissioners at a meeting may make an order requiring all persons employed in the removal of sewage within the limits of

the municipality, or any part thereof, to take out licenses, and to be servants of the Commissioners for the purpose of removing sewage from premises within the said limits. The Commissioners at a meeting may grant such licenses subject to such conditions as they may think fit, and may impose fees in respect of the same.

(2) Subject to the approval of the <sup>1</sup> [State Government] the Commissioners at a meeting may make rules to define the duties of such persons, and any breach of such rules shall subject the offender to a forfeiture of license and to a fine as provided in such rules.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and. thereafter, the word "Stale" subs, for the word "Provincial" by the Adaptation of Laws Order.1950.

#### **248. Power to prescribe times and manner of removal of sewage, etc :-**

The Commissioners at a meeting may from time to time publish an order prescribing the hours within which and the manner in which sewage, rubbish and offensive matter may be removed.

#### **249. Power of conservancy establishment :-**

All servants of the Commissioners employed for the purposes of this chapter may, within such hours as may be fixed from time to time by the Commissioners at a meeting, enter on any premises <sup>1</sup> \* \* \* \*  
\* \*\*\* and do all things necessary for the performance of their duties under this chapter.

1. Words "of which the occupier or owner is liable to pay a conservancy-rate" orn. by W. B. Act 51 of 1960.

#### **250. Deposit and removal of sewage, etc :-**

in certain municipalities, In any municipality <sup>1</sup>[or part thereof] <sup>2</sup> \* \* \* \*  
\* the Commissioners at a meeting may provide places convenient for the deposit of sewage, rubbish and offensive matter and may require the occupiers of houses to cause the same to be deposited daily or at other stated intervals in such places, and may remove the same at the expense of the occupier from any house, if the occupier thereof fails to do so as required by this section.

1. Words subs. for (he words "allow his servant to place" by W. B. Act 27 of 1955.

2. Words "wherin a conservancy-rate has not been imposed." om. by W. B. Act 51 of 1980.

**251. Appointed hours for placing rubbish, etc :-**

on public street

(1) The Commissioners at a meeting may from time to time publish an order prescribing the hours within which only an occupier of any house or land may place rubbish or offensive matter on the public street adjacent to his house or land in a proper receptacle provided by the Commissioners in order that such rubbish or offensive matter may be removed by the servants of the Commissioners.

(2) No person shall place or <sup>1</sup> [cause to be placed] rubbish or offensive matter on a public street at other than the times appointed and except in the receptacles provided by the Commissioners under sub-section (1) .

1. Words subs, for the words "allow his servant to place" by W.B. Act 27 of 1955.

**252. Removal, of rubbish, etc., from premises :-**

(1) The Commissioners at a meeting may contract with the occupier of any premises to remove rubbish or offensive matter direct therefrom and may charge fees in this behalf.

(2) When building operations are being carried on in any premises or when any premises are used for carrying on any manufacture, trade, or business, the Commissioners may,

(a) by written notice, direct the occupier of such premises to collect all rubbish and offensive matter accumulating on such premises in the course of such operations, manufacture, trade or business and to remove the same, at such times in such carts or receptacles, and by such routes as may be specified in the notice to a place provided or appointed in this behalf by the Commissioners, or

(b) after giving such occupier written notice of their intention so to do, themselves cause all such rubbish and offensive matter to be removed, and charge such occupier for such removal such periodical fee as they may specify in such notice :

Provided that the requisition under clause (a) shall not be enforced by the Commissioners nor shall action be taken by them under clause (b) until the occupier of the premises has been given an opportunity of being heard within such time as may be specified in the written notice that is served on him.

**253. Removal of offensive matter from or near street :-**

No person who, being the occupier of a house in or near a public street, shall keep or allow to be kept, for more than twenty-four hours, or for more than such shorter time as may be fixed by the Commissioners at a meeting, otherwise than in some proper receptacle, any dirt, dung, bones, ashes, nightsoil or filth or any noxious or offensive matter in or upon such house, or in any outhouse, yard or ground attached to and occupied with such house, nor shall any person suffer such receptacle to be in a filthy or noxious state, or neglect to employ proper means to cleanse the same.

**254. Prohibition of allowing sewage, offensive matter or rubbish to be thrown or run into street, or drain thereof :-**

No person shall

(i) throw or put or cause or permit to be thrown or put, any sewage or offensive matter upon any street, or drop, pass or place, or cause to be dropped, passed or placed, into or in any drain, any brick, stones, earth or ashes or any substance or matter, by which or by reason of the amount of which such drain is likely to be obstructed ; or

(ii) without the permission of the Commissioners pass, or permit or cause to be passed, into any drain provided for a particular purpose any matter or liquid for the conveyance of which such drain was not provided; or

(iii) without the permission of the Commissioners cause or suffer to be discharged into any drain from any factory, bakehouse, distillery, workshop or work place, or from any building or place in which steam, water or mechanical power is employed, any hot water, steam or fumes, or any liquid which would prejudicially affect the drain or the disposal by sale or otherwise of the sewage conveyed along the drain, or which would, from its temperature or otherwise, be likely to create a nuisance.

**255. Disposal of dead bodies of animals :-**

(1) Whenever an animal in the charge of a person dies, otherwise than by being slaughtered either for sale or consumption or for some religious purpose, the person in charge thereof shall, either

(a) convey the carcass within twenty-four hours to a place (if any) fixed by the Commissioners for the disposal of the dead bodies of animals, or to a place beyond municipal limits not being within one

mile of those limits, or

(b) give notice of the death within six hours to the Commissioners whereupon the Commissioners shall cause the carcass to be disposed of.

(2) For the disposal of the carcass under clause (b) of sub-section (1), the Commissioners may charge such fee as they may determine at a meeting and may recover the same, if not paid in advance, from the owner or person in charge of the animal.

**256. Rubbish deposited to be the property of the Commissioners :-**

All things deposited in places provided or appointed under this chapter for the deposit of sewage, offensive matter, rubbish and carcasses of animals, shall be the property of the Commissioners.

**257. Public latrines :-**

The Commissioners in pursuance of a decision arrived at a meeting shall provide and maintain in sufficient numbers and in proper situations public latrines and urinals for the separate use of each sex, and shall cause the same to be kept in proper order and to be properly cleansed.

**258. Power to Commissioners to require privy and other accommodation to be provided in buildings :-**

(1) When application is made to erect or materially alter any building

(i) intended for human habitation, or

(ii) at or in which labourers or workmen are to be employed, the Commissioners may direct that such privy and urinal accommodation shall be provided as they consider to be suitable therefor.

<sup>1</sup>(2) In directing the provision of any such accommodation the Commissioners may determine in each case the site of each privy or urinal, and their number :

Provided that where an underground sewerage system has been provided such building shall be provided with connected privies only.

(3) When any premises at or in which not less than twenty labourers or workmen are employed are without privy, urinal,

bathing or washing place accommodation to the satisfaction of the Commissioners they may, by written notice, require the owner of such premises to provide such privy, urinal or bathing or washing place accommodation as they may prescribe.

<sup>2</sup>( 4 ) Notwithstanding anything hereinbefore in this section contained in making an order under sub-section (1) or a requisition under sub-section (3), the Commissioners may <sup>3</sup> \*\*\*\*\* direct, inter alia, that existing service latrines shall be replaced by septic tank latrines or, as the case may be, that septic tank latrines shall be provided within such time as may be specified by the Commissioners.

1. Sub-sec. (2) subs, by W. B. Act 51 of 1980 which was earlier as under : "(2) In directing the provision of any such accommodation the Commissioners may determine in each case (a) where an underground sewerage system has been provided, whether such building shall be provided with service or connected privies or urinals, or partly with one and partly with the other; and (b) what shall be the site or position of each privy or urinal, and their number."

2. Sub-sec. (4) ins. by W. B. Act 27 of 1955.

3. Words ", in the case of building the valuation of which exceeds or is Likely to exceed a sum to be fixed in this behalf by the Commissioners at a meeting," om. by W. B. Act 7 of 1969.

**259. Power to Commissioners to require such provisions to be made in other cases :-**

(1) When any premises intended for human habitation are without privy or urinal accommodation, or if the Commissioners are of opinion that the existing privy or urinal accommodation available for the persons occupying or employed in any premises is insufficient, inefficient, or on any grounds objectionable, the Commissioners may, by written notice, require the owner of such premises

(a) to provide such, or such additional, privy or urinal accommodation as they may prescribe ; or

(b) to make such structural or other alterations in the existing privy or urinal accommodation as they may prescribe ; or

(c) where there is an underground sewerage system, to substitute connected privy or connected urinal accommodation for any service-privy or service-urinal accommodation :

Provided that where the privy or urinal accommodation of any premises

(i) has been, and is being, used in common by the persons occupying or employed in such premises and any other premises, or

(ii) is, in the opinion of the Commissioner, likely to be so used, the Commissioners may, if they are of opinion that such accommodation is sufficient to admit of the same being used by all the persons occupying or employed in all the said premises, direct in writing that separate privy or urinal accommodation need not be provided on or for such other premises :

Provided also that the Commissioners may, if they are of opinion that there is sufficient public latrine accommodation available for all the persons occupying or employed in any premises, direct that separate privy or urinal accommodation need not be provided for such premises.

(2) Any requisition under sub-section (1) may comprise any detail specified in sub-section (2) of section 258 <sup>1</sup>[and may inter alia, include <sup>2</sup> \*\*\*\*\* a direction that septic tank latrines shall be provided or existing service latrines shall be replaced by septic tank latrines within a specified time].

1. Words ins. by W. B. Act 27 of 1955.

2. Words ", in the case of building the valuation of which exceeds a sum to be fixed in this behalf by the Commissioners at a meeting," om. by W. B. Act 7 of 1969.

### **260. Breach of by-laws in regard to house-drain, etc :-**

When by-laws have been framed under section 269 or section 277 no person shall construct, renew, rebuild, remove, obstruct, destroy ; or change any house-drain, cesspool, privy, sink, or urinal or appurtenances thereof, in contravention of any such, by-law or any notice issued or direction given thereunder or without the written permission of the Commissioners at a meeting.

### **261. Location of house-drains, privies, etc :-**

No person shall, without the written permission of the Commissioners at a meeting, construct or keep any house-drain, service-privy, urinal or cess-pool within fifty feet of any tank, well, or water-course or any reservoir for the storage of water or construct any privy with a door or tap-door opening into any road or drain.



**262. Powers of Commissioners to inspect latrines, urinals, etc :-**

(1) All latrines, urinals, sinks, cess-pools and drains shall be subject to the control of the Commissioners and the Commissioners or any officer authorized by them in this behalf may inspect any latrine, urinal, cess-pool, sink, drain or receptacle for sewage or offensive matter at any time between sunrise and sunset, after notice in writing to the occupier of the premises in which such latrine, urinal, cess-pool, sink, drain or receptacle is situated and may, if necessary, cause the ground to be opened where they or he may think fit for the purpose of inspection or of preventing or removing any nuisance arising from such latrine, urinal, cess-pool, sink, drain or receptacle.

(2) The expense of such inspection and of causing the ground to be closed and made good as before shall be borne by the Commissioners, unless the latrine, urinal, cess-pool, sink, drain or receptacle is found to be in bad order or condition or to have been constructed in contravention of any provisions of, or made under, this or any other enactment, in which case such expense shall be recovered from the owner or occupier.

**263. Powers of Commissioners to require repair, alteration, removal of latrine, etc :-**

(1) The Commissioners may require by notice the owner or occupier of any land or building, within a period to be specified in the notice,

(a) to close, remove, alter, repair, disinfect or put in good order any cesspool, drain or receptacle for sewage, offensive matter or rubbish pertaining to such land or building, to provide to their satisfaction access from a house-gully or lane to any service-privy or service-urinal in or on such land or building, or to demolish any privy or urinal constructed, rebuilt or altered in or such land or building in contravention of section 261 or any by-law framed under section 269 or section 277;

(b) to provide such cess-pools, drains or receptacles for sewage, offensive matter or rubbish, as should, in their opinion be provided for the building or land whether in addition or not to any existing ones ; or

(c) to cause any latrine or urinal provided for the building or land to be shut off by a -sufficient roof and wall or fence from the view of

persons passing by or dwelling in the neighbourhood ;

<sup>1</sup>(d) to cause any service privy or urinal provided for a building or land <sup>2</sup> \*\* \*\*\*\*\* to be converted into or replaced by a septic tank latrine.

1. Clause (d) ins. by W. B. Act 27 of 1955.

2. Words "the valuation of which is not below an amount to be fixed by the Commissioners at a meeting." om. by W. B. Act 7 of 1969.

**264. Powers of Commissioners to require construction of house-gully :-**

(1) Where a privy or privies belonging to one or more premises are so placed as in the opinion of the Commissioners to afford to the municipal conservancy staff no suitable means of access thereto for the purpose of cleansing such privy or privies, the Commissioners may, by written notice to the owner or owners of such privy or privies, require them to provide a house-gully of such dimensions and so paved and drained as they may think necessary for such purpose.

(2) If such notice be not complied with within the time fixed by the Commissioners, they may themselves acquire land and construct such house- gully, and the expenses thereby incurred shall be paid by the owner in default, and where, there is more than one owner, by the owners in such proportion as may be settled

(a) by the Commissioners at a meeting ; or

(b) in case of dispute, by the District Magistrate.

(3)The house-gully after construction shall be deemed to be private street unless and until it vests in the Commissioners in accordance with the provisions of section 229.

**265. Supply of disinfectants by Commissioners :-**

When, under subsection (1) of section 263, an owner or occupier is required by the Commissioners to use disinfectants the Commissioners may themselves supply disinfectants or deodorants for such use at cost price, and the expenses thereby incurred shall be considered as an arrear of tax, and be recoverable as such from the owner of the cess-pool, drain or receptacle, as the case may be, or the Commissioners at a meeting may, if they think fit, order that such expense shall be paid from the Municipal Fund.

**266. Neglect to keep latrine, etc., in proper order :-**

The owner or occupier of any premises to which any latrine, urinal, cess-pool, drain or other receptacle for sewage or offensive matter pertains, shall keep in a proper state such latrine, urinal, cess-pool, drain or other receptacle :

Provided that no person <sup>1</sup> \*\*\*\*\* shall be liable to punishment for non-compliance with the provisions of this section where the default is exclusively due to the failure of this section where the default is exclusively due to the failure of this Commissioners to perform their obligations under this Act.

1. Words "who pays a conservancy-rate" om. by W. B. Act 51 of 1980.

**267. Scavenging on occasions of fairs and festivals and contribution from persons having control over places of pilgrimage :-**

The Commissioners in pursuance of a decision arrived at a meeting shall make any special scavenging arrangements that may be necessary on occasions of fairs, festivals or other large assemblies of people, and in the case of such assemblies held in connection with any place of pilgrimage in or within two miles of the municipality, the Commissioners may require the persons having control over such place of pilgrimage to make such contribution as the <sup>1</sup> [State Government] may on each such occasion approve towards the cost of such arrangements.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order. 1937 and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order, 1950.

**268. Power to Commissioners to employ special establishment for removing excessive rubbish, sewage or offensive matter :-**

Where in the opinion of the Commissioners at a meeting the accumulation of rubbish, sewage or offensive matter on any premises, or the amount of rubbish, sewage or offensive matter from any premises deposited on any place other than a place set apart by the Commissioners for the disposal of rubbish, sewage or offensive matter is excessive, they may sanction the employment of special establishment for the cleansing of such premises or for the removal of such rubbish, sewage or offensive matter and may impose on the owner or occupier of such premises such fee as they

may deem proper to defray the cost of such establishment. By-laws relating to conservancy.

**269. Power to make by-laws regarding conservancy :-**

The Commissioners at a meeting may make by-laws

- (a) regulating the disposal of sewage, offensive matter, the carcasses of animals and rubbish;
- (b) requiring notice of intention to construct, repair or alter a privy or urinal or any appurtenances thereof and determining the plans, specifications or other particulars to be furnished therewith ;
- (c) regulating the giving or refusing of sanction to the construction, repair or alteration of privies or urinals or appurtenances thereof, their position, design, ventilation, flooring, drainage, and providing for their proper and efficient maintenance.
- (d) where there is an underground sewerage system providing for the proper connection of privies and urinals therewith and the fees to be charged in this behalf and regulating the material, size, laying, position, trapping, ventilation and flushing of all private pipes or sewers pertaining to such privies or urinals, and the proper construction, flooring and ventilation of connected privies and urinals and for the provision of all appurtenances thereof ;
- (e) regulating the position, construction and maintenance of cesspools and sinks ; and
- (f) generally regulating conservancy Drainage.

**270. Construction of public drains :-**

The Commissioners in pursuance of a decision arrived at a meeting may construct within or, subject to the sanction of the 66(State Government), outside the municipality, such drains as they think necessary for keeping the municipality properly cleansed and drained and may carry such drains through, across or under any street: Provided that no drain shall be constructed within the limits of a Cantonment without the approval of the "[State Government] and otherwise than with the concurrence of the Officer Commanding-in-chief the Command in which such Cantonment is situated or, in the event of such concurrence being withheld, with the previous sanction of the <sup>1</sup> [Central Government].

1. Words subs, for the words "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937.

**271. Alteration of public drains :-**

(1) The Commissioners in pursuance of a decision arrived at a meeting may, from time to time, enlarge, lessen, alter the course of, cover in or otherwise improve a municipal drain and may discontinue, close up or remove any such drain.

(2) The exercise of the power conferred by sub-section (1) shall be subject to the condition that the Commissioners shall provide another and equally effective drain in place of any existing drain of the use of which any person is deprived by the exercise of the said power.

**272. Use of public drains by private owners :-**

The owner or occupier of a building or land shall be entitled to cause his drains to empty into the municipal drains, provided that he first obtains the written permission of the Commissioners, and that he complies with such conditions, consistent with any by-law, as the Commissioners at a meeting prescribe, as to the mode in which and the superintendence under which the communications are to be made between private drains and municipal drains.

**273. Power to order demolition of drain constructed without consent of Commissioners :-**

No person shall, without the written consent of the Commissioners first obtained, make or cause to be made, or alter, or cause to be altered, any drain or branch drain leading into any of the municipal sewers or drains or into any watercourse, street or land vested in the Commissioners, and the Commissioners, may cause any drain or branch drain so made or altered, to be demolished, altered, remade or otherwise dealt with as they shall think fit; and the expenses thereby Incurred shall be paid by the persons making or altering such drain.

**274. Group or block of buildings, etc., may be drained by a combined operation :-**

(1) If it appears to the Commissioners at a meeting that a group or block of buildings may be drained or improved more economically or advantageously in combination than separately, and if a municipal sewer or drain of sufficient size already exists or is about to be constructed within one hundred feet of any part of such group or block of buildings, the Commissioners may cause such group or block of houses to be so drained and improved, and the expenses thereby incurred shall be recovered from the owners of

such buildings, in such proportions as shall to the Commissioners seem fit.

(2) Not less than one month before any such work is commenced the Commissioners shall give to each such owner

(a) written notice of the nature of the proposed work ;

(b) an estimate of the expenses to be incurred in respect thereof and of the proportion of such expenses payable by him.

**275. Power to Commissioners to enforce drainage of undrained premises situate within one hundred feet of a municipal drain :-**

When any premises are, in the opinion of the Commissioners at a meeting, without sufficient means of effectual drainage, and a municipal drain or some place approved by the Commissioners for the discharge or drainage is situated at a distance not exceeding 68{30.48 metres] from any part of the said premises, they may, by written notice, require the owner of the said premises I

(a) to make a house-drain, emptying into such municipal drain or place, of such material, size and description and with such flushing arrangements as the Commissioners may prescribe ;

(b) to remove any existing house-drain, or other appliance or things used or intended to be used for drainage, which is injurious to health : Provided that the land necessary for making the house-drain empty into the municipal drain or approved place may be acquired by the Commissioners at the cost of the owner of the said premises.

**276. Power to Commissioners to enforce drainage of undrained premises in other cases :-**

When any premises are, in the opinion of the Commissioners at a meeting, without sufficient means of effectual drainage, and there is no municipal drain within one hundred feet of any part of the said premises, they may, by written notice require the owner of the premises to construct

(a) a close cess-pool of such material, size and description, and in such position, as they may prescribe, and

(b) a house-drain communicating with such closed cess-pool. By-laws relating to drainage

**277. Power to Commissioners to make by-laws :-**

The Commissioners at a meeting may make by-laws

- (a) requiring every person who intends to construct, repair, add to or alter a house-drain or cess-pool, to submit an application to the Commissioners with such plans and other particulars as may be prescribed and regulating the giving and refusing of sanction to such application ; and
- (b) regulating the material, size, laying, flushing, ventilation, trapping, and position of drains and generally their construction, repair and maintenance.

**CHAPTER 8**

**WATER-SUPPLY, LIGHTING, DRAINAGE AND SEWERAGE SYSTEMS**

**278. Commissioners to provide water-supply, drainage and lighting :-**

- (1) It shall be lawful for the Commissioners of every municipality
  - (a) to provide a sufficient supply of water for the domestic use of the inhabitants;
  - (b) to provide any maintain a sufficient system of drainage and conservancy ; and
  - (c) to cause the public streets to be sufficiently lighted.

**1 \*\*\*\*\***

1. Sub-sec. (2) om. by W. B. Act 51 of 1980 which was as under:  
(2) When it has been determined that a water-rate, conservancy-rate, or lighting-rate shall be imposed within a municipality the Commissioners shall (a) provide a sufficient supply of water for the domestic use of the inhabitants ; or (b) provide and maintain a sufficient system of drainage and conservancy ; or (c) cause the public streets to be sufficiently lighted, as the case may be."

**279. Construction of water-works, drainage or sewerage works :-**

- (1) Subject to the rules made by the <sup>1</sup>[State Government] under section 311 and in accordance with sanction granted under those rules, the Commissioners of any municipality or such Commissioners acting conjointly with any other local authority, may in pursuance of a decision arrived at a meeting, within or without a municipality,
  - (a) construct water works, or drainage or sewerage works or works required for the introduction of a system of lighting by electricity,

gas or otherwise, and

(b) from time to time enlarge, lessen, alter the course of, or otherwise modify or discontinue, close up, or remove the same.

(2) The <sup>1</sup> [State Government] may advance from the public funds on the security of the Municipal Funds and in the case of a joint scheme on the

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

**280. Power to appoint an officer to execute the work :-**

The [State Government] may, on the application of the Commissioners at a meeting or of the local authority acting with them under the provisions of section 279, direct that any works specified in any scheme or joint scheme for the purposes of section 279 shall be executed by an officer to be appointed by the [State Government] and shall fix the remuneration of such officer (provided that the cost of the scheme as sanctioned be not exceeded) and may specify a period within which the work shall be completed, and may extend such period from time to time as may be necessary.

**281. OMITED :-**

**1 \*\*\*\*\***

1. Sec. 281 om. by W. B. Act 51 of 1980, which was as under :  
"281. Power to compel municipality to provide proper drainage, sewerage, etc. (1) If at any time it appears to the State Government that the Commissioners of any municipality have made default in providing their municipality or any part of it with proper and sufficient drains or sewers or in providing a good and sufficient supply of water or lighting, having regard to the financial resources of the municipality, and that danger arises from such default to the health or safety of the inhabitants of the municipality or any part of it, the State Government may cause a scheme of drainage, sewerage, lighting or water-supply to be prepared by such persons as it may depute for the purpose. (2) When a scheme has been prepared for a municipality under sub-section (1), the State Government may call upon the Commissioners of such municipality to show cause at a meeting why they should not be required to carry out the scheme. (3) The State Government shall consider any objections and suggestions which may be submitted by the Commissioners and, if satisfied that the execution and maintenance of the scheme will not subject the financial resources of the



municipality to any undue strain, may, subject to the rules framed under section 311, sanction the scheme with such modifications, if any, as it may think proper and specify a period during which the scheme shall be carried out. (4) If the scheme is not carried out within the period fixed, the State Government may, by order, appoint some person to carry it out and may direct that the cost of the works including the remuneration of the persons appointed, and of the supervising establishment, the cost of land acquisition and any other incidental charges shall be paid within such time as it may fix from the Municipal Fund, and may, if necessary, direct that any rate or rates authorised under this Act shall be levied or increased (but not so as to exceed any maximum prescribed in that behalf) and may further, or as an alternative, advance any sum of money, required in its opinion for the execution of the scheme, from the public funds on the security of the Municipal Fund and such advance shall be recoverable under the Local Authorities Loans Act, 1914 and all the provisions of that Act and the rules made thereunder referring to the recovery of loans shall be applicable to such advance. (5) The person appointed under sub-section (4) may, for the purpose of executing the scheme, exercise any of the powers conferred on the Commissioners by or under this Act, which are specified in that behalf in the order issued under sub-section (4).

## **282. OMITTED :-**

**1 \*\*\*\*\***

1. Sec. 282 om. by W. B. Act 51 of 1980 which was as under: "282. Power to compel execution of joint drainage schemes, etc. (1) If the State Government is of opinion that the conditions described in sub-section (1) of section 281, prevail in two or more adjoining municipalities, or any part thereof and that in the interests of efficiency and economy, a joint drainage, sewerage, lighting or water-supply scheme should be prepared for both or all such municipalities or any part thereof, it may cause a joint scheme to be prepared accordingly. (2) All the provisions of section 281 shall apply mutatis mutandis to such joint scheme and the State Government shall determine what proportion of the cost of preparing, executing and maintaining such scheme shall be borne by the Commissioners of each municipality concerned."

## **283. OMITTED :-**

**1 \*\*\*\*\***

1. Secs. 283 and 284 om. by W. B. Act 51 of 1980 which were as under: "283. Extension of drainage scheme, etc. (1) Where the State Government causes a scheme to be prepared under section 281 or section 282 and the Commissioners of the municipality or municipalities concerned and the local authority or local authorities of any other area or areas apply to have the scheme extended so

as to serve such area or areas, the State Government may, by order notify its general approval to such extension, determine what proportion of the cost of preparing, executing and maintaining the scheme shall be paid by such other local authority or authorities and prescribe conditions for the punctual payment of such proportion. (2) A copy of such order shall be sent to the Commissioners of each municipality concerned and to such other local authority or local authorities, and if they request that the proposed extension of the scheme shall be made, the State Government shall, subject to the rules made under section 311, finally sanction such extension.

**284. OMITED :-**

**1 \*\*\*\*\***

1. Secs. 283 and 284 om. by W. B. Act 51 of 1980 which were as under: "283. Extension of drainage scheme, etc. (1) Where the State Government causes a scheme to be prepared under section 281 or section 282 and the Commissioners of the municipality or municipalities concerned and the local authority or local authorities of any other area or areas apply to have the scheme extended so as to serve such area or areas, the State Government may, by order notify its general approval to such extension, determine what proportion of the cost of preparing, executing and maintaining the scheme shall be paid by such other local authority or authorities and prescribe conditions for the punctual payment of such proportion. (2) A copy of such order shall be sent to the Commissioners of each municipality concerned and to such other local authority or local authorities, and if they request that the proposed extension of the scheme shall be made, the State Government shall, subject to the rules made under section 311, finally sanction such extension.

**285. Power to State Government to take control over imperfect, inefficient or unsuitable drainage work, etc :-**

(1) If at any time it appears to the <sup>1</sup>[State Government] that any drainage works, sewerage works, lighting works or water works executed under the provisions of <sup>2</sup>[section 279], or vested in the Commissioners of any municipality are maintained or worked in an imperfect, inefficient or unsuitable manner, the <sup>1</sup>[State Government] may, by written order, direct the Commissioners of the municipality or municipalities or other local authority or local authorities, within a period specified in the order, to show cause at a meeting why the drainage works, sewerage works, lighting works or water works with all plant, fittings and appurtenances thereof should not be handed over for such period as the <sup>1</sup>[State Government] may fix to the control and management of such

person as the <sup>1</sup>[State Government] may appoint.

(2) If cause is not shown to the satisfaction of the <sup>1</sup>[State Government] within the period specified in the order issued under sub-section (1), the <sup>1</sup>[State Government] may, by order, direct that the drainage works, sewerage works, lighting works or water works with all plant, fittings and appurtenances thereof shall be handed over for such period as it may fix to control and management of such person as it may appoint. During the period so fixed the complete control and management of the drainage works, sewerage works, lighting works or water works, as the case may be, shall be vested in the person to appointed, who shall engage such establishment for the purpose of <sup>8</sup>[State Government] may from time to time approve. "(Such establishment shall include the employees of the Commissioners who were employed on the date of the order issued under this sub-section in the maintenance or working of such drainage works, sewerage works, lighting works or water-works.) The cost of such establishment and of all materials, implements, coal, stores and every thing necessary for the maintenance and working of the works shall be paid within such period as may be fixed by the <sup>3</sup>[State Government] from the <sup>10</sup> [municipal fund] .

(3) If the cost is not so paid, the District Magistrate may proceed as in section 551. 794) No action shall be taken under the foregoing provisions of this section in relation to a Cantonment Authority or the Port Authority of a major port without the previous approval of the Central Government. General provisions relating to the laying and connecting of pipes, sewers and the like.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order. 1937 and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

2. Word and figures subs, for the word and figures "sections 279, 281, 282 or 283" by W. B. Act 51 of 1980.

8. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

10. Words subs, for the words "conservancy-rate, lighting-rate or water-rate, as the case may be. and may direct that such rate shall, for this purpose, be increased but not so as to exceed the maximum prescribed in that behalf." by W. B. Act 51 of 1980.

**286. Power of Commissioners to lay or carry pipes, drains or sewers through private land :-**

(1) The Commissioners may carry any pipe, drain, sewer or channel of any kind for the purpose of providing or of carrying out and establishing or maintaining a system of drainage, sewerage, lighting or water-supply through, across, under or over any street or place, laid out as, or intended for, a street, and after giving reasonable notice in writing to the owner or occupier, into, through, across, under, over or up the side of any land or building whatsoever, situate within the limits of the municipality, and, for the purpose of introduction, or distribution of light or water, or for the outfall of water, or for the removal or outfall of sewage, or for drainage outfall, without such limits, and may at all times do all acts and things which may be necessary or expedient for repairing or maintaining any such pipe, drain, sewer or channel, as-the case may be. in an effective state for the purpose for which the same may be used or intended to be used :

<sup>1</sup>Provided that in the case of a sudden water-logging of any area within a municipality the Commissioners may, if they consider it necessary so to do in the interest of public health and convenience, take such action as is necessary under the sub-section for draining out the water across, under, over or up the side of any land or building within the municipality without prior service of any notice on the owner or occupier of such land or building:

<sup>2</sup>[Provided further that] no annoyance to the public more than is necessarily caused by the proper execution of the work is created by any such operation; and

<sup>3</sup>[Provided also] that reasonable compensation shall be paid to the owner or occupier for any damage at the time sustained by him through or in consequence of any such operations.

(2) Whenever the <sup>4</sup> (State Government) has sanctioned any works without the limits of any municipality for bringing light or water into such municipality or for draining or disposing of the sewage of such municipality, the Commissioners may exercise all the powers which by this Act they may exercise within the municipality, in the construction, maintenance and repair of such work throughout the line of country in which such works are situated or through which they are to run.

1. Provisio ins. by W. B. Act 51 of 1980.
2. Words subs, for the words "Provided that" by W. B. Act 51 of 1980.
3. Words subs forthe words "Provided further" by W. B. Act 51 of 1980.
4. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and. thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order, 1950.

**287. Pipes, drains or sewers laid or carried above surface of ground :-**

In the event of any pipe, drain, sewer or channel being laid or carried above the surface or any land or through, over, or up the side of any building, such pipe, drain, sewer or channel, as the case may be, shall be so laid or carried as to interfere as little as possible with the rights of the owner or occupier to the due enjoyment of such land or building, and reasonable compensation shall be paid in respect of any substantial interference with any such right to such enjoyment.

**288. Previous notice to be given :-**

Except in cases to which section 293 relates, the Commissioners shall cause not less than one month's notice in writing to be given to the owner or any occupier before commencing operations under section 286.

**289. Power to permit connection to houses and lands :-**

(1) Subject to the prescribed conditions and restrictions and to such terms as the Commissioners may from time to time determine, the Commissioners at a meeting may

(a) on application of the owner or occupier of any house or land 84(in respect of which the consolidated rate is paid], make or cause, or permit to be made communication or connection from any main, or distribution pipe, belonging to the Commissioners for the purpose of leading water or gas to such house or land, or

(b) on the application of the owner or occupier of any house or land make, or cause or permit to be made, any connection or communication to such house or land from any drain, sewer, or channel constructed or maintained by or vested in the Commissioners.

(2) The Commissioners at a meeting may require the amount

necessary for the execution through their own agency of any work under this section to be paid or deposited before such work is executed by them.

**290. Power to make or require connections in certain cases**

:-

<sup>1</sup> (1) In any case in which a service-pipe from a main supplies water to two or more holdings, the Commissioners may, by written notice, require the owner of

1. Figure and brackets are unnecessary here.

**291. Power to establish meters and the like :-**

The Commissioners may establish meters for the purpose of testing the quantity or quality of any gas supplied to the house or land of any person or to or for the use of any person or business.

**292. Attachment of meters :-**

For the purpose of measuring and recording the amount of water consumed, the Commissioners may fix a meter at a convenient point [inside the holding of the consumer].

**293. Power to enter premises :-**

(1) Any officer authorized in this behalf by the Commissioners may, between the hours of seven in the forenoon and five in the afternoon, enter into or on any house or land for the purpose of inspecting or repairing any water, gas or other installation and for taking readings of meters connected therewith.

(2) If such officer at any such time is refused admittance into such house or land for the purposes aforesaid, or is prevented from making such examination, the Commissioners may forthwith cut off the supply of gas or water, as the case may be, from such house or land :

Provided that nothing hereinbefore contained shall authorize an entry into any room appropriated to women, unless reasonable notice in writing and opportunity is given to enable the women to remove to some part of the premises where their privacy may be preserved.

**294. Presumption as to correctness of meter :-**

Whenever water or gas is supplied under this chapter through a meter, it shall be presumed that the quantity or quality indicated

by the meter has been consumed until the contrary is proved.

**295. Cost of providing, attaching and replacing meter :-**

The expense of providing, attaching and replacing a meter shall be borne by the person requiring the supply or, if the service-pipe or connection has been laid down or made before the commencement of this Act, by the owner of the house or land, except in the case of a special agreement to the contrary between the owner and the occupier. Such expense shall be recovered in one or more installments according as the Commissioners think proper :

Provided that the Commissioners shall bear the cost of maintaining meter in good order and replacing a meter which is out of order or under repair owing to an inherent defect .and not owing to its having been tampered with.

**296. Commissioners to replace damaged meter :-**

When any meter attached to the service-pipe or connection of any house or land is out of order or under repair, the Commissioners shall forthwith replace it by another meter.

**297. Testing of meter :-**

(1) If the owner or occupier of any house or land to which water or gas is supplied through a meter desires to have the meter 86. Words subs for the words "between the holding of the consumer and the municipal main" by W.B. Act 51 of 1980. tested, he may send a written application to the Commissioners, and such application shall be accompanied by a fee of <sup>1</sup> [five rupees].

(2) Upon receipt of any such application and fee the Commissioners shall forthwith cause such meter to be tested at a time and place to be specified in a notice to be served upon such owner or occupier.

(3) If such meter is found, upon being so tested, to be incorrect by more than two per cent, the said fee shall be returned to the person who sent it.

1. Words subs, for the words "two rupees" by W. B. Act 51 of 1980.

**298. Fraud in respect of meter :-**

(1) No person shall fraudulently

(a) alter the index to any meter, or prevent any meter from duly registering the quantity or quality of water or gas supplied, or

(b) abstract or use water or gas before it has been registered by a meter, set up for the purpose of testing the quantity or quality of the same.

(2) Where there has been any such alteration, prevention, abstraction or use the existence of artificial means under the control of the consumer for causing any such alteration, prevention, abstraction or use shall be evidence that the consumer has fraudulently effected the same.

**299. Injuring meter or fittings :-**

No person shall willfully or negligently injure or suffer to be injured any meter or any of the fittings of any meter.

**300. Maintenance of supply of water :-**

The Commissioners at a meeting shall from time to time determine what supply of water for domestic purposes shall be maintained in their service-pipes and mains, and during what hours such supply shall be continued.

**301. Supply for business :-**

(1) The Commissioners at a meeting may supply and may at any time after giving reasonable notice cease to supply water for purposes other than domestic purposes.

(2) For all water supplied under sub-section (1) payment shall be made at such rates and on such conditions as the Commissioners at a meeting may from time to time prescribe.

**302. Free supply of certain quantity of water for domestic purposes :-**

(1) The occupier of every premises to which water is supplied by the Commissioners under this chapter shall be entitled to have, <sup>1</sup> \*\*\*\*\* free of further charge such quantity of water per quarter for domestic purposes as the Commissioners at a meeting may from time to time prescribe.

(2) All water supplied in excess of the free allowance to which an occupier is entitled under sub-section (1) shall be paid for by him at a rate to be fixed from time to time by the Commissioners at a meeting.

(3) If such premises are ordinarily occupied by two or more persons holding in severalty, the owner shall be liable for water supplied in



excess as referred to in sub-section (1) ; but such owner shall be entitled to recover rateably from the several occupiers any amount so paid.

(4) Every incoming or outgoing occupier of any metered premises shall at least three clear days before entering into the occupation of or vacating such premises, as the case may be, cause a written notice to be served upon the Commissioners stating the date on which he intends to occupy or vacate the premises and requiring the Chairman to cause the meter to be read for the determination of the liability, if any, for any excess consumption of filtered water on the date of such occupation or the date of such vacation of the premises, as the case may be.

(5) Upon receipt of such notice the Chairman shall cause the meter to be read and furnish such occupier with a statement of such meter reading.

(6) The outgoing occupier shall ordinarily be liable to pay for any excess supplied up to the date of his vacation the premises; and the incoming occupier's liability for any excess consumption of filtered water shall ordinarily accrue from the commencement of his occupation :

Provided that where no written notice is delivered to the Commissioners under sub-section (4), the Commissioners shall be entitled to realise from such incoming occupier the full proportionate amount of the charges for excess water consumed, on the basis of the next quarterly or other reading of the meter made after the occupation of the incoming occupier, or such less amount as the Commissioners may think fit, regard being had to the number of days in any quarter during which the premises were occupied by such incoming occupier, the number of inmates during that period and the amount of free allowance to which such occupier may be entitled under sub-section (1),

1. Words "for each rupee paid quarterly as the water-rate on account of such premises and" om. by W. B. Act 51 of 1980.

### **303. Inspection of works and pipes before connection :-**

(1) Before a connection for the supply of water from the distribution mains of the Commissioners to any premises is sanctioned, the Commissioners may cause all the works, pipes and fittings within the said premises to be inspected by an officer

appointed by them in this behalf.

(2) The cost of such inspection shall be payable in advance by the person applying for such connection at such rates as the Commissioners at a meeting shall from time to time direct.

(3) Until such officer has certified to the Commissioners that the works, pipes and fittings have been executed and put up in a satisfactory manner a connection with the Commissioner's service pipes shall not be permitted.

(4) Notwithstanding anything contained in this section if at any time after a certificate has been granted under sub-section (3) the Commissioners are satisfied that any work, pipe or fittings is unsuitable or results in a waste of water, the Commissioners may require the person who provided such work, pipe or fitting, or the owner of the premises, to alter or add to them at his own cost.

**304. Permission to person outside the municipality to take water :-**

The Commissioners at a meeting may with the sanction of, and on such terms (if any) as may be approved by the <sup>1</sup> [State Government], supply water to a local authority or other person outside the municipality.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and. thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

**305. Water not to be taken out of municipality or wasted :-**

No person

(i) shall take, or cause to be taken for use outside the limits of the municipality water supplied by the Commissioners, without the permission of the Commissioners given under section 304 or in contravention of any conditions which they may prescribe ;

(ii) being the occupier of any premises to which water is supplied by the Commissioners under this chapter, shall, from negligence or other circumstances under the control of the said occupier, allow the water to be wasted, or allow the pipes, works or fittings for the supply of water in his premises to be out of repair so as to cause waste of water;

(iii) shall otherwise cause waste of water supplied by the

Commissioners;

(iv) shall unlawfully flood, draw off, divert or take water from, any waterworks belonging to, or under the control of, the Commissioners, or from any water or streams by which such water-works are supplied.

**306. Owner to bear the cost of keeping works in repair :-**

Except in the case of a special agreement to the contrary, the owner of any premises shall bear the expenses of keeping all works connected with the supply of water to such premises in substantial repair, and if he fails to do so, the occupier may, after giving the owner three days' notice in writing, himself have the repairs executed and deduct the expenses thereof from any rent which is due from him to the owner in respect of such premises :

Provided that nothing in this section shall affect the liabilities of parties under leases executed previous to the extension of this chapter to the municipality in which the said premises are situated.

**307. Estimate and specification of works to be sent :-**

No work for introducing a supply of water to any premises shall be commenced by the owner without sending a specification and estimate of the cost thereof to the occupier, nor by the occupier without sending such specification and estimate to the owner.

**308. Power to take charge of private connections :-**

The Commissioners at a meeting may, if they think fit, take charge of all communication-pipes and fittings of any existing private water-works connected with the municipal water-supply up to and including the stop-cock nearest the supply-main for the said works, and such communication-pipes and fittings shall thereafter vest in and be maintained at the expense of, the Commissioners as municipal water-works.

**309. Power to cut off or to turn off supply of water to premises :-**

(1) Notwithstanding anything contained in this chapter the Commissioners may cut off the connection between any of their water-works and any premises to which water is supplied from such works, or may turn off such supply, in any of the following cases, namely :

(a) if the premises are unoccupied ; or

(b) if, after receipt of a written notice from the Commissioners requiring him to refrain from so doing, the owner or occupier of the premises continues to use the water or to permit the same to be used in contravention of this Act or any rule or by-law made thereunder ; or

(c) if the occupier of the premises contravenes section 298, section 299, sub-section (3) of section 301 or section 305 ; or

(d) if any pipes, taps, works or fittings connected with the supply of water to the premises be found, on examination by any officer of the Commissioners authorized by them in this behalf, to be out of repair to such an extent as to cause so serious a waste or contamination of water that in the opinion of the Chairman immediate prevention is necessary ; or

(e) if the use of premises for human habitation has been prohibited under section 366, from the date from which the premises are to be vacated under the order of the <sup>1</sup>[Executive Magistrate]; or

(f) if there is any water-pipe situated within the premises to which no tap or other efficient means of turning the water off is attached ; or

(g) if by reason of a leak in the service-pipe or fitting damage is caused to the public street and immediate <sup>2</sup>[prevention is] <sup>3</sup>[necessary; or]

<sup>4</sup> (h) if the owner or occupier of the holding refuses or neglects to pay for a period of fourteen days after he has been served with a notice of demand, any of the fees or charges, namely, charges for excess consumption of water for domestic and other purposes and other incidental charges for services on account of water supply, imposed under the provisions of this Act and in accordance with the rules and by-laws framed thereunder:

Provided as follows :

(i) water supplied for flushing privies or urinals shall not be cut off or turned off;

(ii) water shall not be cut off or turned off in any case referred to in clause (e) unless written notice of not less than forty-eight hours has been given to the occupier of the premises.

(2) The expense of cutting off the connection or of turning off the

water and of restoring the same, as determined by the Commissioner in any case referred to in sub-section (1), shall be paid by the owner or occupier of the premises :

Provided that no charge for such expense shall be made in the cases mentioned in clause (a) and clause (e) of the said sub-section.

(3) No action taken under or in pursuance of this section shall relieve any person from any penalties or liabilities which he may otherwise have incurred,

1. Words subs, for the word "Magistrate by W. B. Act 51 of 1980.
2. Words subs, for the words "preventions" by Ben. Act 1 of 1939.
3. Words subs, for UK-'words "necessary:" by W. B. Act 51 of 1980.
4. Clause (h) ins. by W. B. Act 51 of 1980.

### **310. Application of the Indian Electricity Act, 1910 :-**

Notwithstanding anything in this chapter all matters relating to the generation, transmission, supply or use of electrical energy in a municipality shall be regulated by the provisions of the Indian Electricity Act, 1910.

### **311. Power to make rules :-**

The <sup>1</sup>[State Government] may make rules to regulate

(a) the preparation of plans and estimates for water works or for the introduction of a system of lighting by electricity, or gas. or of drainage or sewerage, where such works or system are or is to be partly or wholly constructed or carried out at the expense of the Commissioners;

(b) the power of the Commissioners or the <sup>1</sup>[State Government] to accord sanction to such plans and estimates;

(c) the publication in the [Official Gazette] of the particulars of, and the nature of any such, work or scheme, its cost, and the manner in which it is to be financed and carried out;

(d) the size and nature of water works, mains, pipes, drains, sewers or channels to be constructed or laid by the Commissioners for the supply of water or gas, or for drainage or sewerage ;

(e) the maintenance of municipal water works and of pipes and fittings in connection therewith;

(f) the size and nature of the stand-pipes or pumps to be erected

by the Commissioners and of the ferrules and all pipes, stand-pipes, stopcocks, taps, hydrants and other fittings, whether within or outside any premises, that may be prescribed or necessary for the regulation of the supply and use of water or gas ;

(g) the mains or pipes in which fire plugs are to be fixed and the places at which keys of the fire plugs are to be deposited ;

(h) the periodical analysis by a qualified analyst of the water supplied by the Commissioners ;

(i) the conservation of, and the prevention of injury or contamination to, sources and means of water-supply and appliances for the distribution of water, whether within or without the limits of the municipality;

(j) the manner in which connections with water-works or with the lighting, drainage or sewerage system of the Commissioners shall or may be constructed, altered or maintained, the fees to be levied for such connections and the person by whom they shall be paid, and the agency to be employed for such construction, alteration or maintenance ;

(k) the rates at which the charges for **3 \* \* \* \* \*** gas supplied may be levied by the Commissioners and the use, maintenance and testing of meters and the rebate, if any, to be allowed where a meter, is found to be defective;

(1) the regulation of all matters and things connected with the supply and use of water or gas, and the turning on and turning off and preventing the waste of water or gas; and

(m) any other matter relating to the supply of water or gas or of drainage or sewerage in respect of which this Act makes no provision or insufficient provision and further provision is, in the opinion of the "[State Government], necessary :

Provided that in any rules made under this section regarding the construction or carrying out of any works for the supply of water or gas, or for drainage or sewerage by the Public Health Department provision shall be made that the Commissioners of the municipality concerned shall have an opportunity of seeing the terms of the contract for the execution of works, before it is executed.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian

Laws) Order. 1937 and. thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order, 1950.

3. Words "water or" om. by W. B. Act 51 of 1980.

## CHAPTER 9

### BUILDINGS

#### **312. Power of State Government to classify municipalities for the purposes of application of building rules and to exempt municipalities from certain provisions :-**

**1**

(1) The State Government may, by notification, classify the municipalities in different categories for the purpose of application of building rules on the basis of land-use pattern, concentration of population, urban growth, industrial or commercial importance, and like considerations and may prescribe different sets of building rules for different categories of municipalities.

(2) The State Government may, by notification, exempt a municipality or a category of municipalities classified under subsection (1) from the operation of all or any of the provisions contained in Schedule VI to, or sections 313 to 347 of, this Act.

1. Sec. 312 subs, by W. B. Act 51 of 1980 which was earlier as under : "312. Application of Schedule VI, etc. (1) The State Government may, by notification, declare that Schedule VI or any part thereof shall be in force in such municipalities as may be specified in the notification and may, on the application of the Commissioners of a municipality, cancel or modify such notification In respect of any municipality so specified. (2) The provisions contained in sections 315, 317 to 327 and 329 shall not apply to any municipality, unless and until they have been extended thereto by a notification Issued by the State Government when Schedule VI or any part thereof is brought into force under subsection (1) : Provided that in the case of any municipality to which the provisions of Part VI of the Bengal Municipal Act, 1884. corresponding to the provisions of sections 315, 317 to 327 and 329 are in force immediately before the commencement of this Act. all the said section shall be in force In such municipality without being expressly extended thereto.".

#### **313. Use of building sites and erection of buildings :-**

No piece of land shall be used as a site for the erection of a building and no building shall be erected otherwise than in accordance with the provisions of this chapter and of any rule or by-law made under this Act, relating to the use of building-sites or to the erection of buildings, as the case may be, and in municipalities where Schedule

VI or part thereof is in force, in accordance with that Schedule or part thereof.

**314. Commissioners to determine site of proposed masonry building :-**

If any question arises as to what, for the purposes of this Act, shall be deemed to be the site of any proposed masonry or framed building, the Commissioners at a meeting shall determine the same, and their decision shall be final.

**315. Masonry building not to be erected without special permission in certain cases :-**

(1) Save with the special permission of the Commissioner at a meeting, no building (other than a hut) shall be erected unless

(a) the site of such building abuts on a public street, or a projected public street or a private street duly sanctioned and constructed in accordance with the provisions of this Act, or existing before the commencement of this Act, or

(b) there is access to the building from any such street by a passage or pathway, appertaining to such site, and not less than <sup>1</sup> [1.83 metres] wide at any part.

(2) No building shall be erected so as to deprive any masonry or framed building of the means of access as provided in this section. Exemptions.

1. Word and figures subs, for the words "six feet" by W. B. Act 51 of 1980.

**316. Exemptions :-**

The following buildings shall be exempted from the operation of sections 315, 317 to 327 and 329, namely : <sup>1</sup>

1. Clause (a) om. by W. B. Act 51 of 1980 which was under ; "(a) any building erected and used, or Intended to be erected and used, exclusively for the purpose of accommodating a pump for pumping water to the highest stories of a building, or exclusively for the purpose of a plant-house, summer-house [not being a dwelling-house) , poultry house or aviary, if the building be wholly detached from, and at a distance of at least ten feet from, the nearest adjacent building ;". (b) any building erected or intended to be erected by, or with the sanction of the Commissioners, for use solely as a temporary hospital for the reception and treatment of persons suffering from any infectious or contagious disease; and (c) any hoarding or like means of protection (other than a masonry



wall) which the owner of any premises certifies to the Chairman not less than seven days after its erection to have been erected for the purpose of preventing the threatened acquisition of any easement over his own premises or any portion thereof, provided that the stability of such hoarding or other means of protection is certified by the Chairman. Application for sanction.

**317. Application to erect building to be submitted in the prescribed form :-**

Every person who intends to erect a building shall first submit an application in the form prescribed in Schedule VI to the Commissioners together with such plans, specifications and other particulars as may be prescribed in that Schedule or in any rule or by-law made in this behalf.

**318. Permission to execute work when to be given or refused :-**

(1) Within thirty days, or in the case of huts, within fifteen days after the receipt of any application made under section 317, or of any information or documents, which the Commissioners may reasonably require the applicant to furnish before deciding whether permission shall be granted to execute any work under the aforesaid section, the Commissioners shall, by written order, either

(a) grant permission conditionally or unconditionally to execute the work, or

(b) refuse, on one or more of the grounds mentioned in section 322, to grant such permission.

(2) When the Commissioners grant permission conditionally under clause

(a) of sub-section(1), they may in regard thereto impose such conditions, consistent with this Act, as they may think fit.

<sup>1</sup> (2A) The Commissioners at a meeting may fix a scale of fees to be paid in respect of grant of permission under sub-section(1). to execute any work, at rates not exceeding [Chairman] and show cause why such alterations should not be made.

(3) If such owner does not appear and show cause under sub-section (2) he shall be bound to make the alterations specified in such notice.

(4) If such owner appears and shows cause under sub- section (2),

the Commissioners shall, after hearing him, either

(a) cancel the notice issued under that sub-section, or

(b) confirm the same, subject to such modifications (if any) as they may think fit.

1. Sub-sec. (2A) ins. by W. B. Act 7 of 1969.

**319. OMITTED :-**

**320. OMITTED :-**

**321. OMITTED :-**

**322. Grounds on which permission to erect a masonry building may be refused :-**

The only grounds on which permission to erect a building may be refused are the following, namely :

(a) that the work, or any of the particulars comprised in the plans or specifications would contravene some specific provision of this Act or of Schedule VI or of some specific rule or by-law made in this behalf; or

(b) that the application for such permission does not contain the particulars or is not prepared in the manner prescribed in Schedule VI or in any rule or by-law made in this behalf; or

(c) that any of the documents referred to in Schedule VI or in any rule or by-law made in this behalf have not been signed in the manner prescribed ; or

(d) that any information or documents required by the Commissioners under this Act or Schedule VI or under any rule or by-law made In this behalf has or have not been duly furnished ; or

(e) where the provisions of the Calcutta Improvement Act, 1911, have been extended to any municipality that, in the case of a new building falling within the street alignment or building-line of a public street projected under section 63 of the Calcutta Improvement Act, 1911, the permission of the Chairman of the Board of Trustees for the Improvement of Calcutta has not been obtained ; or

(f) that the applicant has not satisfied the Commissioners in regard to any objections which may have been taken on any of the

grounds mentioned in this section, to the grant of the said permission.

**323. Power as to inflammable structures :-**

(1) The Commissioners at a meeting may, by public notice, direct that, within certain limits to be fixed by them, the roofs and external walls of huts or other buildings shall not be made or renewed with grass, mats, leaves or other highly inflammable materials without their consent in writing.

(2) The Commissioners at a meeting may, at any time by written notice, require the owner of any building which has an external roof or wall made of any such materials as aforesaid to remove such roof or wall within such reasonable time as shall be specified in the notice, notwithstanding that a 4, Word subs, for the word "Commissioners at a meeting" by W. B. Act 51 of 1980. public notice under sub-section (1) has not been issued or that such roof or wall was made with the consent of the Commissioners or before the issue of such public notice, if any :

Provided that in the case of any such roof or wall in existence before the issue of such public notice or made with the consent of the Commissioners, they shall make compensation for any damage caused by the removal which shall not exceed the original cost of constructing the roof or wall.

**324. Power to Commissioners to cancel permission on the ground of material misrepresentation by applicant :-**

If, at any time, permission to erect any masonry or framed building has been given, and the Commissioners at a meeting are satisfied that such permission was granted in consequence of any material misrepresentation or fraudulent statement contained in the application made under section 317, or in the plans, elevations, sections or specifications submitted therewith in respect of such building, they may cancel such permission, and any work done thereunder shall be deemed to have been done without permission.

**325. Duration and expiry of permission to erect a building :-**

(1) A permission to erect a building granted under this Chapter shall be valid for two years from the date on which it is granted and may be renewed thereafter for a further period of two years on payment of a fee of ten rupees and on production of the previously sanctioned building plans.

(2) Any person who erects a building or continues the work of erection of a building, when the permission granted under this chapter has expired, shall be deemed to erect such building or to continue such work without sanction. Application of Act to alterations of, and additions to, buildings.

**326. Application of Act to alterations of and additions to, buildings :-**

(1) The provisions of

(a) this chapter,

(b) Schedule VI, and

(c) any rules or by-laws made under this Act,

(2) An alteration or addition in or to a building shall for the purposes of this chapter and of Schedule VI and of any rule or by-law, be deemed to be material if

(a) it increases or diminishes the height of. the area covered by, or the cubical capacity of the building, or any part thereof, or reduces the height, area or cubical capacity of any room in the building below the minimum prescribed in Schedule VI, or in any rule or by-law; or

(b) it affects or is likely to affect prejudicially the stability or safety of the building or the condition of the building in respect of drainage, ventilation, sanitation or hygiene; or

(c) it converts into a place for human habitation a building or part of a building originally constructed for other purposes ; or

(d) it is an alteration or addition declared by Schedule VI or by any rule or by-law made in this behalf to be a material alteration or addition.

(3) If any question arises as to whether any addition or alteration is a necessary repair not affecting the position, safety, stability, use, sanitary condition or dimensions of a building or room, such question shall be referred to the Commissioners at a meeting and the decision of the Commissioners shall be final.

**327. Rules :-**

(1) In alteration of. addition to, or cancellation of Schedule VI the <sup>1</sup>  
[State Government] may make rules

(a) for the regulation or restriction of the use of land as sites for building and

(b) for the regulation and restriction of building and of alterations in, or additions to, building.

(2) When Schedule VI has been so altered, added to or cancelled, any reference made in this Act to the said Schedule shall be constructed as a reference to the Schedule as amended under subsection (1) or, if the Schedule has been cancelled to the rules substituted therefor.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and, thereafter, the word "State" subs, for the word. "Provincial" by the Adaptation of Laws Order, 1950.

### **328. Special provisions in respect of less advanced municipalities :-**

(1) The Commissioners of any municipality <sup>1</sup>[which is exempted from the operation of Schedule VI] under section 312 shall at a meeting <sup>2</sup>\*\*\*\*\* provide by means of by-laws for the control of the erection of buildings and of material alterations and additions to buildings to give effect to the provisions of this Act and of that Schedule in this behalf to such extent as local circumstances permit and subject to such modifications as local circumstances may require.

<sup>3</sup> (2) Where a municipality is exempted only in part from the operation of the provisions of Schedule VI the Commissioners shall, at a meeting, regulate by means of by-laws the matters that are regulated by that part of Schedule VI which is not applicable to such municipality.

1. Words and figures subs, for the words and figures "to which the provisions of Schedule VI are not extended" by W.B, Act 51 of 1980.

2. Words ", if the State Government so requires," om. by W.B. Act 51 of 1980.

3. Sub-sec.(2) subs.-by W.B. Act 51 of 1980 which was earlier as under: "(2) Where the provisions of Schedule VI are extended only in part to any municipality the Commissioners shall, at a meeting, if the State Government so requires, regulate by means of by-laws the matters that are regulated by that part of Schedule VI which is not extended to such municipality.".

### **329. Powers to make by-laws regulating buildings :-**

(1) The Commissioners of a municipality to which the provisions of Schedule VI <sup>1</sup>[are applicable] under this Act in whole or in part may <sup>2</sup>\* \* \* \* \* make at a meeting by-laws, consistent with this Act and Schedule VI (or the part thereof <sup>3</sup>[applicable to] the municipality) applicable to building-sites or to buildings generally or to any class of buildings within the whole or any part of the municipality, and may by such by-laws

(a) determine the plans, specifications and other documents or particulars to be furnished with any application made for permission to construct, add to or alter house-drains, privies or urinals ;

(b) declare an alteration or addition of any specific description to be a material alteration or addition although not falling within the scope of clauses (a), (b) or (c) of sub-section (2) of section 326 ;

(c) prescribe that, on payment of fees in accordance with such scale as is specified in this behalf, plans and specifications shall be obtainable from the Commissioners or from an agency prescribed by the Commissioners ;

(d) prescribe the type or description of buildings which may or may not, and the purposes for which a building may or may not, be erected in any specified area or areas ;

(e) prescribe that builders and surveyors shall be licensed and that the erection of buildings shall not be permitted except by licensed builders and surveyors ;

(f) prescribe the fees, to be paid by builders and surveyors for obtaining a license and the qualifications to be possessed by them ;  
and

(g) prescribe, with reference to the erection of buildings, all or any of the following matters :

(i) the materials and method of construction to be used for external and party walls, roofs and floors ;

(ii) the regulation of sites for buildings, and the materials and method of construction of fire-places, chimneys, drains, privies, urinals and cess-pools;

(iii) the ventilation and flushing of drains, latrines, urinals and

cesspools, and the provision of access thereto from streets, and where a sewerage system has been provided, the connection of service privies with a sewer and the method of the connection ;

(iv) the proportion of any building-site, which shall not be built over, the amount of space to be left at the sides and back of any building and the area of courtyards in proportion to the floor area of rooms abutting thereon ;

(v) the height of any building or portion of a building in relation to the width of the, street or streets on which it abuts and to the space left open at the back of the building and forming a part of the site, and the height of any building or portion of a building "abutting on a courtyard; the level, drainage and paving of courtyards ;

(vi) the width of foundation, height of plinth, and stability of structure;

(vii) the minimum floor area, minimum height, and ventilation of rooms used or intended to be used for human habitation ;

(viii) any other matter affecting the ventilation or sanitation of the building ;

(ix) the regulation by specific rules of special classes of buildings in any of the above matters ;

(x) the laying out of huts in a bustee in accordance with alignment lines, prescribed and demarcated on the ground ;

(xi) the distance to be kept open between huts and alignment lines;

(xii) the means to be provided for egress from public buildings in case of fire ;

(xiii) regulating in any manner not specifically provided for in this Act, the erection of any enclosure, wall, fence, tent, awning or other structure, of whatsoever kind or nature (other than a hogla or similar kind of temporary shed erected on ceremonial festive occasions), on any land within the limits of the municipality; and

(xiv) special rules in respect of any of the foregoing matters for any particular type or class of buildings which are used or which it is intended to use for any particular purpose,

(2) By-laws made by the Commissioners of a municipality to which the provisions of Schedule VI <sup>4</sup>[are not applicable or are applicable only in part], shall be subject to the approval of the <sup>5</sup>[State Government] and may provide for any of the matters specified in clauses (a) to (g) of sub-section (1) and also for the regulation of building-sites within the municipality, but shall not be inconsistent with any portion of this Act which applies to such municipality or with any portion of Schedule VI or any rule made thereunder which <sup>6</sup> [is applicable] thereto.

1. Words subs, for the words "have been extended" by W.B. Act 51 of 1980.

2. Words ". and when required by the State Government shall." om. by W.B. Act 51 of 1980.

3. Words subs, for the words "extended to" by W.B. Act 51 of 1980.

4. Words subs, for the words "have not been extended or have only been extended in part" by W.B. Act 51 of 1980.

5. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

6. Words subs, for the words "has been extended" by W.B. Act 51 of 1980.

### **330. Order for demolition or alteration of buildings in certain cases :-**

(1) If the Commissioners are satisfied

(a) that the erection of any building

(i) has been commenced without obtaining their written permission under section 318 otherwise than under the provisions of section 319, or

(ii) is being carried on or has been completed otherwise than in accordance with the particulars on which such permission or orders was or were based, or after such permission has been lawfully withdrawn, or

(iii) is being carried on or has been completed in breach of any provision contained in this Act or in Schedule VI or in any rules or by-laws made in this behalf or of any condition, modification, direction or requisition lawfully given or made under this Act or Schedule VI or under such rules or by-laws, or



(b) that any material alteration of, or addition to, any building has been commenced or is being carried on or has been completed in breach of any provision contained in this Act or Schedule VI or in any rules or by-laws made in this behalf, or

(c) that any alterations required by any notice issued under subsection(2) of section 321, have not been duly made, they may, in addition to any prosecution that may be instituted this Act, apply to a <sup>1</sup>[Executive Magistrate] and such <sup>1</sup>[Executive Magistrate] may make an order directing that such erection, alteration, or addition as the case may be, or so much thereof as has been executed unlawfully as mentioned in clauses (a). (b) or (c), or that any structure specified in the application or plans or specification submitted under section 317 as a structure to be demolished or altered before the new building was erected or the material alterations or additions were made shall

(i) be demolished by the owner thereof or altered by him to the satisfaction of the Commissioners, as the case may require, or

(ii) demolished or altered by the Commissioners, at the expense of the said owner.

(2) The <sup>1</sup>[Executive Magistrate] may make any order under this section notwithstanding the fact that a valuation of such building has been made by the Commissioners under Chapter V for the assessment of any rate <sup>4</sup> \* \* \* \*, but shall not make any such order without giving the owner of the building to be so demolished or altered full opportunity of adducing evidence and of being heard in his defence.

1. Words "Judicial Magistrate" first subs, for the word "Magistrate" by W.B. Act 51 of 1980, then again the words within third brackets subs, for the words "Judicial Magistrate" by W.B. Act 10 of 1982.

4. Words "or rates" om. by W.B. Act 51 of 1980.

### **331. . :-**

Order for demolition or alteration of buildings in other cases,-

(1) In any of the following cases, namely:

(a) if the owner of any building erected or added to between a street alignment and the building-line fails to remove such building or . addition when called upon to do so under section 218, or

(b) if any person who makes any additions to a building in

pursuance of an agreement executed under sub-section (4) of section 218, fails to remove such additions when called upon to do so, or

(c) if the owner of any building erected or added to under the proviso to sub-section (1) of section 218, fails to remove such building or addition when called upon to do so, or

(d) if, within the period prescribed in any notice requiring the owner or occupier of a building to comply with any condition on which the erection of any verandah or other projection was permitted under sub-section (2) of section 235, such condition is not complied with, or

(e) if, within the period prescribed in any notice issued under subsection (4) of section 235, requiring the owner or occupier of a building to remove a verandah or other projection, the same be not duly removed, or

(f) if, within the period prescribed in any notice issued under sub-section(2) of section 323, requiring the owner of a building to remove or alter an external roof or wall made of inflammable material, the same be not duly removed or altered, or

(g) if the owners or occupiers neglect to execute any works or to take any measures required by any notice issued on them under section 263, 364, 367, or 380, the Commissioners may in addition to any prosecution that may be instituted under this Act, apply to a <sup>1</sup>(Executive Magistrate], and such <sup>1</sup>[Executive Magistrate] may make an order directing that the projection, building, portion of the building, block of buildings, verandah, fixture, additions, roof or wall, or huts, as the case may be, shall

(i) be demolished by the owner thereof or altered by him to the satisfaction of the Commissioners, as the case may be, or

(ii) be demolished or altered by the Commissioners expense of such owner.

(2) The <sup>1</sup>[Executive Magistrate] may make any order under this section notwithstanding the fact that a valuation of such building has been made by the Commissioners under Chapter V for the assessment of any rate <sup>4</sup> \* \* \* \* \* , but shall not make any such order without giving the owner of the structure to be so demolished or altered full opportunity of adducing evidence and of being heard

in his defence.

1. Words "Judicial Magistrate" first subs, for the word "Magistrate" by W.B. Act 51 of 1980. then again the words within third brackets subs, for the words "Judicial Magistrate" by W.B. Act 10 of 1982.
4. Words "or rates" qm. by W.B. Act 51 of 1980.

**332. Institution of prosecutions for offences referred to in section 330 or section 331 :-**

Notwithstanding anything contained in section 532 or section 533 no prosecution for an offence referred to in section 330 or section 331 shall be instituted without the order or consent of the Commissioners at a meeting and the Commissioners before passing such order or giving such consent shall give to the owner or occupier of the building an opportunity of showing cause why such prosecution should not be instituted.

**333. Power of Commissioners to stop erection of new buildings in certain cases :-**

(1) In any case in which the erection of a new building, or any other work referred to in section 330 or section 331, has been commenced, or, is being carried, on unlawfully as mentioned in those sections, the Commissioners may, by written notice, require the person carrying on such erection or other <sup>1</sup>[unlawful] work to discontinue the same, pending the decision of a <sup>2</sup> [Judicial Magistrate] on an application to be made to him under that section.

(2) If any notice issued under sub-section(1) is not duly complied with, the Commissioners may, with the assistance of the police if necessary, take such steps as they may deem needful in order to stop the continuance of the unlawful work.

(3) If it appears to the Commissioners that it is necessary in order to prevent the continuation of the unlawful work, to depute any police or municipal officer to watch the premises, the cost of providing the same shall be borne by the person to whom the said notice was addressed.

1. Words subs, for the word "unlawfully" by Ben. Act 1 of 1939.
2. Words subs, for the word "Magistrate" by W.B. Act 51 of 1980.

CHAPTER 10  
BUSTEES

**334. . :-**

**1 \*\*\*\*\***

1. Sec. 334 om. by W.8. Act 51 of 1980 which was as under: "334. Application of Chapter. The provisions contained in this chapter shall not apply to any municipality, unless and until they have wholly or in part, been extended thereto by a notification issued by the State Government in this behalf: Provided that in the case of any municipality to which the provisions of Part VI of the Bengal Municipal Act. 1884. corresponding to any of the provisions of this chapter are in force immediately before the commencement of this Act. all the said provisions of this chapter shall be in force in such municipality without being expressly extended thereto.".

**335. Power to Commissioners to define limits of bustee :-**

(1) The Commissioners at a meeting may define the external limits of any bustee, and may from time to time alter such limits.

(2) None of the powers conferred by any of the following sections of this chapter shall be exercised in respect of

(a) any bustee the total area of which, as comprised within the limits defined under sub-section(1) is less than <sup>1</sup> [1337.76 square metres], or

(b) any masonry building existing in a bustee at the time when a standard plan is approved or alignments are prescribed under the provisions of this chapter for such bustee. as the case may be. Sanitary measure with regard to bustees.

1. Words and figures subs, for the words "two blghas" by W.B. Act 51 of 1980.

**336. Power of Commissioners as to inspection of huts :-**

(1) If it appears to the Commissioners at a meeting that the condition of any bustee is insanitary or attended with risk of disease to the inhabitants of the neighbourhood, by reason of the manner in which the huts are constructed or crowded together, or of want of drainage, the impracticability of scavenging or for any other reason, they may after giving notice or the owners of the bustee cause the locality to be inspected by two persons appointed in this behalf, one of whom shall be registered medical practitioner or a person holding the diploma of Public Health and the other an engineer.

(2) The said persons shall forthwith

(a) sign and submit a written report on the insanitary condition of the said bustee,

(b) annex to the report a plan approved by them as the standard plan of such bustee, and

(c) specify in a schedule to be attached to the said report, as the improvements considered necessary to remove or abate the insanitary condition of the bustee,

(i) the huts which should, wholly or in part, be removed;

(ii) the streets, passages, drains and sewers which should be constructed;

(iii) the means of lighting, water-supply, common bathing arrangements and common privy accommodation to be provided for the use of tenants;

(iv) the tanks, wells and low lands which should be filled up; and

(v) any other improvements they consider necessary in order to remove or abate the insanitary condition of the bustee. A report (together with the schedule annexed thereto) made and signed under this section shall be sufficient evidence of the result of such inspection.

**337. Power to serve notice :-**

On receipt of the said report, the Commissioners at a meeting after hearing the objections (if any) of the owners of the bustee in respect of which the report has been made may approve the plan and schedule after making such modifications (if any) therein as they may think fit and may require the said owners or the owners or occupiers of the huts referred to in sub-clause (c) of sub-section (2) of section 336, or both of the owners of the bustee and the owners and occupiers of the huts, to carry for such purpose, all of the works specified in the aforesaid schedule or any portion thereof, respectively.

**338. Payment of expenses incurred in carrying out improvements :-**

When any improvements required by a notice under section 337 are carried out by the Commissioners under the provisions of this Act, all expenses incurred thereby, including such reasonable compensation as the Commissioners at a meeting may think fit to pay the owners or occupiers of huts removed, shall be paid by the owners of the bustee, to the Commissioners, and shall constitute a charge upon such bustee:

Provided that, notwithstanding anything contained elsewhere in this Act, if it appears to the Commissioners at meeting that any such owner is unable, by reason of poverty, to pay such expenses, or any portion thereof, in the case of expenses relating to work, which should in the opinion of the Commissioners have been done by the owners or occupiers of huts within the bustee, they may order the same or any portion thereof to be paid out of the Municipal Fund, and in the case of expenses, which should be paid by the owner of the bustee, they may order the same or any portion thereof to be advanced out of the Municipal Fund, but thereafter to constitute a charge upon such bustee,

**339. Disposal of material of huts pulled down :-**

(1) If in carrying out any improvements required by a notice under section 337, the Commissioners cause any hut or portion of a hut to be pulled down, they shall

(a) cause the materials of such hut or portion of a hut to be given to the owner of the hut, if such owner elects to take them, or

(b) if the owner does not elect to take the materials, or if the owner be unknown or the title to the hut be disputed, cause such materials to be sold, and hold in deposit the proceeds of the sale together with any sum awarded as compensation under section 338.

(2) Any amount held in deposit under clause(b) of sub-section (1) shall be so held by the Commissioners until any person obtains an order from a competent Court for the payment to him of such amount.

**340. Power to purchase or acquire masonry buildings or land in bustee :-**

(1) Any masonry building in a bustee. and any land appertaining to such building which it may be necessary to purchase or acquire for the purpose of making the streets or of passages, or of effecting any of the improvements specified in the schedule referred to in section 336, shall be shown in the standard plan referred in that section, and the Commissioners may at any time after the receipt of the report made under that section. purchase or acquire

(a) any such masonry building or,

(b) any land appertaining to such building, or

(c) any such building, together with the land appertaining thereto or any portion thereof, which is mentioned in that behalf in the schedule.

(2) Save as is provided in this section none of the powers conferred under the provisions of this chapter shall be exercised in respect of any building or land referred to in clauses (a), (b) or (c) of sub-section (1), but the fact that a masonry building is situated in a bustee shall not prevent action being taken with reference to such bustee under the provisions of this chapter,

**341. Streets and passages shown in standard plan, if not public streets, to remain private :-**

(1) Every street or passage in a bustee which is shown in a standard plan approved under this chapter for that bustee and which is not already a public street shall, unless the Commissioners and the owners of the land on which such street or passage is situated otherwise consent as provided in section 229, be deemed to be a private street; and the portion thereof which falls on the land of each owner shall belong to such owner :

Provided that any portion of any such street or passage which is situated on land purchased or acquired by the Commissioners under section 340 shall remain the property of the Commissioners.

(2) Every such private street shall, at all times, be kept open for scavenging purposes and for all other purposes of this Act in such manner as the Commissioners may require, and shall also be kept open for the use of all the tenants of the bustee :

Provided that, notwithstanding anything contained in the <sup>1</sup> [Limitation Act, 1963], no use of any such street shall, by reason of any lapse of time, be held to confer a right-of-way on the public so as to bring the street within the definition of a public street.

1. Words and figures subs, for the words and figures "Indian Limitation Act. 1908" by W.B. Act 51 of 1980.

**342. Bathing arrangements and privy accommodation in bustee, as shown in standard plan to be kept open for use for tenants :-**

The bathing arrangements and privy accommodation in a bustee which are shown in the standard plan approved under this chapter for such bustee as being common to the use of all or some of the tenants of the bustee, shall at all times be kept available for the

use of such tenants :

Provided that, notwithstanding anything contained in the <sup>1</sup> [Limitation Act, 1963], if at any time the land on which any such bathing arrangements or

1. Words and figures subs, for the words and figures "Indian Limitation Act. 1908" by W.B. Act 51 of 1980.

**343. Owner of land in bustee to maintain certain conveniences on his land :-**

(1) The owner of any land in a bustee for which a standard plan has been approved under this chapter shall maintain in proper order and repair to the satisfaction of the Commissioners, such streets, passages, drains, common bathing arrangements, common privy accommodation, means of lighting, means of water-supply and other works on such land as may be shown in the plan.

(2) The Commissioners may, at any time, cause a written notice to be served upon such owner requiring him so to maintain such streets, passages, drains, common bathing arrangements, common privy accommodation, means of lighting, means of water-supply and other works :

Provided that any convenience made by the owner of a hut for his own use shall, subject to such notice as aforesaid, be maintained by him and not by the owner of the bustee,

**344. Power to owner to take land out of the category of bustee in certain cases :-**

(1) The owner of any land included in a bustee and forming a separate holding may, at any time, whether or not a standard plan has been prepared for the bustee, notify the Commissioners in writing that he intends to remove all the huts standing on such land.

(2) The receipt of any such notice shall not debar the Commissioners from approving a standard plan of such bustee.

(3) From the date of such notice no application shall be entertained for erecting on such land any hut or adding to any hut standing thereon.

(4) Such owner shall, within six months after the date of such notice, or within such further time as the Commissioners at a



meeting may from time to time allow, remove all huts standing on such land; and if he does not do so, the notice shall be deemed to be cancelled.

(5} When all such huts have been so removed, such land shall according to its situation either

(i) be altogether excluded from the limits of the bustee, or

(ii) be shown, in a standard plan approved for the bustee under this chapter, as not being a part of such bustee ;

Provided that if, in the standard plan any street or passage is shown on such land, the provisions of sections 341 and 343 shall, with all necessary modifications, be deemed to apply to such street or passage, unless the Commissioners at a meeting otherwise direct.

(6) If after all the huts have been removed under sub-section (4) any application is received for erecting any hut on such land, the Commissioners may, by written notice, require the owner of the land to carry out such improvements included in the standard plan as they may think fit.

(7) When all the huts standing on any land within a bustee have been removed under sub-section (4), the Commissioners at a meeting may either

(a) cancel the standard plan (if any), already approved under this chapter, for such bustee, or

(b) modify such plan, after hearing the objections (if any) of any owner of land included in such bustee.

(8) When any land, formerly included in a bustee, ceases to be so included, and where any street or passage was shown on such land in the standard plan, and where, on such land ceasing to be so included, the Commissioners at a meeting do not consider it to be practicable, or do not consider it to be expedient to change the alignment of such street they shall, in applying the proviso to sub-section (5) to such street, compensate the owner of such land for any area that is included in such street, which is in excess of one-seventh of the entire area of the land, which ceases to be included in the bustee.

### **345. Power to Commissioners to prescribe alignments for**

### **bustee streets :-**

(1) In any bustee in respect of which a standard plan has not been prepared, or in any area in which it appears to the Commissioners that huts are likely to be erected, the Commissioners at a meeting may, after hearing the objections, if any, of any owner of land in such bustee, prescribe alignments, not more than <sup>1</sup> [4.88 metres] in width, for such private streets as they may think fit.

(2) When the land within such bustee or area is owned by more owners than one,, each owning one or more separate plots of such land, such alignments shall as far as practicable be so prescribed as not to occupy, within any such plot, more than one-fifth of the area thereof, and shall not ordinarily be less than two hundred and fifty feet apart.

(3) If, in any such plot, more than one-fifth of the area thereof is occupied by such alignments, the Commissioners shall pay reasonable compensation to the owner of the plot:

Provided that no such compensation shall be paid in respect of any such plot as long as any hut or other structure other than a masonry building is left standing in the plot within any such alignment.

(4) No hut or portion of a hut shall be erected within any alignment prescribed under sub-section (1).

(5) The provisions of section 341 shall, with all necessary modifications be deemed to apply to every street, the alignment for which has been prescribed under this section.

1. Word and figures subs, for the words "sixteen feet" by W.B. Act 51 of 1980.

### **346. Power to Commissioners to require removal of existing huts within street or hut alignment in bustee :-**

(1) In any bustee, at any time after the expiration of seven years from the time when any alignment has been prescribed for a street or for huts under section 345, the Commissioners at a meeting may, by written notice, require the owner of the land or the owners or occupiers of existing huts to remove such huts or portions thereof as fall

(i) within any such prescribed street alignment, or

(ii) within <sup>1</sup> [1.83 metres] on either side of any such prescribed hut alignment, as the case may be.

(2) When a hut has been removed under the provisions of subsection (1), the Commissioners at a meeting shall pay to the owner thereof such . compensation as they may consider to be reasonable, but such compensation shall in no case exceed the value of the hut less the value of the materials thereof.

1. Word and figures subs, for the words "six feet" by W.B. Act 51 of 1980.

**347. Power to Commissioners to require space to be kept between masonry building in bustees and centre line of bustee street :-**

Any person who erects a masonry building

(a) in any bustee in respect of which a standard plan has been approved under section 337, or

(b) in any bustee or area in respect of which alignments for streets have been prescribed under section 345, shall, if so required by written notice issued by the Commissioners at a meeting, leave a clear space of <sup>1</sup> [4.57 metres] between the centre line of any street or passage shown in such plan, or of any street, the alignment for which has been so prescribed, as the case may be, and the nearest part of such building.

1. Word and figures subs, for the words "fifteen feet" by W.B. Act 51 of 1980.

**CHAPTER 11**

PURITY or WATeR-SuPPLY

**348. Power to set apart wells, tanks, etc., for drinking, culinary, bathing and washing purposes :-**

The Commissioners may, by order published at such places as they think fit, set apart any tank, well, spring or water-course or any part thereof, vested in or under their control, or with the consent of the owner thereof, any tank, well, spring or water-course or part thereof subject to any rights which the owner may retain with the consent of the Commissioners for any of the following purposes, namely

(a) for the supply of water for drinking or for culinary purposes or for both, or

(b) for the purpose of bathing, or

(c) for washing animals or clothes, or

(d) for any other purpose connected with the health, cleanliness or comfort of the inhabitants, and may by like order prohibit bathing or the washing of animals or clothes or other things at any public place not set apart for that purpose, or at any time or by a sex other than that specified in the order and may in like manner prohibit any other act by which water in public places may be rendered foul or unfit for use or which causes or is likely to cause inconvenience or annoyance to persons lawfully using such places.

**349. Power to require cleansing of sources of water for drinking or culinary purposes :-**

The Commissioners may, by notice, require the owner of, or the person having control over, a private tank, well, spring or watercourse or other place, the water of which is used for drinking or culinary purposes, to clean the same from time to time of silt, refuse or decaying vegetation, and may also require him to protect the same from pollution in such manner as to the Commissioners may seem fit, and in the case of a well to repair the same.

**350. Power to prohibit use of polluted water for drinking or culinary purposes :-**

If the Commissioners at a meeting after due inquiry are satisfied that the water of any tank, well, spring or water-course, or part thereof or other place, used or likely to be used for drinking or culinary purposes, is, if so used, liable to engender or cause the spread of disease, and that owing to its situation or other cause such place cannot effectively be protected from pollution, or if the owner of, or person having control over, any such place refuses or neglects to comply with a requisition of the Commissioners under section 349, the Commissioners may

(a) by public notice prohibit the use or removal of water from such place for drinking or culinary purposes during a period to be specified in the notice and take such steps as they may consider necessary to prevent the use or removal of water for such purposes, or

(b) in the case of a private well, require the owner of, or person having control over it to close it permanently or to fill it up with suitable material.

**351. Power to inspect and disinfect sources of water used for drinking or culinary purposes :-**

The Commissioners or any person authorised by them in this behalf may, at all reasonable times, inspect and disinfect any tank, well, spring or water-course or other place from which water is, or is likely to be, taken for drinking or culinary purposes.

**352. Analysis of water for drinking or culinary purposes :-**

(1)The <sup>1</sup> [State Government] may make rules to provide for the proper analysis of the water of any water-works, tanks, well, spring or water-course or other place, used or likely to be used for drinking or culinary purposes in any municipality and in particular may

(a) require the Commissioners to make over at such times and places and to such person or persons as the Director of Public Health may appoint in this behalf, samples of water taken under such precautions and in such manner as the Director of Public Health may prescribe,

(i) from the water-works of the Commissioners where any exist, or

(ii) where no water-works exist or where any water used for domestic or culinary purposes is drawn from any tank, well, spring or watercourse or other source of supply than from any such tank, well, spring or water-course or other source of supply or as the Director of Public Health may at any time specify in this behalf;

(b) prescribe a scale of fees to be paid by the Commissioners for the analysis which shall be made of the aforementioned samples under the direction of the Director of Public Health.

(2) Where any tank, well, spring or water-course or other source of supply is not within the control of the Commissioners, they shall nevertheless have full power to take water in such manner as they may think proper from any of the above sources of supply for the purpose of furnishing samples to the Director of Public Health.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order. 1937 and. thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order, 1950.

**353. Application for analysis by Public Analyst of water for domestic purposes :-**

On the representation of two qualified medical practitioners or ten or more persons to the Commissioners of any municipality within whose jurisdiction they reside, that within the municipality the water in any tank, well, spring or water-course, public or private, used or likely to be used for drinking or culinary purposes or for the manufacture of aerated or other drinks for human consumption is so polluted as to be injurious to health, the Commissioners shall forward a sample of such water to the Public Analyst for analysis at the cost of the Commissioners and if the Public Analyst certifies that such water, if used for drinking or culinary purposes, is liable to engender or cause the spread of disease, the Commissioners shall take measures to remedy the same or require the owner or person having control over such source of supply to take such measures for this purpose as to the Commissioners may seem fit, or if such source of supply cannot in their opinion effectively be protected from pollution, then the Commissioners shall make such order as they think proper and are empowered to make under this Act:

Provided that if the Commissioners are of opinion for reasons to be stated in writing that any representation made under this section is frivolous or vexatious, they may, before forwarding a sample of the water to the Public Analyst, require the persons making the representation to deposit the cost of the analysis, which shall be refunded in the event of the Public Analyst granting the certificate referred to in this section.

#### **354. Fees for analysis of water :-**

Where the Commissioners have appointed a person to be the Public Analyst for the area under their control under analysis section 3 of the Bengal Food Adulteration Act, 1919, the <sup>1</sup> [State Government] may, with the consent of the Commissioners, direct that any analysis prescribed under sections 352 and 353 of this Act shall be made by such analyst on the payment of such fees by the Commissioners for whom the analysis may be made, as the 28(State Government) may fix. By-laws relating to public water-supply, etc.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order. 1937 and. thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order, 1950.

#### **355. Power to make by-laws :-**

The Commissioners at a meeting may make by-laws regulating the use of, and the prevention of nuisances in regard to. the public water-supply, bathing and washing places, streams, channels, tanks and wells.

#### CHAPTER 12

#### INSANITARY AND DANGEROUS PROPERTY

### **356. Power to direct the filling up, etc., of unwholesome wells, pools, etc :-**

(1) When

(a) any well, pool, ditch, tank, pond, pit or marshy or undrained ground, or

(b) any cistern, reservoir or water-butt or any other receptacle or place where water is stored or accumulated, or

(c) any waste or stagnant water, whether within any private enclosure or not, appears to the Commissioners to be or to be likely to become injurious to health or offensive to the neighbourhood, they may, by written notice, require

(i) to cleanse the same, or

(ii) to re-excavate the same, or

(iii) to fill up the same with suitable material, or

(iv) to drain off or to remove water from the same, or to take such other order therewith as the Commissioners may deem necessary within such period as may be specified in the notice.

(2) If the Commissioners, in exercise of the powers conferred under this Act, execute any work referred to in a notice issued under subsection (1), and if the person liable to pay the expenses of such work fails to pay the same, the Commissioners may, until such expenses are paid,

(i) take over and let out on lease any part of the land used in connection with the said well, pool, ditch, tank, pond, pit, cistern, reservoir, water- butt, receptacle, place of water, or any part of the said ground, as the case may be, or

(ii) retain possession of the same, or the site thereof, and utilize it for public purposes.

(3) If the said expenses be paid by an occupier of land, he may in

the absence of any agreement to the contrary deduct the same from any rent due to the owner of the land.

**357. Power to Commissioners to regulate excavations :-**

(1) No person shall, within a municipality without the special permission of the Commissioners, make an excavation for the purpose of taking earth therefrom, or for the making of bricks or for the purposes of storing rubbish or offensive matter therein or dig any cess-pools, tanks, ponds, wells or pits :

Provided that the Commissioners at a meeting may make such general exemptions from the provisions of this section as may appear to them to be necessary for the public convenience.

(2) If any such excavation, cess-pool, tank, pond, well or pit is made or dug without the permission required under sub-section (1), the Commissioners may, whether the offender be prosecuted or not, by written notice require the owner or occupier of the land on which the same is made or dug to fill up the same with earth or other material approved by the Commissioners within such time as may be specified in the notice.

**358. Power to extend sections 366 and 357 beyond municipal limits :-**

The Commissioners of a municipality may in consultation with any adjacent local authority and subject to the approval of the <sup>1</sup> [State Government], extend the provisions of section 356 and 357 to any area beyond the municipality and may make such provision as to costs for execution of any work in the area as may be agreed upon between the Commissioners and the local authority concerned.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order. 1950.

**359. Wells, tanks, etc., to be secured :-**

(1) If any well, tank or other excavation, whether on public or private ground, is, for want of sufficient repairs or protection, dangerous to passengers, the Commissioners shall forthwith cause a written notice to be served on the owner, if he be known and resident in the municipality, and also to be put on some conspicuous part of the premises or served on owners or occupiers (if any) of the land on which such tank, well or other excavation is



situated requiring such owner or occupier forthwith properly to secure or protect such well, tank or other excavation.

(2) The Commissioners may also, if it appears to them to be necessary so to do, cause a proper hoarding or fence or other means of protection to be put up at the cost of the owner or occupier of such land for the safety of the public.

**360. Power to prohibit cultivation, use of manure or irrigation injurious to health and to remove growth of water-hyacinth and other noxious plants :-**

If the Commissioners at a meeting, after due inquiry, are satisfied that the cultivation of any description of crop, or the use of any kind of manure or the irrigation of land in any specified manner

(a) in any place within the limits of the municipality is injurious to the health of persons dwelling in the neighbourhood, or

(b) in any place within or without the limits of the municipality, is likely to contaminate the water-supply of the municipality or otherwise render it unfit for drinking' or culinary purposes, or that any person is permitting the growth within or without the limits of the municipality of water-hyacinth, or such other noxious plants as may be certified in this behalf by the <sup>1</sup>[State Government] as being a danger to the health of persons resident within the limits of the municipality or to navigation within those limits the <sup>1</sup> [State Government] may, on receipt of an application from the Commissioners, by public notice, prohibit the cultivation of such crop, the use of such manure, or the use of the method of irrigation so certified to be injurious, or impose such conditions with respect thereto as may prevent the injury or, in the case of water-hyacinth or such other noxious plant as may be in this behalf notified, may Impose such regulations as may secure the removal of the same :

Provided that, if the act prohibited has been practised in the ordinary course of husbandry at any time during the five successive years last preceding the date of the prohibition, compensation shall be paid from the Municipal Fund to all persons interested therein for any damage caused to them by such prohibition.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order, 1950.

**361. Power to inspect premises for sanitary purposes :-**

The Commissioners may inspect any building or other premises for the purpose of ascertaining the sanitary condition thereof:

Provided that no such inspection shall be made at night except by an officer specially authorized by the Commissioners in this behalf without giving reasonable notice.

**362. Power to require cleansing and lime-washing of building :-**

If it appears to the Commissioners necessary for sanitary reasons so to do, they may, by written notice, require the owner or occupier of any building inspected under section 361 to cause the same or any portion thereof to be lime-washed or otherwise cleansed either externally or internally or both externally and internally.

**363. Power to require owners to clear noxious vegetation and to improve bad drainage :-**

Whenever any land, being private property or within any private enclosure, appears to the Commissioners, by reason of thick vegetation, under-growth or jungle, or inequalities of surface or by want of drainage, to be in a state injurious to health or offensive to the neighbourhood, the Commissioners 30 \* \* \* \* may require the owners or occupiers or the owners and occupiers, of such land, within fifteen days to clear and remove such vegetation, undergrowth or jungle, or dress such surface or drain such land:

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

**364. Power to demolish, repair or secure wall, building or fixture in a ruinous state, etc :-**

(1) If any wall or building, or anything affixed thereto, be deemed by the Commissioners to be in a ruinous state, or likely to fall, or to be in any way dangerous, they shall forthwith cause a written notice to be served on the owner, if he be known and resident in the municipality, and also to be put on some conspicuous part of the wall or building or served on the occupier (if any) of the building requiring such owner or occupier forthwith to demolish, repair or secure such wall, building or thing as the case may require.

(2)The Commissioners may also, if it appears to them to be necessary so to do, cause a proper hoarding or fence or other means of protection to be put up at the expense of the owner of such wall or building for the safety of the public or the inmates thereof; and may also, after giving them such notice as the Commissioners may think necessary, require the inmates of the building to vacate it.

(3) So far as they are in force in the municipality the provisions of this Act and of Schedule VI and of any rules or by-laws made under this Act relating to buildings shall apply to any work done in that municipality in pursuance, or in consequence, of a notice issued under sub-section (1),

**365. Power to prevent public danger, etc. from insecure or insanitary buildings :-**

(1) Whenever the Commissioners at a meeting consider

(a) that any building, is by reason of its having no plinth or having a plinth of insufficient height, or by reason of the want of proper drainage or ventilation or by reason of the impracticability of cleansing, attended with risk to the health of the occupiers thereof or to the inhabitants of the neighbourhood or is, for any reason, likely to endanger the public health, or

(b) that a block or group of buildings is, for any of the said reasons, or by reason of the manner in which the buildings are crowded together, attended with such risk as aforesaid, they may by notice require the owners or occupiers of such building or buildings or portions thereof, or, at the option of the Commissioners, the owners of the land occupied by such building or buildings or portions thereof, to execute such works or to take such measures as they may deem necessary for the prevention of such risk.

(2) No person shall be entitled to compensation for damages sustained by reason of any action taken under or in pursuance of this section, save when the building is demolished to the extent of more than half of its cubical contents in pursuance of an order made thereunder, in which case the Commissioners shall pay reasonable compensation to the owners thereof.

(3) When any building is entirely demolished under this section and the demolition thereof adds to the value of other buildings in the

immediate vicinity, the owners of such other buildings shall be bound to contribute towards the compensation payable to the owner of the first named building in proportion to the increased value accruing to their own premises. The amount of such contribution and the proportions in which it is to be divided among the owners of such other buildings shall be determined by the Commissioners at a meeting and shall be recoverable as though it were a rate under the provisions of Chapter V.

(4) When any building though not entirely demolished under this section is demolished to the extent of more than half of its cubical contents, allowance shall be made in determining the compensation for the benefit accruing to the premises from the improvement thereof.

(5) Any person aggrieved by an order made by the Commissioners under this section may appeal to the <sup>1</sup>[State Government] within thirty days and the decision of the <sup>1</sup>[State Government] given after such Inquiry as it thinks fit shall be final.

(6) The order made by the Commissioners under this section shall not take effect until the expiry of thirty days, or, if an appeal has been lodged until the decision of the <sup>3</sup> [State Government] is given under sub-section (5).

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order, 1950.

3. Word subs, for the words "Magistrate" by W.B. Act 51 of 1980.

### **366. Procedure :-**

in case of buildings deemed unfit for human habitation.

(1) If, for any reason, any building or portion of a building intended for, or used as, a dwelling place appears to the Commissioners at a meeting to be unfit for human habitation, they may require the owner or occupier of such building to make such alterations as they think necessary in the building in order to make it fit for human habitation, if they consider that this can be done, but whether they think it can be made fit for human habitation or not, they may, in either case, after giving the owner or occupier an opportunity of being heard, apply to a <sup>1</sup>[Judicial Magistrate] to prohibit the further use of such building or portion thereof for such purpose ; <sup>2</sup>[Judicial Magistrate] shall serve a notice on such owner or occupier so as to

give him an opportunity of being heard in the Court, and after such inquiry as he thinks fit to make, may, by written order, prohibit the further use thereof, or may pass such other order as he may deem just and proper.

(2) When any such prohibition has been made, the Commissioners may

(i) inspect such building by day or by night, and

(ii) take such order as may be necessary to preclude the further use of the same, or of the portion specified in the prohibition as a human habitation.

(3) When any such prohibition has been made, no owner or occupier of such building shall use, or suffer the same, or the portion specified in the prohibition, to be used for human habitation until

(a) the Chairman certifies in writing that the causes rendering it unfit for human habitation have been removed to his satisfaction, or

(b) the "<sup>2</sup> [Judicial Magistrate], by written order, withdraws the prohibition.

(4) The Commissioners shall prepare and maintain at the municipal office a list of buildings in respect of which the Magistrate has passed an order under sub-section (1), and such list shall contain such particulars as to the action taken by the Commissioners or the owner in pursuance of such order or otherwise, as the Chairman shall think fit and shall be open to inspection by the public free of charge.

1. Word subs, for the words "Magistrate" by W.B. Act 51 of 1980.

2. Word subs, for the words "Magistrate" by W.B. Act 51 of 1980.

**367. Power to Commissioners to require demolition of building unfit for human habitation :-**

(1) When a "<sup>1</sup> [Judicial Magistrate] has prohibited the use of a building for human habitation under section 366 and such prohibition has been in force for three months, the Commissioners at a meeting shall take into consideration the question of the demolition of such building, and shall give notice of the time (being some time not less than one month after the service of the notice) and place at which such question will be considered to the owner,

and to the occupier (if any) of the building, and the said owner and occupier shall be entitled to be heard when the question is so taken into consideration.

(2) If, upon such consideration, the Commissioners are of opinion that the building has not been rendered fit for human habitation, and that the necessary steps are not being taken with all due diligence to render it so fit, they shall cause a written notice to be served on the said owner and occupier and also to be put on some conspicuous part of such building, requiring such owner and occupier to demolish the building or any portion thereof as the case may be or to execute such work as in the opinion of the Commissioners at a meeting may be necessary to render the building fit for human habitation.

(3) If such owner or occupier undertakes to execute with due diligence the work necessary to render the building fit for human habitation, and the Commissioners consider that it can be so rendered fit for human habitation, the Commissioners may postpone the operation of the said notice for such time as they think sufficient for the purpose of giving the said owner or occupier an opportunity of executing the necessary work.

1. Word subs, for the words "Magistrate" by W.B. Act 51 of 1980.

### **368. Abatement of overcrowding in dwelling-house or dwelling-place :-**

(1) If it appears to the Commissioners that any dwelling-house or other building which is used as a dwelling-place, or any room in such dwelling-house or building, is so overcrowded as to endanger the health of the inmates thereof, they may apply to <sup>1</sup> [an Executive Magistrate having jurisdiction] to abate such overcrowding ; and the Magistrate, after such inquiry as he thinks fit to make, may, by written order, require the owner of the building, or room, within a reasonable time not exceeding four weeks to be specified in the said order, to abate such overcrowding by reducing the number of lodgers, tenants, or other inmates of the building or room, or may pass such other order as he may deem just and proper.

(2) The Commissioners at a meeting may, by written order, declare what amount of superficial and cubic space shall be deemed for the purpose of sub-section (1) to be necessary for each occupant of a

building or room.

(3) If any building or room referred to in sub-section (1) has been sublet, the landlord of the lodgers, tenants, or other actual inmates of the same shall, for the purposes of this section, be deemed to be the owner of the building or room.

(4) Notwithstanding anything contained in any law or in any contract to the contrary it shall be incumbent on every tenant, lodger or other inmate of a building or room to vacate on being required by the owner so to do in pursuance of any requisition made under sub-section (1),

(5) Nothing in sub-section (1) shall apply to a dwelling-house or building used as a dwelling-place or a room in such dwelling-house or building which is overcrowded by the members of family of the owner thereof.

1. Word subs, for the words "a Magistrate" by W.B. Act 51 of 1980.

**369. Prevention of danger from ruinous buildings, etc :-**

Notwithstanding anything contained in this Act. where it appears to the Commissioners that immediate action is necessary for the purpose of preventing imminent danger to person or property from any building, wall, bank, or other structure or anything affixed thereto or to remove any tree or other thing, which appears to them to be a source of imminent danger to person or property the Commissioners may take such immediate action themselves; and in such a case, it shall not be necessary for the Commissioners to give notice, if it appears to them that the object of taking such immediate action would be defeated by the delay incurred in giving notice.

**CHAPTER 13**

**OFFENSIVE AND DANGEROUS TRADES, OCCUPATIONS OR PROCESSES**

**370. Power to prohibit certain offensive and dangerous trades without license :-**

(1) No person shall use or permit to be used any place within <sup>1</sup>[the limits of the municipality] without a license from the Commissioners (which shall be renewable annually) for any of the following purposes, namely :

(i) for the slaughter of animals or for the skinning or disembowelling of animals for purposes other than human

consumption :

Provided that this clause shall not apply to slaughter of animal for a bona fide religious purpose or on a ceremonial occasion ; or

(ii) for storing hides, fish, horns or skins ; or

(iii) for boiling or storing offal, blood, bones or rags ; or

(iv) for melting tallow ; or

(v) for tanning or for the manufacture of leather or leather goods ; or

(vi) for oil-boiling ; or

(vii) for soap-making ; or

(viii) for dyeing ; or

(ix) for burning or baking bricks, tiles, pottery or lime, whether for trade or private purposes; or

(x) as a depot for trade in coal or coke ; or

(xi) for storing kerosene, petroleum, naphtha, or any inflammable oil or spirit; or

(xii) for trading in, or storing for other than his own domestic use, hay, straw, wood, thatching grass, jute or other dangerously inflammable material:

Provided that this clause shall not apply to the stock of any such article held by and intended for use in the business of, any mill factory, shipyard, engineering or other manufacturing firm <sup>2</sup>[to which the provisions of the Indian Factories Act, 1934, apply and which is] situated within the municipality ; or

(xiii) for any manufacture, process or business from which the offensive or unwholesome smells <sup>3</sup>[fumes or dusts] or offensive noise may arise; or

(xiv) for any trade, process or business which the <sup>4</sup>[State Government] may, by notification, declare to be a trade, process or business which requires to be regulated under the provisions of this chapter.

(2) A license for any of the purposes mentioned in sub-section (1) shall not be withheld unless the Commissioners at a meeting have



reasons to believe that the business which it is intended to establish or maintain would be the cause of annoyance, offence or danger to persons residing in or frequenting the immediate neighbourhood or that the area should be for general reasons kept clear of the establishment of such business.

(3) The Commissioners at a meeting may, in accordance with a scale of fees to be prepared by them from time to time <sup>5</sup>[\* \* \* \* \*] levy a fee in respect of any such license and the renewal thereof, and may impose such conditions as to supervision, inspection, conservancy and other matters upon the grant of any such license as they may think necessary: "6 [Provided that such fee shall not exceed two hundred rupees.

(4) The grant of a license for the purposes mentioned in clause (xi) of subsection (1) shall be consistent with the provisions of the Indian Petroleum Act, 1899, and no such license shall be granted unless the said provisions have been complied with by the applicant for the license.

1. Word subs, for the words "such local limits as may be fixed by the Commissioners at a meeting" by W.B. Act 51 of 1980.
2. Words and figures ins. by Ben. Act 11 of 1936.
3. Words ins. by W.B. Act 51 of 1980.
4. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and, thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order, 1950.
5. Words "and approved by the State Government" om. by W.B. Act 51 of 1980.
6. Proviso ins. by W.B. Act 51 of 1980.

**371. Power to order the carrying on of dangerous and offensive trades to be discontinued :-**

If it appears to the Commissioners at a meeting that at any place licensed under section 370 the business is being carried on in contravention of the terms of the license in such a way as to be a cause of annoyance or offence to persons residing in or frequenting the immediate neighbourhood or of danger to health, they may, notwithstanding anything contained in the said section, after giving one month's notice to the licensee, cancel his license.

**371A. Factory, etc., not to be established, etc., without permission of the Commissioners and the State Government :-**

<sup>1</sup> (1) No person shall, without the previous permission of the Commissioners and also of the State Government to be obtained in such manner as may be prescribed, establish in any place within the municipality, or materially alter, enlarge or extend, any factory or workshop established in any such place, in which it is intended to employ steam, electricity, water or other mechanical power.

(2) The Commissioners may, in accordance with such rules as may be made in this behalf by the Commissioners at a meeting, refuse to grant such permission, if they are of opinion that the establishment, alteration, enlargement or extension of such factory or workshop in the proposed position would be objectionable by reason of the density of the population in the neighbourhood thereof, or would be a nuisance to the Inhabitants of the neighbourhood.

1. Sec. 371A ins. by W.B. Act 51 of 1980.

### **372. Licensing of places for keeping horses and cattle :-**

(1) No dairyman, milkman, cartman, livery stable keeper or keeper of hackney carriages <sup>1</sup> [or other person) shall keep horses, ponies, cattle or other four-footed animals for the purposes of trade or business except in a place licensed by the Commissioners : Provided that this sub-section shall not apply to a cartman who keeps not more than four animals for the purposes of using them with his own cart.

(2) Licenses granted under sub-section(1) shall be subject to such conditions as the Commissioners at a meeting may impose in respect of the site, construction, materials and dimensions of any structure erected for keeping horses, ponies, cattle or other four-footed animals, and in respect of the fencing, drainage, cleansing and in any other matter relating to the regulation of such places as they may think necessary.

(3) For every license granted under sub-section (1), a fee calculated at such rate, as the Commissioners at a meeting may determine, but not exceeding two rupees for every animal kept in that place shall be charged for the license.

1. Sub-sec. (3) ins. by W.B. Act 51 of 1980.

### **373. Commissioners may provide public stables :-**

(1) The Commissioners at a meeting may provide public stables for

the accommodation of horses and cattle and may direct that, within such limits as they shall at a meeting

(2) The Commissioners at a meeting may charge such reasonable fees as they shall think fit for the use of such public stables.

(3) The Commissioners-at a meeting may license places for such purpose, and may levy a fee not exceeding one rupee on the issue and renewal of any such license. Such license shall be renewed in the first and seventh months of each year.

(4) It shall be in the discretion of the Commissioners at a meeting to grant any such license subject to such conditions as they may think fit.

#### **374. Conditions for keeping pigs, sheep and goats :-**

(1) Within such limits as the Commissioners at a meeting may direct, no person shall keep pigs or in any place more than twenty sheep or twenty goats without a license from the Commissioners, which shall be renewable annually.

(2) The Commissioners at a meeting may charge an annual fee not exceeding two rupees for such license, and in respect of such license may impose such renditions as to fencing, drainage, paving, cleansing and other matters for the regulation of such places as they may think necessary.

#### **375. Power to make by laws regulating places used for offensive trades, etc :-**

The Commissioners at a meeting may make by-laws-

(a) providing for the inspection and regulation of the conduct of business in a place used for any of the purposes mentioned in section 370, so as to secure cleanliness therein, or to minimize any injurious, offensive or dangerous effect arising or likely to arise therefrom ;

(b) regulating or prohibiting for the prevention of any public annoyance or inconvenience or for the purpose of preventing danger to public health, the stalling of elephants, horses, camels, cattle, donkeys, sheep or goats;

(c) regulating or prohibiting for the prevention of any public annoyance or inconvenience or for the purpose of preventing danger to the public health the place and manner of stalling pigs ;

and

(d) to prevent the straying of pigs.

#### CHAPTER 14

#### RESTRAINT OF INFECTION

### **376. Duty of Commissioners in case of epidemic :-**

If the Commissioners have reason to believe that any dangerous disease has appeared or is likely to appear in epidemic form within the municipality, they shall promptly investigate the matter, secure the prompt and thorough isolation of those sick or infected with such disease, so long as there is danger of their communicating the disease to other persons; see that no person suffers for lack of nurses or other necessities because of isolation for the public good ; give public notice of infected places by placard on the premises and otherwise, if necessary, promptly notify head teachers of schools concerning families any of the members of which are suffering from dangerous diseases; supervise funerals of persons dead from such diseases, disinfect rooms, clothing and premises, and all articles likely to be infected; and generally so exercise the powers conferred on them by this Act as to guard and protect the public health and do such things as may be necessary to check and prevent the spread of the disease.

### **377. Information to be given of dangerous disease :-**

A medical practitioner or a person practising the medical profession, and in the course of such practice becoming cognizant of the existence of any dangerous disease in any building other than a public hospital; or if no medical practitioner or person practising the medical profession is so cognizant, the owner or occupier of such building cognizant of the existence of any such disease therein ; or if the owner or occupier is not so cognizant the person in charge of, or in attendance on, any person, suffering from any such disease in such building, cognizant of the existence of the disease therein, shall give true and correct information to such officer as the Commissioners may direct respecting the existence of such disease :

Provided that a person not required to give information in the first instance, but only in default of some other person, shall not be punishable if it be shown that he had reasonable cause to suppose that the information has been or would be duly given.

### **378. Power to Commissioners to remove patient to hospital**

**in certain cases :-**

(1) When, in the opinion of any registered medical practitioner, any person is suffering in any municipality from any dangerous disease and is also without proper lodging or accommodation or is lodged in such manner that he cannot be effectually isolated so as to prevent infection or contagion, and the said practitioner considers that such person should be removed to a hospital or place at which patients suffering from such disease are received for medical treatment, he may send a certificate to that effect to the Commissioners.

(2) On receipt of any such certificate, the Commissioners may direct or cause the removal of such person to such hospital or place : Provided that all costs incurred for the removal and in the treatment of any such patient may be borne by the Commissioners : Provided also that, if any such person is a female, she shall not be removed to any such hospital or place unless the same has accommodation for females, and set apart from the portion assigned to males.

(3) The person (if any) who has charge of a person, in respect of whom an order is made under sub-section (2), shall obey such order.

(4) If any female who, according to the custom of the country, does not appear in public, be removed to any hospital or place under sub-section (2)

(a) the removal shall be effected in such a way as to preserve her privacy;

(b) special accommodation suited to such custom shall be provided for her in such hospital or place;

(c) one female relative or attendant shall be allowed to remain with her.

(5) The Commissioners at a meeting may provide nurses for attendance on patients suffering from any dangerous disease in the municipality who, owing to want of hospital accommodation or danger of infection or contagion cannot be removed to hospital in cases where removal to the hospital is likely to endanger the patient's health; and may charge reasonable fees for the services of and fix the qualifications, duties and salaries of such nurses.

**379. Power to cleanse or disinfect buildings, tanks, etc :-**

(1) If the Commissioners are of opinion- (a) that any building or part thereof is in such a filthy or unwholesome condition that the health of any person is affected or endangered thereby, or (b) that the cleansing, limewashing or disinfecting, as the case may be, of any building or any part of a building or of any tank or pool or well adjacent to a building, or that the cleansing, disinfection, purification or destruction of any article therein which is likely to retain infection or by reason of its filthy condition likely to cause injury to the health of any person, would tend to check or prevent the spread of any dangerous disease, they may cause such building or part thereof to be cleansed, limewashed or disinfected or such tank, pool, well or article to be cleansed, disinfected or purified or such articles to be destroyed and may, by written notice, require the occupier of such building or any part thereof to vacate the same for such time as may be prescribed in such notice.

(2) The cost of such cleansing or disinfecting shall be paid by the occupier of the building, or in the case of any tank, pool or well not let out with a building by the owner or occupier of the holding in which such tank, pool or well is situated according as the Commissioners at a meeting may determine: Provided that-

(a) if, in the opinion of the Commissioners at a meeting, the occupier is from poverty unable to pay the said cost, the Commissioners shall direct payment thereof to be made from the Municipal Fund, and

(b) the Commissioners shall provide temporary shelter or house accommodation for the members of any family in which any dangerous disease has appeared who have been compelled to leave their dwellings for the purpose of enabling such dwellings to be disinfected for any part of a night.

(3) Where a person sustains damage in consequence of the destruction of any article under this section, and the condition of such article is not attributable to the act or default of such person, the Commissioners at a meeting shall make reasonable compensation to that person.

### **380. Power to Commissioners to destroy huts and sheds :-**

(1) If the Commissioners are of opinion that the destruction of any hut or shed is necessary to prevent the spread of any dangerous disease, they may, after giving to the owner or occupier of such hut or shed such previous notice of their intention as may in the

circumstances of the case appear to them to be reasonable, take measures for having such hut or shed and all the materials thereof destroyed.

(2) The Commissioners at a meeting shall make such compensation not exceeding the value of the hut as they think proper to any person who sustains loss by the destruction of any such hut or shed, but except as so allowed by the Commissioners, no claim for compensation shall lie for any loss or damage caused by any exercise of the power conferred by sub-section (1),

**381. Infected building not to be let :-**

No person shall knowingly let a dwelling-house or other building or part of a dwelling-house or building in which any person has been suffering from any dangerous disease-

(a) unless such house, building or part thereof and all articles therein liable to retain infection have been disinfected and the Commissioners have granted a certificate to that effect, and

(b) until a date specified in such certificate as that on which the house, building or part may be occupied and the articles therein used without causing risk of infection or contagion. For the purposes of this section a hotel or lodging house-keeper shall be deemed to let part of his hotel or lodging house to any person accommodated therein.

**382. Provision of places and appliances for disinfection :-**

(1) The Commissioners at a meeting may provide proper places, with all necessary attendants and apparatus, for the disinfection of conveyances, clothing, bedding or other articles which have been exposed to infection or contagion.

(2) The Commissioners may-

(a) cause conveyances, clothing or other articles brought for disinfection to be disinfected free of charge or subject to such charges as may be approved by them ; and

(b) direct any clothing, bedding or other articles likely to retain infection to be disinfected or destroyed and shall give compensation for any article destroyed under this clause.

**383. Provision of places for disinfection or washing of infected articles :-**

The Commissioners at a meeting may from time to time, by public notice, appoint a place or places at which conveyances, clothing, bedding or other articles which have been exposed to infection or contagion from any dangerous disease, may be washed, and no person shall wash or cause to be washed any such article at any place not so appointed, unless the same has been disinfected to the satisfaction of the Health Officer or Sanitary Inspector or of a registered medical practitioner.

**384. Acts done by persons suffering from certain diseases :-**

No person suffering from any disease notified by the <sup>1</sup> [State Government] in this behalf shall

(a) make or offer for sale any article of food for human consumption or any medicine or drug ; or

(b) wilfully touch any such article, medicine or drug when exposed for sale by others ; or

(c) take any part in the business of washing or carrying soiled clothes; or

(d) sell clothes or any other article for human wear or likely to come into contact with the human body without a written permission from the . Health Officer, or, in case of a municipality not employing a Health Officer, from the Chairman.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and. thereafter, the word "State" subs, for the word "Provincial" by the Adaptation of Laws Order, 1950.

**385. Infected articles not to be transmitted without previous disinfection :-**

(1) No person shall, without previous disinfection of the same, give, lend, sell, transmit or otherwise dispose of any article which he knows or has reason to know has been exposed to infection from any dangerous disease.

(2) Nothing in sub-section (1) shall apply to a person who transmits, with proper precautions, any such article for the purpose of having the same disinfected.

**386. Exposure of person suffering from dangerous disease, and restrictions on carriage of patient or dead body in public conveyance :-**



(1) No person shall

(a) while suffering from any dangerous disease wilfully expose himself in any street, public place, shop, bazar or any place used in common by persons other than members of the family or household to which such infected person belongs, or cause or suffer himself or any clothing, bedding or other article which has been exposed to Infection or contagion to be carried in a public conveyance without previously notifying to the owner, driver or person in charge of such conveyance that he is so suffering or that such article is so infected, and without proper precautions against spreading the said disease, or

(b) so carry or permit to be carried in a public conveyance the dead body of any person who has died from a dangerous disease or any clothing, bedding, or other article which has been exposed to infection or contagion or while in charge of any person suffering from any dangerous disease expose such sufferer in any such place as is referred to in clause (a) or carry such sufferer or permit him to be carried in a public conveyance without giving previous notice and taking the precautions referred to in that clause.

(2) Notwithstanding anything contained in any enactment relating to public conveyances for the time being in force, no owner or driver or person in charge of a public conveyance shall be bound to carry any person suffering as aforesaid or to carry any such dead body or any such infected clothing, bedding or other article as aforesaid, in such conveyance, unless payment or tender of sufficient compensation for the loss and expenses which he must incur in disinfecting such conveyance is first of all made to him.

**387. Disinfection of public conveyance after carriage of patient or dead body :-**

(1) The owner, driver or person in charge of any public conveyance in which any person suffering from any dangerous disease or the dead body of any person who had died from such disease or any clothing, bedding or other article which has been exposed to infection or contagion has been carried shall immediately take the conveyance for disinfection to a place, if any, appointed under section 382 or section 383.

(2) The person in charge of such place shall forthwith intimate to the Commissioners the number of the conveyance and proceed to disinfect the conveyance.

(3) If no place has been appointed under section 382 or section 3831, the Commissioners shall take such steps as they may think proper for disinfecting such conveyance.

(4) No such conveyance, shall be used until the Commissioners have granted a certificate stating that it may be used without causing risk of infection or contagion.

**388. Power to provide special conveyances for patients, dead bodies and infected articles :-**

(1) The Commissioners at a meeting may provide and maintain suitable conveyances for the free carriage of persons suffering from any dangerous disease or of the dead bodies of persons who have died from any such disease or for the removal of any clothing, bedding or other article which has been exposed to Infection or contagion.

(2) When such conveyances have been provided, it shall not be lawful, without the sanction of the Commissioners, to carry any such person or dead body or any such clothing, bedding or other article in, or for any such person to cause himself to be carried in or for any person to cause any such dead body or any such clothing, bedding or other article to be carried in, any other public conveyance.

**389. Power of entry for purposes of preventing spread of diseases :-**

The Commissioners may authorize any officer to enter, at any time between sunrise and sunset after three hours notice, into any building or premises in which any dangerous disease is suspected to exist, for the purposes of inspecting such building or premises.

**390. Power to close market, etc :-**

(1) The Commissioners may, for a specified time, with a view to preventing the spread of any dangerous disease, order that any market, sarai, hotel or lodging-house within the municipality shall be closed, or forbid any person to attend any such market or to lodge in such sarai, hotel or lodging-house.

(2) Such order shall be publicly notified in such manner and at such places as the Commissioners shall direct, and notice thereof shall be served on the owner, occupier or farmer of the market or the keeper of the sarai, hotel or lodging-house.

(3) After complying with the notice, the owner, occupier or farmer of the market or the keeper of the sarai, hotel or lodging house or any person interested may appeal to the District Magistrate, if he considers the notice to be unreasonable, and the order of the District Magistrate shall be final.

### **391. Power to close school :-**

(1) The Commissioners may, by notice, require the proprietor or person in charge of any school situated within the municipality for a specified time, with a view to preventing the spread of any dangerous disease or any danger to health likely to arise from the condition of the school, either to close the school or to exclude any scholars from attendance : and the proprietor or person in charge, as the case may be, shall forthwith comply with the notice. 44a. Words and figures subs, for the words and figures "section 383 or section 384" by Ben. Act 9 of 1933. 45. Sub-sec.(3) subs. by W.B. Act 51 of 1980 which was earlier as under: "(3) After complying with the notice, the owner, occupier or farmer of the market or the keeper of the sarai, hotel or lodging house or any person interested may appeal to the Magistrate, or where the Magistrate is the Chairman of the municipality, to the Commissioner of the Division, if he considers the notice, to be unreasonable, and the order of the Magistrate or of the Commissioner of the Division, as the case may be, shall be final."

[(2) After complying with the notice, the proprietor or person in charge may appeal to the District Magistrate, if he considers the notice to be unreasonable, and the order of the District Magistrate shall be final.

### **392. By-laws for control, etc., of dangerous disease :-**

The Commissioners at a meeting may make by-laws for the control, restraint and prevention of any dangerous disease and in particular, and without prejudice to the generality of the foregoing power, they may, and when required by the <sup>46A</sup> [State Government] shall, make by-laws regarding the following matters :-

(a) the restraint, segregation, and isolation of persons suffering from any dangerous disease or likely to suffer from any such disease owing to exposure to infection or contagion ;

(b) the removal, disinfection and destruction of personal effects, goods, houses and other property exposed to infection or contagion ;

- (c) the removal to hospital and the treatment of persons suffering from any dangerous disease or likely to suffer from any such disease owing to exposure to infection or contagion ;
- (d) the speedy burial or cremation of the bodies of persons who have died from any dangerous disease ;
- (e) house-to-house visiting and inspection ;
- (f) the promotion of cleanliness, ventilation and disinfection ;
- (g) the duties in respect of the prevention and notification of any dangerous disease, and in respect of persons suffering or suspected to be suffering therefrom, of the owners and occupiers of tea-gardens, factories, mills and workshops and of other persons employing in any one place not less than fifty persons ;
- (h) the duties of parents or guardians whose children being school children are suffering or have recently suffered from any dangerous disease or have been exposed to infection or contagion and the duties of persons in charge of schools in respect of such children;
- (i) the prevention of the spread from any animal, or the carcasses or product of any animal, to man, of rabies, glanders, anthrax, plague, tuberculosis, trichinosis or any other disease communicable to man by any animal or the carcass or product of any animal;
- (j) the prevention of the spread and the eradication of malaria, the destruction of mosquitoes and the removal or abatement of conditions permitting or favouring the multiplication or prevalence of mosquitoes;
- (k) the prevention of the spread of disease by flies or other insects and the destruction of such insects, and the removal or abatement of conditions permitting or favouring the prevalence or multiplication of such insects;
- (l) the destruction of rodents and other vermin and the removal or abatement of conditions permitting or favouring the harbourage or multiplication thereof;
- (m) the prevention of the spread of any dangerous disease by the carrying on of any business, trade or occupation;
- (n) the regulation of rag-flock manufacture and the trade in rags and in bones and in second-hand clothing, bedding or any similar article and the requiring of any such article to be disinfected before

its importation, removal, sale or exposure for sale or use in any manufacturing process; and

(o) the disposal of any refuse, waste matter or other matter or thing, which has been contaminated with or exposed to infection or contagion. Vaccination.

46a. Words "Provincial Government" first subs. for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and, thereafter, the word "State" subs. for the word "Provincial" by the Adaptation of Laws Order, 1950.

### **393. Health Officer to exercise powers of Superintendent of Vaccination :-**

A Health Officer appointed under section 66\* \* \* \* shall, within the municipality to which he is appointed, subject to such restrictions as the "<sup>1</sup> [State Government] may impose, exercise the powers and perform the duties of a Superintendent of Vaccination.

1. Words and figures "or section 67" om. by W.B. Act 51 of 1980.

#### CHAPTER 15

HOSPITALS, DISPENSARIES, CHILD WELFARE AND SCHOOL HYGIENE

### **394. Power to Commissioners to provide hospitals, dispensaries, etc., for the reception of the sick :-**

(1) The Commissioners at a meeting may provide hospitals, dispensaries or temporary places for" the reception of the sick, and for that purpose may

(a) themselves build, alter, add to and maintain such hospitals, dispensaries or places of reception ; or

(b) contract for the use of any such dispensary, hospital or place of reception or of any part thereof; or

(c) enter into an agreement with any person or authority having the management of any hospital, within or without the municipality for the reception of the sick inhabitants of the municipality on payment of such annual or other sum as may be agreed on.

(2) The Commissioners of any municipality may Combine with any other local authority in providing, maintaining or improving a common dispensary, hospital or place for the reception of the sick, provided that the scheme of management and the apportionment of the costs shall be approved by the <sup>1</sup> [State Government].

1. Words "Provincial Government" first subs. for the words 'Local Government' by the Government of India (Adaptation of Indian Laws) Order. 1937 and. thereafter, the word "State" subs. for the word "Provincial" by the Adaptation of Laws Order. 1950.

**395. Power of Commissioners to provide nurses, midwives, etc. (1) The Commissioners at a meeting may provide :-**

(a) midwives for attendance in maternity cases ; and

(b) health visitors to visit and inspect any premises in the municipality and to give advice to expectant mother on the management of their health and as to the proper nurture, care and management of young children, and the promotion of cleanliness.

(2) The Commissioners at a meeting may charge such reasonable fees for the services of midwives provided by them as they think fit and may prescribe rules for the qualifications, duties and salaries of such midwives and of health visitors.

**396. Rules for child welfare :-**

The "<sup>1</sup>[State Government] may make rules-

(a) requiring the father of a child if actually residing in the house where the child is born at the time of its birth, and any person in attendance upon the mother at the time of, or within twelve hours after, the birth, to give notice of the birth to the Health Officer or Sanitary Inspector in such manner as the Commissioners may prescribe ;

(b) requiring the certification and registration of all midwives, dhais, or other women who habitually or for gain attend women in childbirth, prescribing minimum qualifications, examinations and courses of training for any such persons or classes of persons, regulating the issue of certificates, deciding the conditions under which such persons may be suspended from practice and their certificates cancelled, and regulating, supervising and restricting within due limits the practice of such persons, particularly in regard to such matters as cleanliness, equipment, disinfection, and the submission of such reports and returns to the Health Officer, as may be prescribed ;

(c) regulating the appointment and powers of health visitors to advise persons as to infant-feeding, the proper nurture, care and management of young children and the promotion of cleanliness and regulating such other duties as may be assigned to health

visitors ; and

(d) providing for the sanitary inspection of all schools and colleges and for the medical inspection of children immediately before or at the time of, or as soon as possible after, their admission to a primary or secondary school and on such other occasions as the "1 [State Government] may direct, and authorizing the Commissioners to make such arrangements as the [State Government] may approve, for attending to the health and physical condition of the children educated in such schools.

1. Words "Provincial Government" first subs. for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and. thereafter, the word "State" subs. for the word "Provincial" by the Adaptation of Laws Order, 1950.

#### CHAPTER 16

#### EXTINCTION AND PREVENTION OF FIRE

### **397. Power of fire brigade and other persons for suppression of fire :-**

For the prevention and extinction of fire, the Commissioners at a meeting may resolve to establish and maintain a fire brigade and to provide any implements, machinery or means of communicating intelligence which the Commissioners may think necessary for the efficient discharge of their duties by the brigade.

### **398. Power to direct operations in case of fire :-**

(1) On the occasion of a fire in a municipality, [any Executive Magistrate authorised by the District

(a) remove or order the removal of any person who by his presence interferes with or impedes the operations for extinguishing the fire or for saving life or property ;

(b) close any street or passage in or near which any fire is burning ;

(c) for the purpose of extinguishing the fire, break into or through, or pull down, or use for the passage of any hose or other appliance, any premises ;

(d) cause mains and pipes to be shut off so as to give greater pressure of water in the place where the fire has occurred ;

(e) call on the persons in charge of any fire engine to render such assistance as may be possible ; and

(f) generally take such measures as may appear necessary for the preservation of life or property,

(2) No person shall be liable to pay damages for any act done by him under sub-section (1) in good faith.

**398A. Application of sections 397 and 398 :-**

Sections 397 and 398 shall not apply to a municipality where the West Bengal Fire Services Act. 1950, is in force.

**399. Power to search for inflammable material in excess of authorised quantity :-**

(1) The Commissioner may, without notice and at any period of the day or night, enter into and inspect a place which is suspected to contain kerosene, petroleum, or other inflammable material referred to in clauses (xi) and (xii) of section 370 in excess of the quantity permitted to be kept in such house or building under the conditions of a license granted under section 370.

(2) Should any such excess quantity of such material be discovered, it may be seized and held subject to such order as a "[Judicial Magistrate]" may pass with respect to it.

(3) If the "[Judicial Magistrate]" decides that the material seized was stored in the place contrary to the conditions of such license, he may pass an order confiscating the same.

(4) Subject to any provision of, or made under, this or any other enactment, the material so confiscated may be sold by order of the "[Judicial Magistrate]", and the proceeds, after defraying the expenses of such sale, shall be credited to the Municipal Fund.

(5) No order of confiscation under this section shall operate to prevent any criminal or other proceedings to which the person storing the material in excessive quantity may be liable.

**400. Stacking., etc., of Inflammable materials :-**

The Commissioners at a meeting may, where it appears to be necessary for the prevention of danger to life or property, by public notice prohibit all persons from stacking or collecting hay, straw, wood, thatching grass, jute or other dangerously inflammable materials, or from placing mats on thatched huts or lighting fires in a place or within limits specified in the notice.

**401. Power to make by-laws :-**



The Commissioners at a meeting may make by-laws

(a) providing for the guidance, discipline and conduct of the members of a municipal fire brigade and any volunteer fire brigade recognized by the Commissioners;

(b) prescribing the officer to whom and the place at which the outbreak of a fire shall be reported;

(c) regulating, either by rendering licenses necessary, or otherwise, the letting off of fire-arms, fire-works, fire-balloons, bombs or other explosives; and

(d) generally making provision for the procedure and precautions to be adopted by the public on the occasion of a fire and for any other things relating to fires in respect of which provision is necessary.

#### CHAPTER 17

#### MARKETS AND SLAUGHTER-PLACES

### **402. Power to provide and maintain municipal markets, slaughter-houses and stockyards :-**

(1) The Commissioners at a meeting may

(a) construct, purchase, take on lease or otherwise acquire any land or building for the purpose of establishing a new municipal market or a new municipal slaughter-house or municipal stockyard or of extending or improving any existing municipal market, municipal slaughter-house or municipal stockyard, and

(b) from time to time build and maintain such municipal markets, municipal slaughter-houses and municipal stockyards and such stalls, shops, sheds, pens and other buildings or conveniences for the persons carrying on trade or business in, or frequenting, such markets, slaughter-houses or stockyards, and charge rent, tolls and fees for the right to expose goods for sale in such markets and for the use of shops, stalls and standings therein.

(2) The Commissioners at a meeting may place the collection of such rents, tolls and fees under the management of such persons as may appear to them proper or may farm out such rents, tolls and fees on such terms and subject to such conditions as they may think fit.

(3) The Commissioners may by general or special order

(i) cancel or annul any right to expose goods for sale in such

markets, and

(ii) refuse the use of any shop, stall or standing thereon without compensation for such cancellation or refusal, if the person, who has been granted that right or use or any of his servants

(a) closes his shop, stall or standing to the public, or

(b) fails to supply to the public the articles ordinarily kept for sale thereon, at such times as may from time to time be fixed by the Commissioners.

(4) Municipal slaughter-houses may be situated within or, with the sanction of the District Magistrate, without the limits of the municipality.

**403. Power to close municipal markets, slaughter-houses and stockyards :-**

The Commissioners at a meeting may, at any time, close any municipal market, municipal slaughter-house or municipal stockyard or any portion thereof, and the premises occupied for any market, slaughter-house or stockyard or portion so closed may be disposed of as the property of the Commissioners.

**404. Prohibition of use of municipal market without permission :-**

(1) No person shall, without the permission of the Commissioners, or, if the Commissioners have farmed out the rents and fees, without the permission of the farmer, sell or expose for sale any living thing or any article within a municipal market.

(2) If any person contravenes the provisions of sub-section (1) he may, in addition to any penalty which may be imposed on him under this Act, be summarily removed from such market by the Commissioners, or by the farmer, as the case may be, or by any of the officers or servants of the Commissioners or of the farmer.

**405. Power to Commissioners to permit opening of new private market :-**

(1) In any municipality of which the Commissioners at a meeting have published an order in this behalf, no person shall

(i) establish a new private market for the sale of or for the purpose of exposing for sale any living thing intended for human food, or any other article of human food, except with the sanction of the

Com- missioners at a meeting;

(ii) without or otherwise than in conformity with the terms of a license granted by the Commissioners at a meeting this behalf, keep open any private market or wilfully or negligently permit any place to be used as a private market: Provided that the Commissioners shall not

(a) refuse a license for the maintenance of a market lawfully established at the date of the publication of such order of the Commissioners at a meeting if application be made within six months from such date, except on the ground that the place where the market is established fails to comply with any conditions prescribed by, or under this Act, or

(b) cancel, suspend or refuse to renew any license granted under such order or by-laws framed in this behalf for any cause, other than the failure of the licensee to comply with the conditions of the license or with any provisions of, or made under, this Act.

(2) The Commissioners at a meeting may, by general or special order, cancel any licence granted under this section if the private market is closed to the public or if a supply of the articles, for the sale of which the license was granted, is not kept available for sale to the public at such times as may from time to time be fixed by the Commissioners.

#### **406. Power to close unlicensed places :-**

Executive Magistrate], on the application of the Commissioners at a meeting, may order any place which has been used as a market without a license under section 405 to be closed as a market-place, and thereupon may take order to prevent such place being used as a market, and no person shall thereafter sell or expose for sale on or in such place any living thing intended for human food or any article of food.

#### **407. Licensing of private slaughter-house :-**

(1) Notwithstanding anything contained in section 402, the Commissioners at a meeting may, subject to such conditions as they may impose with the approval of the [State Government], grant and withdraw licenses, for the use of any premises either within or with the sanction of the District Magistrate, without the limits of the municipality, for the slaughter of animals or animals of any specified description, for the sale of their flesh for human

consumption.

(2) When such premises have been fixed by the Commissioners beyond municipal limits, the Commissioners shall have the same power to make by-laws for the inspection and proper regulation of the same as if they were within those limits.

**408. Prohibition of slaughter of animals except at licensed or municipal slaughter-house :-**

No person shall slaughter any animal for the sale of its flesh for human consumption within the municipality at any place other than a municipal slaughter-house or a slaughter-house licensed under section 407.

**409. Power to require paving and draining of private markets, and to alter structures in such markets :-**

The Commissioners at a meeting may, by written notice, require the owner or occupier of any private market,

(a) to cause the whole or any portion of the floor of the market-building or market-place, to be raised or paved with dressed stone or other suitable material.

(b) to cause such drains to be made in or from the market building or market-place, of such material, size and description, at such level, and with such outfall as to the Commissioners may appear necessary, and

(c) to cause a supply of water to be provided for keeping such market-Building or market-place, in a clean and wholesome state, and

(d) to cause any shop, stall, shed or other structure in any private market to be altered or improved in such manner as the Commissioners at a meeting may consider necessary.

**410. Power to define limits of market and to require provision and maintenance of market approaches, etc :-**

(1) The Commissioners at a meeting may

(a) define or determine the limits of any private market or declare what portions of such market shall be made part of the existing approaches, streets, passages and ways to and in such market, and

(b) after hearing the owner or occupier of such market by written notice, require such owner or occupier to-

(i) lay out, construct, alter, clear, widen, pave, drain and light, to the satisfaction of the Commissioners, such approaches, streets, passages and ways to or in such market, and

(ii) provide such conveniences for the use of persons resorting to such market, and

(iii) provide adequate ventilation and lighting of the market-building or any portion thereof including shops and stalls,

as the Commissioners may think fit.

(2) The Commissioners at a meeting after hearing the owner or occupier of any private market may, by written notice, require such owner or occupier to maintain in proper order the approaches, streets, passages and ways to and in such market, and such other conveniences as are provided for the use of persons resorting thereto.

(3) The Commissioners shall cause a notice of the limits of any market, defined under sub-section (1), to be affixed in the English, Bengali, Hindi and Urdu languages as they may think necessary on some conspicuous spot on or near the building or place where such market is held.

#### **411. Power to expel persons contravening by-laws :-**

(1) The Commissioners after giving the parties concerned an opportunity of being heard may-

(a) expel from any municipal market or municipal slaughter-house for such period as they may think fit any person who or whose servant has been convicted of contravening any by-law made under section 414 at the time in force in such market or slaughter-house,

(b) prevent such person, by himself or his servants, from further carrying on any trade or business in such market or slaughter-house or occupying any stall, shop, standing, shed, pen or other place therein, and

(c) determine any lease or tenure which such person may have in any such stall, shop, standing, shed, pen or place.

(2) If the tenant, or the agent of the tenant of the owner or lessee of any private market or slaughter-house licensed under section 405 or section 407, as the case may be, has been convicted for contravention of any by-law made under section 414 and specified

by the Commissioners at a meeting in this behalf, the Commissioners at a meeting may require such tenant or agent to remove himself from any such market or slaughter-house, within such time as may be mentioned in the requisition, and if he fails to comply with such requisition he may, in addition to any penalty which may be imposed on him under this Act, be summarily removed from such premises by the owner or lessee thereof or by the servants of such owner or lessee.

(3) If it appears to the Commissioners at a meeting that in any such case the owner or lessee is acting in collusion with a tenant or agent convicted as aforesaid who fails to comply with a requisition issued under sub-section (2) the Commissioners at a meeting may, if they think fit, cancel the license of such owner or lessee in respect of such premises.

**412. Duration and registration of license :-**

Every license granted under this chapter shall be in force until the end of the year during which it is granted, and shall be registered in a book to be kept for the purpose, containing the following particulars-

(a) the name and address of the owner of the land, and the name and address of the owner of the market or slaughter-house, and any lessee thereof;

(b) the extent and boundary of the market or slaughter-house ;

(c) in the case of a market the description of the articles sold and the days on which it will be held.

**413. Registration of transfers :-**

Every transfer of any interest in such market or slaughter-house shall be registered by the transferee at the municipal office within two months from the date of the transfer, and any market or slaughter-house the transfer of interest in which has not been registered in accordance with the provisions of the section shall be deemed to be land used as a market or slaughter-house, as the case may be, without a license.

**414. By-laws for licensing, regulating and Inspecting certain businesses :-**

The Commissioners at a meeting may make by-laws-

(a) for the lay-out, construction, regulation and Inspection of

markets and slaughter-houses, for the provision of a proper supply of water, the prevention of cruelty, the proper cleaning and general regulation and control of the sanitary condition of such places, the feeding and watering of animals kept in slaughter-houses or in yards attached to slaughter-houses, and the prevention of nuisances and obstruction ;

(b) in the case of any municipal market or municipal slaughter-house for the orderly conduct of business and for fixing the rents and other charges to be levied ;

(c) in the case of any municipal market and any market licensed under section 405 for the prohibition during such hours as they may fix of making purchases by persons other than persons buying for bona fide domestic purposes ;

(d) prescribing the conditions on or subject to which and the circumstance in which, and the areas, or localities in respect of which, licenses may be granted, refused, suspended or withdrawn for the use of any private market or slaughter-house ; and

(e) in a municipality where a reasonable number of slaughter-houses have been provided or licensed by the Commissioners, controlling and regulating the admission within municipal limits for purposes of sale of the flesh (other than cured or preserved meat) for human consumption of any cattle, sheep, goats or swine slaughtered at a slaughter-house or place not maintained or licensed under this Act.

#### CHAPTER 17A

#### PLACES OF PUBLIC RESORT AND FAIRS OR MELAS

#### **414A. Power of Commissioners to grant licenses for fairs or melas :-**

**<sup>1</sup>** . The Commissioners meeting may require the owner or lessee of a fair or mela an owner or a lessee of land intending to establish a fair or mela thereon to obtain a license in this behalf from the Commissioners on such terms and conditions, and on payment of such fees as may be prescribed.

1. Chapter XVIIIA containing secs. 414A, 414B and 414C ins. by Ben. Act 11 of 1936

#### **414B. Prohibition of prostitution within fairs or melas :-**

**<sup>1</sup>** The Commissioners at a meeting may, by public notice issued at least one month before the date of any fair or mela, prohibit

prostitution within such fair or mela or within half a mile thereof.

1. Chapter XVIIIA containing secs. 414A, 414B and 414C ins. by Ben. Act 11 of 1936

**414BB. Licensing and control of theatres, circuses and places of public amusement :-**

<sup>1</sup> -The Commissioners at a meeting may require every person who keeps open or intends to open any theatre, circus, cinema-house, dancing hall or other similar place of public resort, recreation or amusement to obtain a license in this behalf from the Commissioners on such terms and conditions and on payment of such fees as may be prescribed.

1. Sec. 414BB ins. by W.B. Act 51 of 1980.

**414C. Rules for fairs or melas :-**

<sup>12</sup>[State Government] may make rules regulating the granting of licenses <sup>3</sup> [for keeping open theatres, circuses, cinema-houses, dancing-halls and other places of public resort, recreation or amusement and for holding fairs] or melas and fixing the fees in respect thereof.

1. Heading subs. for the heading "Fairs and Melas." by W.B. Act 51 of 1980.

2. Words "Provincial Government" first subs. for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and, thereafter, the word "State" subs. for the word "Provincial" by the Adaptation of Laws Order, 1950.

3. Words subs. for the words "for holding fairs" by W.B. Act 51 of 1980.

**CHAPTER 18**

**Weights And Measures**

**415. . :-**

**1**

1. Chapter XVIII containing secs. 415 to 417 om. by W.B. Act 51 of 1980 which was as under:- CHAPTER 18 WEIGHTS AND MEASURES 415. Standard weights and measures In municipalities. (1) Where the Commissioners of any municipality, to which this section has been extended by the State Government have made by-laws under section 417. prescribing the standard weights and measures to be used within the municipality, they may at a meeting by order published in the prescribed manner prohibit the use within the municipality of any maund, seer or tola weight, or of any cubit measure other than such as conforms with the standard prescribed in the said by-laws. (2) When such order has been published, any



person, authorized by them in this behalf, may at all reasonable, times enter and inspect any market, building, shop, stall or place used for the sale of any goods, food or drug, and may inspect any instruments for weighing, and any weights or measures found therein and test the same with other weights and measures, and may seize any such instruments for weighing, and any such weight or measure which the person so authorized reasonably believes to be false or to contravene any by-laws made by the Commissioners under section 417, and may take the same to be examined or tested by the officer who shall be appointed by the Commissioners for the purpose. (3) Every person for the time being in charge of or employed in such market, building, shop, stall or place shall, if so requested by the person making such inspection, produce for such inspection and comparison all instruments for weighing and all weights, and measures kept therein. 416. Forfeiture of false weights and measures.-If it appears to the officer appointed under sub-section (2) of section 415 that the instrument for weighing or the weight or measure is false or contravenes any by-laws made by the Commissioners under section 417, he shall cause such instrument, weight or measure to be forfeited to the Commissioners in order that it may be destroyed or otherwise disposed of by the Commissioners. 417. Power to make by-laws. The Commissioners at a meeting may make by-laws- (a) prescribing the standard weights and measures to be used within the municipality, namely, (i) Government standard weights, that is to say, a maund consisting of forty seers, a seer consisting of eighty tolas and a tola consisting of one hundred and eighty grains ; or (ii) a standard cubit consisting of eighteen inches for the measure of commodities other than land; or (iii) both the weights and the measure of length mentioned in sub-clauses (i) and (ii) respectively; (b) providing standards of the weights and measures so prescribed; (c) arranging for the safe keeping of such standards; (d) fixing times and places for testing and verifying any weight or measure, which is of the same denomination as one of such standards; (e) for stamping, in such manner as to prevent fraud, any weight or measure which is found to be correct; and (f) fixing fees in respect of such verification and stamping."

#### **416. . :-**

**1**

1. Chapter XVIII containing secs. 415 to 417 om. by W.B. Act 51 of 1980 which was as under:- CHAPTER 18 WEIGHTS AND MEASURES 415. Standard weights and measures In municipalities. (1) Where the Commissioners of any municipality, to which this section has been extended by the State Government have made by-laws under section 417. prescribing the standard weights and measures to be used within the municipality, they may at a meeting by order published in the prescribed manner prohibit the use within the municipality of any maund, seer or tola weight, or of any cubit

measure other than such as conforms with the standard prescribed in the said by-laws. (2) When such order has been published, any person, authorized by them in this behalf, may at all reasonable, times enter and inspect any market, building, shop, stall or place used for the sale of any goods, food or drug, and may inspect any instruments for weighing, and any weights or measures found therein and test the same with other weights and measures, and may seize any such instruments for weighing, and any such weight or measure which the person so authorized reasonably believes to be false or to contravene any by-laws made by the Commissioners under section 417, and may take the same to be examined or tested by the officer who shall be appointed by the Commissioners for the purpose. (3) Every person for the time being in charge of or employed in such market, building, shop, stall or place shall. If so requested by the person making such inspection, produce for such inspection and comparison all instruments for weighing and all weights, and measures kept therein. 416. Forfeiture of false weights and measures.-If it appears to the officer appointed under sub-section (2) of section 415 that the instrument for weighing or the weight or measure is false or contravenes any by-laws made by the Commissioners under section 417. he shall cause such instrument, weight or measure to be forfeited to the Commissioners in order that it may be destroyed or otherwise disposed of by the Commissioners. 417. Power to make by-laws. The Commissioners at a meeting may make by laws- (a) prescribing the standard weights and measures to be used within the municipality, namely, (i) Government standard weights, that is to say, a maund consisting of forty seers, a seer consisting of eighty tolas and a tola consisting of one hundred and eighty grains ; or (ii) a standard cubit consisting of eighteen inches for the measure of commodities other than land; or (iii) both the weights and the measure of length mentioned in sub-clauses (i) and (ii) respectively; (b) providing standards of the weights and measures so prescribed; (c) arranging for the safe keeping of such standards; (d) fixing times and places for testing and verifying any weight or measure, which is of the same denomination as one of such standards; (e) for stamping, in such manner as to prevent fraud, any weight or measure which is found to be correct; and (f) fixing fees in respect of such verification and stamping."

#### **417. . :-**

**1**

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published in the prescribed manner prohibit the use within the municipality of any maund, seer or tola weight, or of any cubit measure other than such as conforms with the standard prescribed in the said by-laws. (2) When such order has been published, any person, authorized by them in this behalf, may at all reasonable times enter and inspect any market, building, shop, stall or place used for the sale of any goods, food or drug, and may inspect any instruments for weighing, and any weights or measures found therein and test the same with other weights and measures, and may seize any such instruments for weighing, and any such weight or measure which the person so authorized reasonably believes to be false or to contravene any by-laws made by the Commissioners under section 417, and may take the same to be examined or tested by the officer who shall be appointed by the Commissioners for the purpose. (3) Every person for the time being in charge of or employed in such market, building, shop, stall or place shall, if so requested by the person making such inspection, produce for such inspection and comparison all instruments for weighing and all weights, and measures kept therein. 416. Forfeiture of false weights and measures.-If it appears to the officer appointed under sub-section (2) of section 415 that the instrument for weighing or the weight or measure is false or contravenes any by-laws made by the Commissioners under section 417, he shall cause such instrument, weight or measure to be forfeited to the Commissioners in order that it may be destroyed or otherwise disposed of by the Commissioners. 417. Power to make by-laws. The Commissioners at a meeting may make by-laws- (a) prescribing the standard weights and measures to be used within the municipality, namely, (i) Government standard weights, that is to say, a maund consisting of forty seers, a seer consisting of eighty tolas and a tola consisting of one hundred and eighty grains ; or (ii) a standard cubit consisting of eighteen inches for the measure of commodities other than land; or (iii) both the weights and the measure of length mentioned in sub-clauses (i) and (ii) respectively; (b) providing standards of the weights and measures so prescribed; (c) arranging for the safe keeping of such standards; (d) fixing times and places for testing and verifying any weight or measure, which is of the same denomination as one of such standards; (e) for stamping, in such manner as to prevent fraud, any weight or measure which is found to be correct; and (f) fixing fees in respect of such verification and stamping."

#### CHAPTER 19

#### FOOD AND DRUG

#### **418. Licensing of butchers and of sale of meat, etc., outside market :-**

(1) No person shall, without or otherwise than in conformity with the terms of a license granted by the Commissioners in this behalf

(a) carrying on in the municipality, or at any municipal slaughter-house without the municipality, the trade or business of a butcher, or

(b) habitually sell or expose for sale any animal, meat or fish intended for human consumption, in any place other than a municipal market or a private market.

(2) Nothing in clause (b) of sub-section (1) shall apply-

(a) to the sale of meat, or fish in any hotel or eating-house for consumption on the premises, or

(b) to fresh fish sold from, or exposed for sale on, a ship or boat in which it has been brought direct to the municipality after being caught at sea or in a river or in private fisheries or sold on the bank of a river or tank from which it was caught.

**419. Municipal bakeries and sweetmeat shops :-**

The Commissioners in their discretion may provide and maintain municipal bakeries and sweetmeat shops, and may at any time lease to any person such bakeries and shops on such terms and conditions as may to them seem proper.

**420. Licensing of dairymen, bakers, etc :-**

(1) In any municipality to which the provisions of this section have been extended by the <sup>1</sup> [State

(2) In extending the provisions of this section to any municipality the 6[State Government] may exempt any of the trades or businesses mentioned in sub-section (1) from the operation of the section.

1. Words "Provincial Government" first subs, for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and, thereafter, the word "State" subs. for the word "Provincial" by the Adaptation of Laws Order, 1950.

**421. Prohibition of sale of diseased animals or unwholesome articles intended for human food :-**

(1) No person shall sell, store for sale, expose or hawk about for sale, or keep for sale,

(a) any living thing intended to be used as food ; or

(b) any other article of food or any drug intended to be used for

human consumption, which is diseased, unsound, unwholesome or unfit for human food or, in the case of drugs, for medicine.

(2) In any prosecution under this section the court shall, unless and until the contrary is proved, presume that any such living thing, article of food, or drug found in the possession of a person who is in the habit of keeping such living thing or keeping or manufacturing such other article of food or drug for the purpose of human consumption has been so kept or manufactured, as the case may be, for sale by such person.

**422. Prohibition of the keeping of bread-stuffs, etc., otherwise than in covered receptacles :-**

No milk, bread-stuffs, cake, pastry, sweetmeats, confectionery or other article of food intended or commonly used for human consumption without further preparation by cooking shall be sold, exposed or kept or hawked about or stored for sale unless they be kept properly covered or otherwise guarded to the satisfaction of the Commissioners, so that they shall be protected from dust, dirt and flies.

**423. . :-**

**1 \*\*\*\*\***

1. Secs. 423 and 424 rep. by W.B. Act 28 of 1951 which were as under: "423. Registry of shops for sale of drugs used In Western medical science. No shop or place shall be kept for the retail sale of drugs recognised by the British Pharmacopoeia, not being also articles of ordinary domestic consumption, unless the same has been registered in the office of the Commissioners. The Commissioners shall, upon registration, grant the keeper of such shop or place a license which he shall be bound to display in some conspicuous part of his premises. "424. Compounders certificates. (I) No person shall compound, mix, prepare, dispense or sell any drug in any shop or place registered under section 423, unless he holds the prescribed certificate that he is a fit person to be entrusted with such duties. (2) Any owner, occupier or keeper of any such shop or place, who employs any such uncertified person to perform any one or more of such duties, shall be liable to a fine as provided in this Act, and shall be further liable, at the discretion of the Magistrate, to forfeit his license : Provided that this section shall not come into operation until after the expiration of a period of six months from the publication of a notification to that effect by the Local Government."

**424. . :-**

**1 \*\*\*\*\***

1. Secs. 423 and 424 rep. by W.B. Act 28 of 1951 which were as under: "423. Registry of shops for sale of drugs used In Western medical science. No shop or place shall be kept for the retail sale of drugs recognised by the British Pharmacopoeia, not being also articles of ordinary domestic consumption, unless the same has been registered in the office of the Commissioners. The Commissioners shall, upon registration, grant the keeper of such shop or place a license which he shall be bound to display in some conspicuous part of his premises. "424. Compounders certificates. (I) No person shall compound, mix, prepare, dispense or sell any drug in any shop or place registered under section 423, unless he holds the prescribed certificate that he is a fit person to be entrusted with such duties. (2) Any owner, occupier or keeper of any such shop or place, who employs any such uncertified person to perform any one or more of such duties, shall be liable to a fine as provided in this Act, and shall be further liable, at the discretion of the Magistrate, to forfeit his license : Provided that this section shall not come into operation until after the expiration of a period of six months from the publication of a notification to that effect by the Local Government."

**425. . :-**

**426. Power to inspect place where unlawful slaughter of animals or sale of flesh is suspected :-**

If the Commissioners, Executive Officer, Health Officer, Inspector, or any other officer authorized by the Commissioners in this behalf have or has reason to believe that any animal intended for human food is being slaughtered, or that the flesh of any such animal is being sold or exposed for sale, in any place or manner not duly authorized under this Act, the Commissioners, Executive Officer, Health Officer, Sanitary Inspector or other officer as aforesaid may obtain a warrant from a 64[Judicial Magistrate] to enter at any time by day or by night, without notice, and inspect such place for the purpose of satisfying themselves or himself as to whether any provision of this Act or of any rule or by-law made under this Act, at the time in force, is being contravened thereat.

**427. Power to Inspect place where living things, etc., intended for human consumption, are exposed for sale :-**

(1) The Commissioners, Executive Officer, Health Officer, Sanitary Inspector, or any other officer authorized by the Commissioners in this behalf may

(a) at all reasonable times enter into and Inspect any place in which any living thing intended for human food or any other article

of food or any drug, is deposited for the purpose of sale or of preparation for sale, or to which such living thing, article of food, or drug intended for human consumption is brought for such purpose,

(b) inspect and examine any such living thing or other article of food or drug which may be found in any place referred to in clause (a), and

(c) inspect and examine any living thing intended for human food or any other article of food, or any drug intended for human consumption, which is being hawked about for sale.

(2) If, as a result of such inspection as is provided for in sub-section (1), prosecution is instituted under this chapter, then the burden of proving that any such living thing, or other article of food or drug as aforesaid was not .exposed or hawked about or deposited or brought for sale or for preparation for sale or was not intended for human consumption shall rest with the party charged.

**428. Power to seize living things, etc., intended for human consumption which are diseased, etc :-**

(1) If in the course of an inspection of a place made under section 427 any such living thing appears to the Commissioners, Executive Officer, Health Officer, Sanitary Inspector or other officer duly authorised by the Commissioners in this behalf to be diseased or if any article of food or drug appears to them or him to be unsound, unwholesome or unfit for human food or for medicine, as the case may be, or if any utensil or vessel used for preparing, or containing any such food or

Explanation.-

(1) Meat subjected to the process of blowing shall be deemed to be unfit for human food.

(2) A vessel made of any corrosive metal or material notified in this behalf by the <sup>1</sup> [State Government] as dangerous to health, which is used for the preparation of liquid tea for sale shall be deemed to be of the kind referred to in sub-section(1).

(2) The Commissioners, Executive Officer, Health Officer, Sanitary Inspector or such other officer authorized as aforesaid may, instead of carrying away any living thing, article of food, drug, utensil or vessel seized under sub-section (1), leave the same in such safe custody as they or he thinks fit in order that the same may be dealt

with as hereinafter in this chapter provided; and no person shall remove such living thing, article of food, drug, utensil or vessel from such custody or interfere or tamper with the same in any way while so detained,

1. Words "Provincial Government" first subs. for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and, thereafter, the word "State" subs. for the word "Provincial" by the Adaptation of Laws Order, 1950.

**429. Destruction of living things, etc., seized under section 428 :-**

(1) When any living thing, article of food, drug, utensil or vessel referred to in section 428 is seized under that section, it may, with the written consent (witnessed by two other persons) of the owner or the person in whose possession it was found, be forthwith destroyed **1\*\*\*\*\***.

(2) If such consent be not obtained, then, if any food or drug so seized is of a perishable nature, the officer seizing such food or drug may take it before **2**[the Chairman, Vice-Chairman, Executive Officer or Health Officer and if in the opinion of the Chairman, Vice-Chairman, Executive Officer or Health Officer, as the case may be, such food or drug is unsound, unwholesome or unfit for human consumption, he shall condemn it and order it to be destroyed or so disposed of as to prevent it being sold or used for human consumption].

(3) **3** (The Chairman, Vice-Chairman, Executive Officer or Health Officer, as the case may be,) shall not be bound to hear the owner of such food before passing an order under sub-section (2) and if in his discretion he deems it necessary to give a hearing to such owner, such hearing shall be merely for the purpose of determining whether such food is unsound, unwholesome or unfit for human food.

1. Words "and the expenses thereby Incurred shall be paid by the owner or person in whose possession such living thing, article of food, drug, utensil or vessel was at the time of such seizure." om. by W.B. Act 27 of 1955.

2. Words subs for the words "a Magistrate and if it appears to the Magistrate that such food is unsound, unwholesome or unfit for human food, he shall condemn it and order it to be destroyed or so disposed of as to prevent It being sold or used for human food." by W.B. Act 27 of 1955.



3. Words subs. for the words "A Magistrate" by W.B. Act 51 of 1980.

**430. Sale of unwholesome food or drug :-**

If any <sup>1</sup> [Judicial Magistrate] is satisfied on the application of the Commissioners, Health Officer, Sanitary Inspector or any other officer authorized by the Commissioners in this behalf that there is just cause to believe that any diseased living thing intended for human food or any food or drug, which is unsound, unwholesome or unfit for human food or medicine is in the possession of any person for the purpose of being sold or offered or exposed for sale within the limits of a municipality, for such consumption, he may grant a warrant to enter upon the premises of such person, and to search for and seize such living thing, article of food or drug.

1. Words subs, for the word "Magistrate" by W.B. Act 51 of 1980.

**431. Taking before Magistrate animals, etc., seized under section 428 :-**

(1) Where any living thing, article of food, drug, utensil or vessel seized under section 428 is not destroyed by consent under sub-section (1) of section 429, or where an article of <sup>1</sup>[food or drug so seized] which is perishable is not dealt with under sub-section (2) of that section, it shall be taken before a <sup>2</sup>[Judicial Magistrate] as soon as may be after such seizure.

(2) If it appears to the <sup>2</sup>[Judicial Magistrate] that any such living thing is diseased or unsound or that any such food or drug is unsound, unwholesome or unfit for human food or for medicine, as the case may be, or that any such utensil or vessel is of such kind or in such state as is mentioned in sub-section(1) of section 428, he shall cause the same, to be destroyed at the expense of the person in whose possession it was at the time, of its seizure, or to be otherwise disposed of by the Commissioners so as not to be capable of being used as human food or medicine.

(3) If it appears to the <sup>2</sup>[Judicial Magistrate] that any such living thing is not diseased or that any such food or drug is not unsound, unwholesome or unfit for human food for medicine, as the case may be, or that any such utensil or vessel is not used for preparing, manufacturing or containing food or drugs which are unsound, unwholesome or unfit for human food or for medicine, as the case may be, the person from whose shop or place it was taken shall be entitled to have it restored to him, and it shall be in the discretion

of the <sup>2</sup>[Judicial Magistrate] to award him such compensation, not exceeding the actual loss which he has sustained, as the <sup>2</sup> [Judicial Magistrate] may think proper.

1. Words subs. for the words "food so seized" by W.B. Act 27 of 1955.

2. Words subs. for the words "Magistrate" by W.B. Act 51 of 1980. Purity of milk-supply.

**432. Food and drugs directed to be destroyed, etc., to be property of Commissioners :-**

When any authority directs in exercise of any powers conferred by this chapter, the destruction of any living thing, food or any drug, or the disposal of the same so as to prevent its being used as food or medicine, the same shall thereupon deemed to be the property of the Commissioners. Slaughter of animals on bona fide religious or ceremonial occasions.

**433. This chapter not to apply to slaughter of animals in certain cases :-**

Nothing in this chapter shall apply to the slaughter of animals for a bona fide religious purpose or on a ceremonial occasion.

**434. Regulation of dairies and milk supply. The Commissioners at a meeting may, and when required by the 71[State Government] shall make by-laws regarding all or any of the following matters :-**

(a) the registration of all dairymen, or persons selling milk, and dairies within the municipality;

(b) the inspection by the Commissioner or persons authorized by them of dairies and dairy cattle within or without the municipality from which milk is supplied to the inhabitants of the municipality and of persons in or about dairies who have access to the milk or any milk-receptacle;

(c) the duties of dairymen or persons selling milk in connection with the occurrence of infectious or contagious disease amongst persons residing or employed in or about their premises, and the furnishing by them of the names and addresses of their customers and sources of supply, and their duties in connection with reporting the occurrence in any dairy cattle of diseases which are communicable to man and of any disease of the udder;

(d) the conveyance and distribution of milk, and the labelling or

marking of receptacles used for the conveyance of milk;

(e) the ventilation, including air-space, lighting, cleansing, drainage and water-supply of dairies;

(f) the health and good condition of the milch-cattle in dairies;

(g) the cleanliness of dairies, milk-receptacles, dairy cattle and all persons employed in or about dairies;

(h) the protection of milk against infection or contamination;

(i) the prevention of the sale of infected, contaminated, or dirty milk, the prohibition of the sale and the disposal of any milk suspected of being infected, contaminated or dirty, and the closing of any dairy where such milk is kept for sale or the exclusion therefrom of any animal, the milk from which there is reason to believe has conveyed or is likely to convey any infectious disease; and

—

(j) any other measures and precautions which in the opinion of the 72[State Government] may be necessary to secure and maintain the purity of the milk-supply.

#### CHAPTER 20

#### PLACES FOR DISPOSAL OF THE DEAD AND REGISTRATION OF BIRTHS AND DEATHS

##### **435. Registration of existing burial or burning grounds :-**

Within three months from the date of the publication of a notification by the 72[State Government] extending this section to any municipality every place therein which is used as a burial or burning-ground for corpses shall be registered as such by the owner thereof in the office of the Commissioners but no fee shall be charged for such registration.

##### **436. Permission to make or resume burial and burning-grounds and registration of same :-**

There Commissioners at a meeting may in their discretion at any time grant permission for the formation and making of burial , or burning-grounds, or for the renewed use of such grounds as, owing to disuse, have not been registered under section 435 and when such permission has been granted shall cause such grounds to be registered.

##### **437. Provision of places to be used as burial or burning-**

**grounds :-**

The Commissioner at a meeting may, from time to time, out of the Municipal Fund, with the sanction of the <sup>1</sup>[District Magistrate] provide fitting places either within or without the limits of the municipality to be used as burial or burning-grounds, and may impose such fee, as may be fixed in this behalf by the Commissioners at a meeting <sup>2</sup> \*\*\*\*\* in respect of every corpse buried or burnt within such burial or burning-grounds.

1. Words subs. for the words "Commissioners of the Division" by W. B. Act 51 of 1980.

2. Words "with the approval of the State Government" om. by W. B. Act 51 of 1980.

**438. Prohibition to bury or burn in unregistered ground :-**

(1) After the expiration of the three months mentioned in section 435, no corpse shall be buried or burnt otherwise than in a place which is borne on the register of the Commissioners as an open burial or burning-ground or has been provided by the Commissioners for the purpose; but the Commissioners may grant special permission for a corpse to be buried or burnt elsewhere.

(2) Except with the special permission of the Commissioners no body shall be exhumed from any burial-ground except under the provisions of section 176 of the <sup>1</sup> [Code of Criminal Procedure, 1973]; or of any other relevant enactment for the time being in force.

1. Words and figures subs, for the words and figures "Code of Criminal Procedure, 1898" by W.B. Act 51 of 1980.

**439. Power to order certain burial and burning-grounds to be closed :-**

(1) The Commissioners at a meeting may, by public notice, order any burial or burning-ground, whether registered under section 435 or provided under section 437, which in their opinion is dangerous or likely to be dangerous to the health of persons living in the neighbourhood, or to be offensive to such persons, to be closed from a date specified in the notice, and shall, in such case, if no suitable place for burial or burning exists at a reasonable distance, provide a fitting place for the purpose.

(2) When a notice is issued ordering the closing of any burial ground under sub-section (1), private burial-places in such burial

grounds may be excepted from the notice, subject to such conditions as the Commissioners at a meeting may impose in this behalf:

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

**440. Appeals from orders under section 439 :-**

Any person aggrieved by any order made by the Commissioners under the powers conferred upon them by section 439 may appeal to the <sup>1</sup> [State Government], whose decision shall be final.

1. Words "Provincial Government" first subs. for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order. 1937 and. thereafter, the word "State" subs. for the word "Provincial" by the Adaptation of Laws Order. 1950.

**441. Power to cause corpses to be burnt or buried according to the religious tenets of the deceased :-**

(1) After the expiration of not less than twenty-four hours from the death of any person, the Commissioners may cause the corpse of such person to be burnt or buried. In every such case the corpse shall be disposed of, so far as may be possible, in a manner consistent with the religious tenets of the deceased.

(2) If a person dies in a hospital or temporary place of reception for the sick from any infectious disease, and the Health Officer or any registered medical practitioner certifies that in his opinion it is desirable, in order to prevent the risk of communicating any infectious disease or of spreading infection, that the body shall not be removed from such hospital or place, except for the purpose of being forthwith buried or cremated no person shall remove the body except for that purpose; and the body when taken out of such hospital or place for that purpose shall be forthwith taken direct to the place of burial or cremation and there disposed of.

**442. Power to provide for burial of paupers, free of charge :-**

The Commissioners at a meeting may, from time to time, out of the Municipal Fund, provide for the burial and burning of the dead bodies of paupers, free of charge, within the limits of the municipality.

**443. Power to license fuel shops at burning-grounds :-**

(1) The Commissioners may, from time to time, grant licenses to persons applying for the same, for the sale at burning-grounds of fuel and other articles used for the cremation of dead bodies, and in case any such license is granted shall, from time to time at a meeting, prescribe a scale of rates for the sale of such articles; and no person not so licensed shall, within three hundred yards of any such burning-grounds, sell or offer for sale any such fuel or other article.

(2) The Commissioners may, on good and sufficient cause, revoke or withdraw any such license as they may think fit, and any person to whom such license is granted, who charges for the sale of any such articles at any higher rate than the rate fixed for such article in such scale, shall, at the discretion of the Commissioners, be liable to have his license cancelled and shall be liable also to fine as provided in this Act.

**444. Registration of births and deaths :-**

The Commissioners, when required by the 76[State Government] to do so, shall provide at a meeting for the registration of births and deaths within the limits of the municipality in accordance with the provisions of the Bengal Births and Deaths Registration Act, 1873, or any other similar Act for the time being in force. 76. Words "Provincial, Government" first subs. for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order. 1937 and, thereafter, the word "State" subs. for the word "Provincial" by the Adaptation of Laws Order. 1950.

**445. Appointment of Registrar and of Sub-Registrars at burning-ghats and burial-grounds :-**

(1) This section shall be construed as being in addition to and not in derogation of the provisions of the Bengal Births and Deaths Registration Act, 1873.

(2) The Commissioners, when required by the 77[State Government] to do so, shall appoint at a meeting a person to be Registrar of Births and Deaths for the whole municipality and may also appoint and maintain at any burning-ghat or burial-ground a Sub-Registrar for the registration of all corpses brought to such burning-ghat or burial-ground for cremation or interment.

**446. Information required by Bengal Act 4 of 1873 to be given to such Sub-Registrar :-**

Whenever a Sub-Register has been appointed for any burning-ghat

or burial-ground under section 445, information of the particulars required by section 8 of the Bengal Births and Deaths Registration Act, 1873, to be known and registered may be given in respect of the death of any person whose body is brought to such burning-ghat or burial-ground for cremation or interment to such Sub-Registrar, and information so given shall be deemed to be information given to the Registrar of the district as required by the said section. Section 9 of the said Act shall be applicable to all Sub-Registrars appointed under this Act.

**447. Information of births and deaths in hospital :-**

Whenever a birth or death occurs in any hospital <sup>1</sup>[or nursing home] within the limits of any municipality in respect of which the <sup>2</sup>[State Government] has directed that all births and deaths shall be registered under the Bengal Births and Deaths Registration Act, 1873, it shall be the duty of the medical officer in charge of such hospital <sup>1</sup>[or nursing home] forthwith to send a notice in writing of the occurrence of such birth or death to the Commissioners in such form as the <sup>2</sup> [State Government] may prescribe, and in such, case no other person shall be required to give information of such birth or death to a Registrar under the said Act or to a Sub-Registrar under this Act.

1. Words ins. by W. B. Act 51 of 1980

2. Words "Provincial Government" first subs. for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order. 1937 and. thereafter, the word "State" subs. for the word "Provincial" by the Adaptation of Laws Order. 1950.

**448. Power to make rules :-**

The <sup>1</sup>[State Government] may make rules

(i) requiring the father or mother of every child born in any municipality or the occupier of the building in which such child is born or the medical practitioner or midwife in attendance at the time of birth within such specified period as may be fixed to give information of such birth to the Health Officer or Sanitary Inspector or other officer appointed for the purpose, and to furnish such particulars as may be prescribed by the <sup>1</sup> [State Government] in this behalf;

(ii) requiring the nearest relative present at the death of, or in attendance during the last illness of, any person dying in any municipality or the medical practitioner, if any, who attended such

person in his last illness or every other person present at the death, or, in their default, the occupier of the building in which the death occurred or some other person living in the building to report within a specified period such death to the Health Officer, Sanitary Inspector, Sub-Registrar appointed under section 445 or other officer appointed for the purpose, giving such particulars as the 78[State Government] may prescribe;

(iii) controlling and regulating the use and management of burial and burning-grounds and the disposal of corpses;

(iv) generally for securing the better registration of births and deaths.

1. Words "Provincial Government" first subs. for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order. 1937 and. thereafter, the word "State" subs. for the word "Provincial" by the Adaptation of Laws Order. 1950.

#### CHAPTER 21

#### NUISANCE

### **449. Nuisance :-**

(1) The powers conferred by this chapter shall be deemed to be in addition to and not in derogation of any powers conferred by the other provisions of this Act.

(2)

(a) The condition of

(i) any premises or part thereof of such a construction or in such a state or so situated or so dirty as to be a cause of annoyance to the inmates thereof, the neighbours or the public, or injurious or dangerous to health or unsafe, including places infested by, or providing haunts for mosquitoes or mosquito larvae, flies or fly maggots, hookworm larvae or ova, or rats or other noxious animals, or insects, and thereby liable to favour the spread of infectious disease;

(ii) any street, tank, pool, ditch, gutter, watercourse, sink, cistern, water-closet, earth-closet, privy, urinal, cess-pool, drain, dungpit or ash-pit so foul or in such a state or so situated as to be a cause of annoyance to the inmates of the premises, the neighbours or the public, as the case may be, or injurious or dangerous to health;

(iii) any premises by reason of abandonment or disputed ownership



or for any other reason remain untenanted and thereby becomes a resort of idle and disorderly persons ;

(iv) any school, factory, workshop or other trade premises so unclean as to be a cause of annoyance to the inmates, the neighbours or the public, or injurious to health, or not so ventilated as to render harmless, as far as practicable, all gases, vapours, dust or other impurities, generated in the course of the work carried on therein, that are a cause of annoyance to the inmates, the neighbours or the public or injurious to health, or so overcrowded as to be injurious to the health of the persons therein engaged or employed, or not provided with sufficient and suitable privy or urinal accommodation ;

(v) any offensive trade or business so carried on as to be injurious to health or unnecessarily offensive to the public;

(vi) any well, tank or other water-supply injurious or dangerous to health;

(vii) any stable, cowshed or other building or enclosure in which any animal or animals are kept in such a manner or in such numbers as to be a cause of annoyance to the inmates of the premises, the neighbours or the public or injurious or dangerous to health;

(viii) any burial or burning-ground which in the opinion of the Commissioners at a meeting is injurious or dangerous or likely to be injurious or dangerous to the health of persons living in the neighbourhood or to the public or offensive to such persons ;

(ix) any accumulation or deposit, including any deposit of animal or vegetable or mineral refuse, which is offensive to the neighbours or to the public or injurious or dangerous to health or any deposit of offensive matter, refuse or offal or manure within fifty yards of any public street, wherever situated ; and

(b) any act, omission, condition or thing which the <sup>1</sup> [State Government] by notification shall declare to be a nuisance, or which after due inquiry by the Commissioners on the complaint of two or more persons residing in the neighbourhood is found by the Commissioners to be a cause of annoyance to the neighbours or to the inmates of the premises affected or to the public or to be dangerous or injurious to health; shall be deemed to be a nuisance to be dealt with under the provisions of this chapter:

Provided that no nuisance shall be deemed to have been committed in respect of any accumulation or deposit necessary for the effectual carrying on of any business, trade or manufacture, if it be proved to the satisfaction of the Court that the accumulation or deposit has not been kept longer than is necessary for the purposes of the business, trade or manufacture, and that the best available means have been taken for preventing injury or danger thereby to the public health. "Author of a nuisance" in this chapter means a person by whose act, default, or sufferance the nuisance is caused, exists or is continued, whether he is an owner or occupier or both owner and occupier or any other person.

1. Words "Provincial Government" first subs. for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and. thereafter, the word "State" subs. for the word "Provincial" by the Adaptation of Laws Order. 1950.

#### **450. Inspection of Municipality for ascertaining existence of nuisance :-**

(1) The Commissioners shall cause to be made from time to time inspection of the municipality with a view to ascertain what nuisances exist calling for removal under the powers of this Act, and shall enforce so far as possible the provisions of this Act in order to remove the same, and otherwise put in force the powers vested in them relating to public health, so as to secure the proper sanitary condition of all premises within the municipality.

(2) If the Commissioners or Health Officer or a Sanitary Inspector have or has reasonable grounds for believing that a nuisance exists in any premises, they or he may make an inspection of such premises at any hour, when the operations suspected to cause nuisance are believed to be in progress or are usually carried on or when the special conditions suspected to cause the nuisance are believed to exist, and may cause such work to be done as may be necessary for an effectual examination of the said premises, including the opening of the ground or surface, where necessary, and the testing of the drains.

(3) Where the ground or surface has been opened and no nuisance is found to exist, the Commissioners shall restore the premises at their own cost.

#### **451. Municipal officer to give information as to nuisances :-** Information of any nuisance under this chapter may be given to the

Commissioners by any person and every municipal officer shall bring the existence of any nuisance to the notice of the Commissioners or cause it to be brought to their notice.

**452. Notice to remove nuisance :-**

The Commissioners, if satisfied of the existence of a nuisance, shall serve a notice on the author of the nuisance or if he cannot be found, then on the owner or occupier of the building or premises on which the nuisance arises or continues, requiring him to remove it within the time specified in the notice and to execute such works and do such things as may be necessary for that purpose and if the Commissioners think it desirable (but not otherwise) specifying any works to be executed to prevent a recurrence of the said nuisance :

Provided that-

(a) where the nuisance arises from any want or defect of a structural character, or where the building or premises are unoccupied, the notice shall be served on the owner ;

(b) where the author of the nuisance cannot be found and it is clear that the nuisance does not arise or continue by the act or default or sufferance of the occupier or owner or occupier of the building or premises, the Commissioners shall remove the same and may do what is necessary to prevent the recurrence thereof.

**453. Procedure in case owner fails to comply with notice :-**

(1) If the person on whom a notice to remove a nuisance has been served under section 452 fails to comply with any of the requirements thereof within the time specified, or if the nuisance, although removed since the service of the notice, is in the opinion of the Commissioners likely to recur on the same premises, the Commissioners shall cause a complaint relating to such nuisance to be made before 80[an Executive Magistrate], and 81[such Executive Magistrate] shall thereupon issue a summons requiring the person on whom the notice was served to appear before him.

(2) If the 82[Executive Magistrate] is satisfied that the alleged nuisance exists, or that, although removed, it is likely to recur on the same premises, he shall make

(a) on the author thereof, or the owner or occupier of the premises, as the case may be, an order requiring him to comply with all or any of the requirements of the notice or otherwise to remove the

nuisance within a time specified in the order and to do any works necessary for that purpose or an order prohibiting the recurrence of the nuisance and directing the execution of any works necessary to prevent the recurrence, or an order both requiring the removal and prohibiting the recurrence of the nuisance, or

(b) an order on the Commissioners directing them to remove or prevent the recurrence of the nuisance or both, at the expense of the author thereof or the owner or occupier of the premises, as the case may be,

(3) Before making any order the 82[Executive Magistrate] may, if he thinks fit, adjourn the hearing or further hearing of the case until an inspection, investigation or analysis in respect of the nuisance alleged has been made by some competent person,

(4) Any costs incurred by the Commissioners in executing an order of the [Executive Magistrate] under clause (b) of sub-section (2) shall be payable on demand, and if not paid on demand, may be recovered by distress and sale of the movable property of the defaulter.

**454. Magistrate may order local authority to execute works in certain cases :-**

Whenever it appears to the satisfaction of the 83[Executive Magistrate] that the author of the nuisance or that the owner or occupier of the premises is not known or cannot be found, the 83[Executive Magistrate] may at once order the Commissioners to execute the works thereby directed and the cost of executing the same shall be payable on demand by the defaulter, if subsequently found, and if not paid on demand within fifteen days from the date of the execution of the work, may be recovered by distress and sale of the movable property of the defaulter, if known.

**455. Award of compensation :-**

The 83[Executive Magistrate] in making an order under this chapter may, if he is of opinion that the person on whom a notice has been served to remove a nuisance or any other person would have been entitled to compensation, had the proceedings been taken otherwise than under this chapter, award such compensation to such person.

**456. Education Committee :-**

In every municipality there shall be constituted Education Committee consisting of

(a) an educational officer, or other person interested in education appointed by the <sup>1</sup> [State Government];

(b) not less than two, or more than four Commissioners appointed from among themselves by the Commissioners at a meeting ; and-

(c) not more than three residents of the municipality not being Commissioners, appointed by the Commissioners at a meeting. The Education Committee shall appoint its own Chairman and Secretary.

1. Words "Provincial Government" first subs. for the words "Local Government" by the Government of India (Adaptation of Indian Laws] Order, 1937 and, thereafter, the word "State" subs. for the word "Provincial" by the Adaptation of Laws Order. 1950.

**457. Duties of Education Committee :-**

It shall be the duty of the Education Committee, subject to the control of the Commissioners at a meeting and to the rules made by the <sup>1</sup> [State Government]

(i) to superintend all matters connected with the finance, accounts, maintenance and management of all schools, libraries and museums maintained by the Commissioners, and

(ii) to determine the conditions to be complied with when grants are made by the Commissioners to schools, libraries and museums.

1. Words "Provincial Government" first subs. for the words "Local Government" by the Government of India (Adaptation of Indian Laws] Order, 1937 and, thereafter, the word "State" subs. for the word "Provincial" by the Adaptation of Laws Order. 1950.

**458. Transfer of funds by Government for education :-**

The <sup>1</sup> [State Government] may transfer to the Commissioners such funds as it may deem necessary for expenditure on

(a) the improvement of any school or class of schools within the municipality under private management; or

(b) the maintenance or improvement of any school or class of schools maintained and managed by the Commissioners ; or

(c) the provision of buildings to be used as students' hostels in connection with any school mentioned in clause (a) or clause (b).

(2) The Commissioners shall be charged with, and be responsible for, the proper distribution of funds transferred under sub-section (1).

1. Words "Provincial Government" first subs. for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and, thereafter, the word "State" subs. for the word "Provincial" by the Adaptation of Laws Order, 1950.

**459. Powers to make rules regarding maintenance and management of schools :-**

The <sup>1</sup>[State Government] may make rules

(i) determining the classes of schools which may be maintained or aided by the Commissioners ; <sup>2</sup> (ia) regulating the maintenance and management of such schools;

(ii) regulating the construction and repair of buildings connected with such schools ;

(iii) regulating the appointment and salaries of masters and assistant masters of such schools ;

(iv) regulating the establishment of scholarships generally, or for the furtherance of technical or any other special form of education; and

(v) regulating the conduct of business and duties of Education Committees.

1. Words "Provincial Government" first subs. for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and, thereafter, the word "State" subs. for the word "Provincial" by the Adaptation of Laws Order, 1950.

2. Clause (ia) ins. by Ben. Act 11 of 1936.

**459A. Power to make rules regulating the establishment, maintenance and management of hospitals and dispensaries :-**

<sup>1</sup>The <sup>2</sup> [State Government] may make rules regulating the establishment, maintenance and management of hospitals and dispensaries by the Commissioners.

1. Sec. 459A with the sub-heading ins. by Ben. Act 11 of 1936. Hackney-carriages..

2. Words "Provincial Government" first subs. for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and, thereafter, the word "State" subs. for the

word "Provincial" by the Adaptation of Laws Order, 1950.

**460. Power of Commissioners to regulate sarais, dharamsalas and lodging-houses by by-law :-**

The Commissioners at a meeting may make by-laws providing

- (a) for the registration and inspection of sarais, dharamsalas and other lodging-houses ;
- (b) for the prevention of overcrowding and the promotion of cleanliness and ventilation therein ;
- (c) for the notices to be given and the precautions to be taken in the case of the outbreak therein of any infectious or contagious disease ; and
- (d) generally for the proper regulation of sarais, dharamsalas and other lodging-houses.

**461. Power to Commissioners to cancel license issued to the owner or driver of any hackney-carriage :-**

The Commissioners may cancel any license issued to any owner or driver of any hackney-carriage under the Calcutta Hackney-Carriage Act, 1919, as extended to any area within a municipality, if such owner or driver does not at such times as may from time to time be fixed by the Commissioners keep available for hire to the public, and ply for hire when required, the hackney-carriage and horses in respect of which the license has been granted under that Act; and on cancellation of such license the Commissioners may require such owner or driver, or any other person in whose possession the driver's ticket or license may be, to surrender the same to them forthwith.

**462. Surey of a municipality :-**

(1)The Commissioners at a meeting may order that a survey or demarcation of boundaries shall be made of any or all of the lands and buildings situated in the municipality and may move the 88[State Government] to direct that all or any of the provisions of the Calcutta Survey Act, 1887, shall, so far as may be practicable apply and be extended to such municipality 89[and if the 90(State) Government so directs then notwithstanding anything contained in thatAct, all or any of its provisions shall, mutatis mutandis, apply and extend to such municipality],

(2) Where it appears to the <sup>1</sup>[State Government] that a survey or

demarcation of boundaries should be made of all or any of the lands and buildings situated in a municipality, it may, by order, call on the Commissioners to make such a survey or to show cause why they should not be required to do so.

(3) The 88[State Government] shall consider any objections and suggestions, which may be submitted by the Commissioners at a meeting and may either withdraw its order or direct that a survey shall be made.

(4) Where the order is made absolute, the 88[State Government] may depute any person to make the survey and may require the Commissioners to defray from the Municipal Fund the cost of such survey, including the remuneration of the person deputed by the 88[State Government].

(5) Where a survey has been made under this Act of all or any of the lands and buildings situated in a municipality, the <sup>1</sup> [State Government] may call on the Commissioners to make provision for the maintenance of such survey.

1. Words "Provincial Government" first subs. for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and. thereafter, the word "State" subs. for the word "Provincial" by the Adaptation of Laws Order, 1950.

#### **463. Powers to make by-laws for maintenance of survey maps :-**

The Commissioners at a meeting may make by-laws

(a) requiring the owner of any land or building to give notice to them of any alteration in the boundary of such land or of the erection of any new building thereon or of any material alteration or addition to a building,

(b) providing for the erection from time to time and for the maintenance by owner of lands or buildings of suitable boundary marks defining the limits of all lands from separate holdings.

#### **464. Commissioners to maintain map showing all municipal properties, public streets and drains :-**

The Commissioners shall maintain at the municipal office a map showing the position of all lands and buildings belonging to the Commissioners and of all municipal institutions and all public streets and drains.<sup>1</sup>



1. Sec. 464A first ins. by Ben. Act 11 of 1936. then om. By W. B, Act 51 of 1980. Sec. 464A was as under: "464A. Power to require that dog shall carry tokens. The Commissioners may, by public notice, require that every dog shall wear a collar to which shall be attached a token to be Issued by the Commissioners, and may, from time to time, by like notice, announce that, with effect from a date to be specified in the notice, every dog found wandering about streets or public places without a collar bearing such token will be liable to be destroyed or otherwise disposed of."

**465. Disposal of mad and stray dogs :-**

The Commissioners, by any person authorized by them in this behalf, may

(1) destroy or cause to be destroyed or confine, or cause to be confined, for such period as the Commissioners may direct, any dog suffering from any loathsome disease or from rabies, or reasonably suspected to be suffering from rabies, or bitten by any dog or other animal suffering or suspected to be suffering from rabies ; and<sup>1</sup>

(2) No damages shall be payable by the Commissioners or by any person authorized under this section in respect of any dog confined, destroyed or otherwise disposed of under this section.

1. Clause (ii) first subs. by Ben. Act 11 of 1936, then om. by W. B. Act 51 of 1980. Previous clause (ii) was as under: "(ii) after a date specified in this behalf in a notice published under section 464A, destroy or cause to be destroyed or otherwise dispose of any dog found wandering about streets or public places without a collar bearing a token issued by the Commissioners under section 464A-"

**466. Rewards for destruction of noxious animals :-**

The Commissioners at a meeting may offer rewards for the destruction of noxious animals within the limits of the municipality.

**467. Holder of license to produce it when required :-**

Every person to whom a license has been granted under this Act shall, at all reasonable times while such license remains in force, if required so to do by the Commissioners or by any person authorized by them in that behalf, produce such license to the Commissioners or to the person so authorized.

**468. Suspension or revocation of license, etc :-**

Any 94[Judicial Magistrate] before whom any person is convicted of an offence against the provisions of this Act, relating to the use of any place for a purpose for which a license is required or of the non-observance of any of the by-laws or conditions relating thereto

made or imposed under this Act, in addition to the fine which may be imposed on such person under this Act, may suspend, for any period not exceeding two months, any such license, and the Commissioners, upon the conviction of any person for a second or subsequent like offence, may cancel his license.

#### CHAPTER 23

#### HILL MUNICIPALITIES

#### **469. Application of Act to hill municipalities :-**

The provisions of this chapter shall apply only to hill municipalities and shall be construed in modification of, or as supplementing, other provisions of this Act in their application to such municipalities : Provided that sections 233, 237, 274 and 275 shall not apply to hill municipalities.

#### **470. Extension of definitions of "drain" and "masonry building". :-**

(1) The definition of drain under section 3 of this Act shall, in the case hill municipality be deemed to include a jhora, water-course or natural drainage line, and the 95[State Government] may, by notification, define for the purpose of this Act the limits of any jhora, water-course, channel or natural drainage line within a hill municipality.

(2) For the purpose of Chapter X in its application to hill municipalities the term masonry building shall be deemed to include a framed building.

#### **471. Definitions :-**

In this chapter

(i) "Government road" means a road, street, square, court, alley or passage maintained 96[by the Central or the State Government] or at the public expense;

(ii) "private bridge" means any bridge which is not a public bridge as defined in this section ;

(iii) "private drain" means any drain which is not a public drain as defined in this section ;

(iv) "private road" means any road, street, square, court, alley or passage which is not a public road or Government; road as defined in this section;

(v) "public bridge" means a bridge on or over which a public road or any public work is carried, and the property in which is for the time being vested in the Commissioners ;

(vi) "public drain" means any drain which is vested in the Commissioners;

(vii) "public road" means a "public street" as defined in section 3 of this Act, but except in sections 231, 237, 251, 253 and rule 5 of Schedule VIII shall be deemed to exclude a Government road. Roads.

#### **472. Absolute closing of public road :-**

(1) If it appears to the Commissioners that any public road or part thereof

(a) threatens the stability or security of any hillside or bank or any immovable property thereon, or

(b) in consequence of its condition or its situation with reference to any adjacent hillside or bank cannot be efficiently maintained or required except at a cost, which in their opinion, is unreasonable, the Commissioners may by public notice, declare such road or part to be absolutely closed :

Provided that the Commissioners shall, before declaring any public road or part thereof to be closed, be bound to provide other reasonably sufficient means of access to holdings adjacent to such road or part, if no such means of access already exist.

(2) From the date of any notice published under sub-section (1) in respect of any public road or part thereof, the Commissioners shall not be bound to maintain or repair such road or part; and the site thereof may be disposed of or otherwise dealt with in such manner as a Commissioners may determine:

Provided that, if the Commissioners determine to sell or to let on lease or otherwise transfer any part of such site which is adjacent to any private land or building, the owner of such land or building shall have a prior right to buy or take on lease such part at a reasonable rate.

#### **473. Control over private roads and bridges :-**

All private roads and bridges shall be subject to the inspection and control of the Commissioners.

#### **474. Control over construction or alteration of private roads**

**:-**

(1) Every person who intends to construct, reconstruct or alter a private road shall send to the Commissioners an application for permission to execute the work.

(2) Every such application shall be accompanied by the documents or particulars prescribed in this behalf in Schedule VII.

(3) Every person applying for permission to construct, reconstruct or alter a private road must further mark out on the ground the alignment of the road for inspection by the Commissioner or an officer authorized by them in this behalf.

(4) The permission referred to in sub-section (1) may be either granted or refused absolutely, or granted subject to any conditions which the Commissioners may think fit to impose in accordance with the rules contained in the said Schedule VII.

(5) No work referred to in sub-section (1) shall be commenced without the written permission of the Commissioners.

#### **475. Reconstruction, etc. of private road :-**

If it appears to the Commissioners that any private road is so situated or is in such a condition as to threaten the stability or security of any hillside or bank or any immovable property thereon, they may, by written notice, require the owner-

(a) to re-construct, re-grade, divert, alter or repair such road, or

(b) to make a revetment or retaining-wall on either side or both sides of such road, or

(c) to take such other order with such road as may be specified in the notice.

#### **476. Provision or enlargement of waterway on private road**

**:-**

If it appears to the Commissioners that waterway ought to be provided on any private road or that the waterway provided on any private road ought to be enlarged they may, by written notice, require the owner of the road-

(a) to provide and maintain waterway, or

(b) to enlarge the existing waterway, as the case may require.

**477. Rules as to construction, etc., of private roads and bridges :-**

Whenever any private road is to be constructed, reconstructed, regraded, diverted, altered or repaired, and whenever waterway for any private road is to be provided or enlarged, in pursuance of section 474, section 475 or section

**478. Power to close private road :-**

If it appears to the Commissioners that the existence of any private road threatens the stability or security of any hillside or bank or any immovable property thereon, they may, by written notice, require the owner to close the road and to take such order with the site thereof as they may consider necessary for the stability or security of such hillside, bank or property and as may be prescribed in the notice: Provided that no notice shall be issued under this section in respect of any private road which constitutes the only approach to a building, unless, in the opinion of the Commissioners, another road affording a suitable approach to the building can be constructed at reasonable expense.

**479. Removal of materials falling upon or into public road or drain :-**

(1) Whenever any building, wall, revetment or other erection or any part thereof, or any stone, tree, soil or debris from private premises, falls down and obstructs any public road or drain, the Commissioners may cause the obstruction to be removed.

(2) All stone and trees so removed shall be separately heaped near the spot, and a notice shall be affixed in the vicinity calling upon the persons from whose premises the stone or trees or any of the same has or have fallen to take away the same.

(3) If, in the course of removing any obstruction under sub-section (1), it be found necessary to break up or blast any stone or to cut up any tree, the work shall be executed by the Commissioners; and if any persons desire, in pursuance of a notice affixed under sub-section (2), to take away any stone or tree which has been so dealt with, they must first pay to the Commissioners the expenses incurred by them under this sub-section.

(4) If such stone or trees be not taken away by the said persons within seventy-two hours after the affixing of the said notice, or within any further period allowed by the Commissioners, the same shall become the property of the Commissioners,

**480. Removal of debris foiling upon or into private road or drain :-**

If it appears to the Commissioners that any debris which has fallen upon or into any private road or drain ought to be removed, they may-

- (a) cause such debris to be removed at the expense of the owner of the road or drain, or
- (b) by written notice require the said owner to remove the debris.

**481. Power to close a road or part of a road for repairs or other public purpose :-**

The Commissioners may close temporarily any public road or part of a public road for the purpose of repairing such road, or for the purpose of constructing any sewer, drain or bridge, or for any other purpose : provided that the Commissioners so closing any road shall be bound to provide reasonable means of access for persons occupying holdings adjacent to such road. Drains.

**482. Control over construction or alteration of private drains :-**

- (1) Every person who intends to construct, reconstruct, alter, stop-up or obstruct any private drain shall send to the Commissioners an application for permission to execute the work.
- (2) Every such application shall be accompanied by general description of the drain.
- (3) The permission referred to in sub-section (1) may be either granted or refused absolutely, or granted subject to any conditions which the Commissioners may think fit to impose in accordance with the rules contained in Schedule VIII.
- (4) No work referred to in sub-section (1) shall be commenced without the written permission of the Commissioners.

**483. Reconstruction, repair, etc., of private drains, gutters, etc :-**

- (1) The Commissioners may, by written notice, require the owners of any land or building
  - (a) to re-construct, enlarge, extend, alter, repair, make efficient, stop-up or remove any drain belonging to such land or building, or

- (b) to alter the inclination or direction of any such drain, or
- (c) to provide movable coverings, or gratings for any such drain of such nature as may be specified in the notice, or
- (d) to carry any such drain to such point of outlet or of Junction with some other drain as may be specified in the notice.

(2) The Commissioners may, by written notice, require the owner or occupier of any building-

(a) to provide and maintain a sufficient number of suitable roof-gutters and down pipes or masonry platforms for carrying water from the roof of the building into such drains as may be specified in notice, or

(b) to renew, alter, repair or remove any such gutters, pipes or platforms already provided for the building.

(3) The said gutters must be of such dimensions, and have such slope, and the said pipes must be of such dimensions and the bends in such pipes must be made at such angles, as may be prescribed by rules made by the Commissioners at a meeting.

**484. Power to require provision of private drain :-**

If any land or building is not drained to the satisfaction of the Commissioners, they may, by written notice, require the owner to provide a drain therefor, at such inclination, and to such point of outlet or of junction with some other drain as may be specified in the notice.

**485. Private drainage in combination :-**

(1) If it appears to the Commissioners that any lands or buildings belonging to different owners can be drained or the drainage thereof improved, more economically or advantageously in combination than separately, the Commissioners may cause such lands or buildings to be drained, or the drainage thereof to be improved, in such manner as they may consider suitable.

(2) The Commissioners may cause any drain which has been provided or improved under sub-section (1) to be maintained or repaired in such manner as they may consider suitable.

(3) All expenses incurred under sub-section (1) or sub-section (2) in connection with the drainage of any lands or buildings, shall be paid by the owners of such lands or buildings in proportion to the

benefits derived by them respectively.

(4) The said proportion shall be determined by the Commissioners. Safety of the hillside.

**486. Power where buildings, etc., threaten the stability of other immovable property :-**

If it appears to the Commissioners that any building or portion of a building or anything affixed to a building or any wall or structure on any land, is in such a condition as to threaten the stability or security of any hillside or bank, or any immovable property thereon, the Commissioners may, by written notice, require the owner of such land or building

(a) to take down such building, portion, thing, wall or structure and remove the materials, or

(b) to secure or repair such building, portion, thing, wall or structure, in such manner as may be prescribed in the notice, or to make a revetment for the support thereof or to take such other order therewith as may be prescribed in the notice, and

(c) in case (a), also to take such order with the site of such building, wall or structure, for ensuring the stability or security of any hillside or bank or any immovable property thereon, as may be prescribed in the notice.

**487. Power where hillside or bank threatens the safety of buildings :-**

If it appears to the Commissioners that the condition or situation of any hillside or bank, being private property, is such as to threaten the safety of any building, and that the safety of such building cannot be ensured by taking action under section 486 and also that such building threatens the safety of some other building, they may, by written notice, require the owner of such first mentioned holding-

(a) to take down the building and remove the materials, or

(b) to secure the building, in such manner as may be prescribed in the notice, or to make a revetment for the support thereof, or to take such other order therewith as may be prescribed in the notice and may also, by written notice, require the owner of such other building to secure the same, in such manner as may be prescribed in the notice, or to make a revetment for the support, thereof, or to



take such other order therewith as may be prescribed in the notice.

**488. Power to require revetting, turfing or sloping :-**

If it appears to the Commissioners that the condition or the situation of any land, being private property is such as to threaten the stability or security of any hillside or bank or any immovable property thereon, the Commissioners may, by written notice, require the owner of the land to do all or any of the following things, namely:

- (a) to construct and maintain a revetment, retaining-wall or toe-wall upon any part of the land ;
- (b) to reconstruct, enlarge, strengthen, alter or repair any revetment, retaining-wall, or toe-wall already standing on the land ;
- (c) to turf the land or any portion thereof;
- (d) to slope the land or any portion thereof.

**489. Execution of work where owners of adjacent property would be benefited :-**

If any owner to whom a notice is issued under section 488 presents to the Commissioners, within fifteen days after the service of the notice, that the work required by the notice will directly or substantially benefit the owners of any adjacent buildings or land, the Commissioners may, after bearing all the owners concerned, themselves cause the said work to be executed; and the expenses thereby incurred shall be recovered from any or all of such owners, in such proportions as the Commissioners may direct.

**490. Power to execute work in combination :-**

If it appears to the Commissioners that lands or buildings belonging to two or more owners can be protected by the execution of works of the nature referred to in section 488, more economically or advantageously in combination than separately, the Commissioners may themselves cause such works or any of them to be executed, maintained and kept in repairs; and the expenses thereby incurred shall be recovered from the said owners, in such proportion as Commissioner may direct.

**491. Power to execute works where public road, drain, revetment or retaining wall is affected :-**

Notwithstanding anything contained in section 488, the

Commissioners may, at any time, themselves cause any revetment, retaining-wall or toe-wall to be constructed, reconstructed, enlarged, strengthened, altered or repaired on any private land immediately abutting upon any public road, drain, revetment or retaining-wall; and the expenses thereby incurred shall be paid by the Commissioners and the owner of such land in such proportions as the Commissioners may direct.

**492. Rules as to revetting, turfing and sloping :-**

Whenever any revetment, retaining-wall or toe-wall is to be constructed, reconstructed, enlarged, strengthened, altered or repaired, or any land is to be turfed, or sloped in pursuance of sections 475, 486, 487, 488, 489, 490 or 491, the work shall be executed in accordance with the rules contained in Schedule IX, so far as they are applicable to the particular case.

**493. Power to prohibit occupation of unsafe or insanitary building :-**

(1) If it appears to the Commissioners that any building or the site thereof is, in consequence of its condition or of its situation with reference to any hillside or bank, unsafe, they may, by written notice, prohibit the owner or any other person from occupying or continuing to occupy the buildings or from permitting up to be occupied until the building or the site, as the case may be, is rendered safe to the satisfaction of the Commissioners.

(2) If it appears to the Commissioners that the drainage of, or the latrine accommodation provided for, any masonry or framed building is defective, they may by written notice, prohibit the owner from letting the building for occupation until the defects have been remedied to their satisfaction. Appeal

**494. Appeal to specially appointed Engineer :-**

(1) The <sup>1</sup>[State Government] may, by notification in the <sup>2</sup> [Official Gazette], appoint an Engineer to hear appeals under this Act in respect of hill municipalities.

(2) An appeal shall lie to the said Engineer from any order (not being an order apportioning expenses) or requisition made under sections 364, 474, 482, 486, 487, 488. 489, 490, 491 or 493.

1. Words "Provincial Government" first subs. for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and, thereafter, the word "State" subs. for the

word "Provincial" by the Adaptation of Laws Order, 1950.

2. Words subs. for the words "Calcutta Gazette" by the Government of India (Adaptation of Indian Laws) Order. 1937.

**495. Appeal to Commissioner of the Division :-**

An appeal shall lie to the Commissioner of the Division from any order apportioning expenses incurred in pursuance of sections 485, 488, 490 or 491.

**496. Limitation of time for appeal :-**

Every appeal under section 494 or section 495 must be presented within a period of thirty days after the date of the order or requisition against which the appeal is made :

Provided as follows :

(a) if in any case the said period expires on a day when the office of the aforesaid Engineer or Commissioner is closed, the appeal may be presented on the day that the said office is reopened ;

(b) any appeal may be admitted after the expiration of the said period when the appellant satisfied the appellate authority that he had sufficient cause for not presenting the appeal within such period.

**497. Assessors in appeals to Commissioner of the Division :-**

(1) In dealing with any appeal preferred to him under section 495 the Commissioner shall be assisted by two assessors, who shall be selected and summoned by him for each appeal or group of appeals from a list to be prepared annually by the Deputy Commissioner:

Provided that, if any assessor so summoned fails to appear, the appeal may be heard in his absence.

(2) The assessors, if present, shall be consulted by the Commissioner, and their opinion shall be recorded in writing ; but the Commissioner shall not be bound to conform to their opinions.

**498. Record of decision on appeal or reference :-**

(1) If the engineer appointed under section 494, or the Commissioner of the Division, rejects any appeal preferred to him under this Act, he shall, by written order, specifically state the grounds for such rejection.

(2) The said Engineer shall, when deciding any reference made to him under this Act, specifically state in writing the grounds for his

decision.

(3) A copy of all orders passed by the said Engineer or Commissioner on any such appeal, or by the said Engineer on any such reference, shall forthwith be forwarded by him to the Commissioners, who shall thereupon inform the appellant, or the person who made the reference, as the case may be, of such orders.

**499. Additional power to make by laws in hill municipalities**  
:-

(1) In addition to any by-laws that they may make under any other section of this Act, the Commissioners of a hill municipality may, at a meeting, make by-laws-

(a) enforcing, regulating or prohibiting the cutting or destroying of trees or shrubs and the planting and maintenance of particular kinds of trees or shrubs, and regulating or prohibiting the making of excavations or removal of soil or quarrying; and providing for the alteration, repair and proper maintenance of buildings and compounds, for the closing of roads and by-paths and for the general protection of the surface land on any hillside where such by-laws appear to the Commissioners to be necessary for the maintenance of a water-supply, the preservation of the soil, the prevention of landslips or of the formation of ravines or torrents, the protection of land against erosion or the deposit thereon of sand, gravel or stones;

(b) regulating the rule of the road;

(c) rendering licenses necessary within the Municipality for animals, vehicles and other conveyances let out on hire for a day or part thereof;

(d) prescribing the conditions subject to which such licenses may be granted, refused, suspended or withdrawn;

(e) regulating the charges to be made for the hire of such animals, vehicles and other conveyances;

(f) preventing the straying of poultry;

(g) preventing or regulating the grazing or straying of cattle on hillsides or banks ; and

(h) regulating any of the matters referred to in sections 474, 477,

482 and 492.

(2) The word "cattle," as used in clause (g), shall have the same meaning as in the Cattle Trespass Act, 1871.

#### CHAPTER 24

##### Penalties

### **500. Certain offences punishable with fine :-**

#### **501. Fine for unlawful commencing, carrying on or completing building work-If the erection of any new building :-**

(a) is commenced without obtaining the written permission of the Commissioners, or

(b) is carried on or completed otherwise than in accordance with the particulars on which such permission was based, or

(c) is carried on or completed in breach of any provision contained in this Act or in any rules or by-laws made thereunder, or of any direction or requisition lawfully given or made under this Act or such rules or by-laws, or

if any alteration of, or addition to, any building or any other work made or done for any purpose in, to or upon any building is commenced, carried on or completed in breach of section 326, the owner of the building shall be liable to fine, which may extend in the case of a masonry building to <sup>1</sup>[two thousand rupees] and in the case of a hut to <sup>2</sup>[two hundred and fifty rupees] and to further fine, which may extend in the case of a masonry building to <sup>3</sup>[two hundred and fifty rupees] and in the case of a masonry building to <sup>3</sup>[two hundred and fifty rupees] and in the case of a hut to <sup>5</sup>[twenty five rupees] for each day during which the offence is continued after the first day.

1. Words subs. for the words "five hundred rupees " by W.B. Act 51 of 1980.

2. Words subs. for the words "fifty rupees " by W.B. Act 51 of 1980.

3. Words subs. for the words "one hundred rupees " by W.B. Act 51 of 1980.

5. Words subs. for the words "ten rupees " by W.B. Act 51 of 1980.

#### **502. Penalty for obstructing contractor or removing mark :-**

Any person who, in contravention of section 541, obstructs or molests any person with whom the Commissioners have entered into a contract, or, in contravention of section 542, removes any mark, shall be punished with fine which may extend to two

hundred rupees, or with imprisonment for a term which may extend to two months.

**503. Power to impose penalties for breach of rules or by-laws :-**

In making any rule or by-law the Commissioners may, with the sanction of the <sup>1</sup>[State Government], or in the case of any rule, model rule or by-law the <sup>1</sup> [State Government] may direct that the breach thereof shall be punishable with a fine which may extend to fifty rupees and, when the breach is a continuing one, with a further fine not exceeding five rupees for every day after the date of the first conviction during which the offender is proved to have persisted in the offence.

1. Words "Provincial Government" first subs. for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order. 1937 and. thereafter, the word "State" subs. for the word "Provincial" by the Adaptation of Laws Order. 1950.

**504. Penalty on officers, etc., taking unauthorized fees :-**

If any person employed under this Act (not being a public servant within the meaning of section 21 of the Indian Penal Code) shall accept or obtain or agree to accept or attempt to obtain, from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a reward for doing or forbearing to do any official act, or for showing or forbearing to show in the exercise of his official functions favour or disfavour to any person, or for rendering, or attempting to render, any service or disservice to any person with the Commissioners or with any public servant or <sup>7</sup>[with any Government] in the discharge of his official duties, he shall be punished with imprisonment, for a term which may extend to three years, or with a fine which may extend to five thousand rupees, or with both.

CHAPTER 25  
PROCEDURE

**505. Previous publication of rules made by Government :-**

(1) The power of the <sup>1</sup> (State Government] to make rules under this Act is subject to the condition of the rules being made after previous publication.

(2) Any rule made by the <sup>8</sup>[State Government] may be general for all municipalities or for all municipalities not expressly excepted from its operation or may be special for the whole or any part of

any one or more than one municipality as the 8[State Government] may direct.

1. Words "Provincial Government" first subs. for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order. 1937 and, thereafter, the word "State" subs. for the word "Provincial" by the Adaptation of Laws Order, 1950. Publication of rules, by-laws, orders and notices.

**506. Confirmation and publication of rules and by-laws made by the Commissioners :-**

(1) Rules and by-laws made by the Commissioners under this Act shall not take effect unless and until they have been submitted to, and confirmed by, the 8[State Government].

(2) Such rules and by-laws shall not be confirmed

(i) unless one month at least before the making of the application notice of the intention to apply for confirmation has been given in one or more of the local newspapers circulated within the municipality to which such rules or by-laws relate, or if there be no such newspapers, then in such manner as the Commissioners may direct, and

(ii) unless for one month at least before such application a copy of the proposed rules or by-laws has been kept at the office of the Commissioners, and has been open during office hours thereat to the inspection of the inhabitants of the municipality to which such rules or by-laws relate, without fee.

(3) The Commissioners shall, on the application of any inhabitant of the municipality, furnish him with a copy of such proposed rules or by-laws, on payment of four annas for every hundred words contained in the copy.

(4) The <sup>1</sup> (State Government] may rescind any rule or by-law which it has confirmed, and thereupon the rule or by-law shall cease to have effect.

1. Words "Provincial Government" first subs. for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order. 1937 and, thereafter, the word "State" subs. for the word "Provincial" by the Adaptation of Laws Order, 1950. Publication of rules, by-laws, orders and notices.

**507. Publication of rules, by-laws, orders and notices :-**

Every rule, by-law, order, public notice or other document directed

to be published under this Act shall be written in, or translated into, Bengali 9[and in such other language, or languages commonly used in the district as may be decided by the Commissioners at a meeting], and deposited in the office of the Commissioners, and 10[copies thereof] shall be posted up in a conspicuous position at such office, and in such Other public places as the Commissioners may direct: and a public proclamation shall be made throughout the municipality by beat of drum, notifying that such copy has been so posted up, and that the original is open to inspection in the office of the Commissioners. Signature and service of notices, etc.

**508. Signature of notices etc., may be stamped :-**

(1) Every license, written permission, notice, bill, summons or other document which is required by this Act or by any rule or by-law made thereunder to bear the signature of the Chairman, Vice-Chairman or any other municipal office, shall be deemed to be properly signed if it bears a facsimile of the signature of the Chairman, Vice-Chairman or such municipal officer stamped thereupon.

(2) Nothing in sub-section (1) shall be deemed to apply to a cheque drawn upon the Municipal Fund.

**509. Notices, etc., by whom to be served or issued :-**

All notices, bills, summonses and other documents required by this Act or by any rule or by-law made thereunder to be served upon, or issued to, any person, shall be so served or issued by municipal officers or servants or by other persons authorized by the Commissioners at a meeting in this behalf 11[or by post under certificate of posting.]

**510. Service how to be effected on owner or occupier of premises :-**

When any notice, bill, summons or other document is required by this Act or by any rule or by-law made thereunder to be served upon or issued to any person as owner or occupier of any land or building, it shall not be necessary to name the owner or occupier in the document and the service or issue thereof shall be effected-

(a) by giving or tendering such document to the owner or occupier : Provided that if there be more than one owner or occupier, and it is not in the opinion of the Commissioners practicable to serve the document on every one of them the Commissioners may serve the document on any of more of them as they may think fit ; or



(b) if the owner or occupier is not found, by giving or tendering such document or by sending it by post to any adult male member of the family, or to a servant in the employ, of the owner or occupier or of any one of the owners or occupiers ; and

(c) both in the cases mentioned in clauses (a) and (b) by affixing such notice, bill, summons, or other document on some conspicuous part of the land or building (if any) or other thing to which the document relates.

**511. Service how to be effected otherwise than on owner or occupier of premises :-**

When any notice, bill, summons or other document is required by this Act or by any rule or by-law made thereunder to be served upon or issued to any person otherwise than as owner or occupier of any land or building, such service or issue shall be effected-

(a) by giving or tendering such document to such person ; or

(b) if such person is not found, by leaving such document at his last known place of abode or business in the municipality or by giving or tendering the same or by sending it by post to any adult male member of his family or adult male servant in his employ ; or

(c) if such person does not reside in the municipality and his address elsewhere is known to the Commissioners, by forwarding such document to him by post in a cover bearing the said address ; or

(d) if none of the means referred to in clauses (a), (b), or (c) be available, by affixing such notice, bill, summons or other document on some conspicuous part of the land or building (if any) or other thing to which the document relates.

**512. Power of entry to inspect, survey or execute work :-**

The Chairman, Vice-Chairman, Executive Officer, Health Officer, Engineer or Sanitary Inspector, or any other person authorized by the Commissioners in this behalf, may enter into or on any building or land with or without assistants or workmen, in order to make any inquiry, inspection, test, examination, survey, measurement or valuation or for the purpose of lawfully placing or removing pipes or meters, or to execute any other work which is authorized by the provisions of this Act or of any rule, by-law or order made thereunder, or which it is necessary for any of the purposes of this

Act or in pursuance of any of the said provisions, to make or execute : Provided that

(a) except when it is in this Act or in any rule or by-law made thereunder otherwise expressly provided, no such entry shall be made between sunset and sunrise ;

(b) except when it is otherwise expressly provided as aforesaid, no dwelling-house, and no part of a public building used as a dwelling place, shall be so entered without the consent of the occupier thereof, unless the said occupier has received at least twelve hours' previous notice of the intention to make such entry ;

(c) reasonable notice shall be given in every case even when any premises may otherwise be entered without notice, to enable the inmates of any apartment appropriated to women to remove to some part of the premises where there privacy may be preserved ;

(d) due regard shall be paid, so far as may be compatible with the exigencies of the purpose of the entry, to the social and religious usages of the occupants of the premises.

**513. Prohibition of obstructing entry :-**

No person shall, in any way obstruct the Commissioners, Chairman, Vice-Chairman, Executive Officer, Health Officer, Sanitary Inspector or any municipal officer or servant, or any other person authorized by the Commissioners at a meeting or otherwise, in making any entry, inspection or search under this Act, or any person accompanying them at their request or acting under their orders for the purpose of such entry or acting under their orders in carrying out any work, under the provisions of this Act. or under any rule or by-law made thereunder for the carrying out of such work.

**514. Procedure when owners or occupiers required to execute works by Commissioners :-**

(1) Whenever it is provided in this Act or in any rule or by-law made thereunder that the Commissioners or the Commissioners at a meeting may require the owners or the occupiers, or the owners and occupiers of any land or building, to execute any work or to do anything within a specified time, such requisition shall be made, as far as possible, by a notice to be served on every owner or occupier who is required to execute such work or to do such thing : but, if there is any doubt as to the persons who are owners or occupiers, such requisition may be made by a notification to be posted up on

or near the spot at which the work is required to be executed or the thing done, requiring the owners or occupiers, or the owners and occupiers, of any land or building, to execute such work or to do such thing within a specified time ; and in such notification it shall not be necessary to name the owners and occupiers. If no time is specified in this Act or In any rule or by-law made thereunder for the execution of such work or the doing of such thing the notice shall prescribe a reasonable period for carrying the requisition into effect, and shall be served as provided in this sub-section.

(2) Every requisition provided in sub-section (1), other than a requisition under section 240 or section 241, or under the provisions of Chapter XXI shall give notice to the persons to whom it is addressed that, if they fail to comply with the requisition or to prefer an objection against such requisition as provided in section 515, the Commissioners will enter upon the land or building and cause the required work to be executed, or the required thing to be done ; and that in such case the expenses incurred thereby will be recovered from the persons who are required in such requisition to execute such work or do such thing.

**515. Objection by persons required to execute any work :-**

A person who is required by a requisition as provided in section 514, other than a requisition under section 240 or section 241, or under the provisions of Chapter XXI to execute any work or to do any thing may, instead of executing the work or doing the thing required, prefer an objection in writing to the Commissioners against such requisition within five days of the service of the notice or posting up of the notification containing the requisition ; or if the time within which he is required to comply with the requisition be less than five days, then within such less time. Except as provided in section 516, such objection shall be heard and disposed of by the Chairman, Vice-Chairman or Executive Officer.

**516. Procedure if person objecting alleges that work will cost more than three hundred rupees :-**

If the objection alleges that the cost of executing the work or of doing the thing required will exceed three hundred rupees, such objection shall be heard and disposed of by the Commissioners at a meeting; unless the Chairman, Vice-Chairman or Executive Officer certifies that such cost will not exceed three hundred rupees, in which case the objection shall be heard and disposed of by the

Chairman, Vice-Chairman or Executive Officer:

Provided that in any case in which the Chairman, Vice-Chairman or Executive Officer has certified his opinion as aforesaid, and the objection has in consequence thereof been heard and disposed of by the Chairman, Vice-Chairman or Executive Officer the person making the objection may, if the requisition made upon him is not withdrawn on the hearing of his objection, pay in the said sum of three hundred rupees to the Commissioners as the cost of executing the work or doing the thing required ; whereupon such person shall be relieved of all further liability and obligation in respect of executing the work or doing the thing required and in respect of paying the expenses thereof ; and the Commissioners themselves shall execute such work, or do such thing, and shall exercise all powers necessary therefor.

**517. Orders after hearing objection :-**

The Chairman, Vice-Chairman, Executive Officer or the Commissioners at a meeting, as the case may be, shall after hearing the objection and making any inquiry which may be deemed necessary, record an order withdrawing, modifying or making absolute the requisition against which the objection is preferred ; and, if such order does not withdraw the requisition, it shall specify the time within which the requisition shall be carried out, which shall not be less than the shortest time which might have been mentioned under this Act in the original requisition.

**518. Order to be explained orally :-**

If the person making such objection is present at the office of the Commissioners, the said order shall be explained to him orally ; and if such order cannot be so explained, notice of such order shall be served as provided in section 510 or section 511, as the case may be, on the persons making the objection : and such explanation of, or service of, the notice of the said order shall be deemed to be a requisition duly made under this Act to execute the work or do the thing required.

**519. Power of Commissioners on failure of persons to execute work :-**

(1) If the person required to execute the work or to do the thing fails within the time specified in any requisition provided in sub-section (1) of section 514 other than a requisition under section 240 or section 241, or a requisition under Chapter XXI to begin to

execute such work or to do such thing, and thereafter diligently to continue the same to the satisfaction of the Commissioners, until it is completed, the Commissioners or any person authorized by them in this behalf, may, after giving forty-eight hours notice of their intention by a notification to be posted up on or near the spot, enter upon the land or building and perform all necessary acts for the execution of the work or doing of the thing required : and the expenses thereby incurred shall be paid to the Commissioners by the owners or by the occupiers, if such requisition was addressed to the owners or to the occupiers respectively and by the owners and the occupiers, if such requisition was addressed to the owners and the occupiers.

(2) The Commissioners may take any measure, execute any work or cause anything to be done under this section or under the provisions of Chapters XXI, whether or not the person who has failed to comply with the requisition is liable to punishment, or has been prosecuted or sentenced to any punishment, under this Act or under any rule or by-laws made thereunder for such failure.

**520. Apportionment of expenses among owners :-**

Whether any expenses incurred by the Commissioners are to be paid by the owners or by the occupiers of any land or building as provided in section 519, the Commissioners may, if there be more than one owner or more than one occupier, as the case may be, apportion the said expenses among such of the owners or among such of the occupiers as are known in such manner as to the Commissioners may seem fit.

**521. Apportionment among owners and occupiers :-**

Whenever any expenses incurred by the Commissioners are to be paid by the owners and occupiers of any land or building as provided in section 519, the Commissioners may apportion the said expenses among the said owners and occupiers or such of them as are known in such manner as the Commissioners may seem fit.

**522. Recovery by occupier of cost of works executed at his expense :-**

Whenever any works or any alterations and improvements of which the Commissioners are authorized by this Act to require the execution are executed by the occupier on the requisition of the Commissioners, or are executed by the Commissioners, and the cost thereof is recovered from the occupier, the cost thereof may, if the Commissioners certify that such cost ought to be borne by the

owner, be deducted by such occupier from the next and following payments of his rent due or becoming due to such owner, or may be recovered by him in any court of competent jurisdiction.

**523. Recovery of costs by instalments or its remission in cases of poverty :-**

Whenever any works referred to in <sup>1</sup> [sub-section (4) of section 258, clause (c) of sub-section (1) or sub-section (2) of section 259 or clause (d) of sub-section(1) of section 263] are executed by the Commissioners, the Commissioners at a meeting may order that the costs thereof shall be recovered by instalments from the person liable to pay the same, or if it should appear to them that the said person is unable by reason of poverty to pay the same, may order the cost or any portion thereof to be paid out of the Municipal Fund.

1. Words, figures, letters and brackets subs. for the words, figures, letter and brackets" clause (c) of sub-section (1) of section 259" by W.B. Act 7 of 1969.

**524. Recovery of moneys due to the Commissioners :-**

All costs, expenses, rents, tolls, fees or other moneys due under this Act to the Commissioners of any municipality may be recovered in the manner provided in sections 155 to 162 (both inclusive).

**525. Power to sell unclaimed holdings for money due :-**

(1) If money be due under this Act in respect of any holding from the owner thereof, on account of any tax, expenses or charges recoverable under this Act, and if the owner of such holding <sup>1</sup>[or his place of abode is unknown or the ownership of such

(2) After deducting the amount due to the Commissioners as aforesaid the surplus sale-proceeds (if any) shall be credited to the Municipal Fund and may be paid on demand to any person who establishes his right to the satisfaction of such Commissioners or in a court of competent jurisdiction.

(3) Any person may pay the amount due at any time before the completion of the sale, and may recover such amount by a suit in a court of competent jurisdiction from any person beneficially interested in such property.

(4)<sup>2</sup>Where a holding has been sold under sub-section (1), any person, either owning such holding or having an interest therein by virtue of a title acquired before such sale, may within thirty days

from the date of sale apply to the Commissioners to have the sale set aside on his depositing with the Commissioners

(a) for payment to the purchaser, a sum equal to five per cent, of the purchase money, and

(b) for payment to the Commissioners, the amount specified in the notification of sale as that for the recovery of which the sale was ordered, less any amount which, since the date of such notification, has been received by the Commissioners.

(5)<sup>2</sup>Where an application along with the deposit mentioned has been made under sub-section (4), the Commissioners at a meeting shall set aside the sale and the amount paid by the auction purchaser together with five percent thereof shall be refunded to him. <sup>2</sup> (6) No sale shall be confirmed except after thirty days from the date of the sale.

1. Words subs. for the words "is unknown or the ownership thereof" by W.B. Act 51 of 1980.

2. Sub-secs. (4). (5) and (6) ins. by W.B. Act 27 of 1955.

#### **526. Sale of materials :-**

(1) The materials of anything which shall have been pulled down or removed by the Commissioners under the provisions of sections 237, 364, 366, <sup>1</sup> [369], 454 or sub-section (2) of section 514, may be sold by the Commissioners, and the proceeds of such sale may be applied, so far as the same will extend to the payment of the expenses incurred.

(2) The surplus sale-proceeds (if any) shall be credited to the Municipal Fund, and may be paid on demand to any person who establishes his right to the satisfaction of the Commissioners or in a Court of competent jurisdiction.

1. Figures Ins. by W.B. Act 51 of 1980.

#### **527. Power to enter upon possession of houses repaired :-**

If the Commissioners have under the provisions of this Act caused any repairs to be made to any building or other structure, and if such building or other structure be unoccupied, the Commissioners may enter upon possession of the same, and may retain possession thereof until the sum expended by them on the repairs be paid to them.

#### **528. Damage to municipal property how made good :-**

If through any act, neglect or default, on account whereof any person shall have incurred any penalty imposed by or under this Act, any damage to the property of the Commissioners shall have been committed by such person he shall be liable to make good such damage as well as to pay such penalty and the amount of damage shall, in case of dispute be determined by the <sup>1</sup>[Judicial Magistrate] by whom the person incurring such penalty is convicted, and on non-payment of such damage on demand the same shall be levied by distress, and such <sup>1</sup> [Judicial Magistrate] shall issue his warrant accordingly.

1. Words subs. for the words "Magistrate" by W.B. Act 51 of 1980.

**529. Relief to agents and trustees :-**

(1)Whenever any person, the reason of his-

(a) receiving the rent of immovable property as a receiver, agent or trustee, or

(b) being as a receiver, agent or trustee the person who would receive the rent if the property were let to a tenant, would, under this Act or under any rule or by-law made thereunder, be bound to discharge any obligation imposed thereby on the owner of the property and for the discharge of which money is required, and such person has not in his hands funds belonging or payable to the owner sufficient for the purpose, he shall, within a reasonable time from the service upon him of any notice from the Commissioners in this behalf requiring him to discharge the said obligation, be bound to apply to a court of competent jurisdiction for leave to raise the necessary funds or for such other directions in relation thereto as the circumstances of the case may require.

(2)Any receiver, agent or trustee who fails to apply to the court under sub-section (1) shall be deemed to be personally liable to discharge the said obligation. Appeals..<sup>1</sup>

1. Sec. 529A first ins. by Ben. Act 11 of 1936, then om. by W.B. Act 2 of 1975. which was as under: 529.A Appeals regarding electoral roll. (1) Any person aggrieved by any entry in or omission from the final electoral roll published under section 21 may, within fifteen days from the date of publication of such roll, appeal to the District Magistrate and if on such appeal the District Magistrate or any other officer authorised by him to hear the appeal "directs any modification or addition to be made in such roll, the roll shall be amended accordingly and the amendment so made shall be



published in the same manner as the final roll. (2) No entry in or omission from a final electoral roll published under section 21 shall be liable to be called in question otherwise than by such appeal,".

**530. Appeals from certain orders of the Commissioners :-**

(1) Any person aggrieved by any prohibition, notice or order, made by the Commissioners under the power conferred upon them by sub-section (3) of section 140, section 176, sub-section (2) of section 218, sub-section (1) of section 219, sub-section (1) of section 228, clause (b) of sub-section (1) of section 240. sub-section (1) of section 241, clause (b) of sub-section (2) of section 252, clauses (ii) and (iii) of section 254, sub-section (1) of section 258, section 259, section 261, section 263, sub-section (1) of section 264, section 309, sub-section (2) of section 341. section 343, section 348, section 349, section 356. section 357, sub-section (1) of section 364, section 368, section 372, sub-section (2) of section 410, section 411, section 418, section 420, section 423. section 520 and section 521 may, within thirty days, from the date of such prohibition, notice or order, appeal to the Commissioners, and every such appeal shall be heard and determined by not less than three Commissioners, who shall be appointed in that behalf by the Commissioners at a meeting, and no such prohibition, notice or order shall be liable to be called in question otherwise than by such appeal:

Provided that the prohibition, notice or order shall not be modified or set aside or confirmed until the appellant and the Commissioners have had reasonable opportunity of being heard.

(2) The appellate authority may, for sufficient cause, extend the period allowed by sub-section (1) of this section for appeal.

(3) Except on appeals from decisions or orders under sub-section (3) of section 140, section 372, section 418, section 420 section 423, section 520 and section 521 the order of the appellate authority confirming, setting aside or modifying the prohibition, notice or order appealed from shall be final.

**531. Appeals from orders refusing license under this Act :-**

Any person aggrieved by an order refusing a license required under this Act may, notwithstanding anything contained elsewhere in this Act, within thirty days, appeal to the [State Government] whose decision shall be final and shall not be questioned in any court. Prosecutions.

**532. Power of Commissioners to direct prosecution for public nuisance, etc :-**

The Commissioners may direct any prosecution for any public nuisance, and may order proceedings to be taken for the recovery of any penalties under this Act or rules or by-laws made thereunder and for the punishment of any persons offending against the same, and may order the expenses of such prosecution or other proceedings to be paid out of the Municipal Fund.

**533. and limitation for prosecution under this Act :-**

Sanction No prosecution for an offence under this Act or any rule or by-law made in pursuance thereof shall be instituted without the order or consent of the Commissioners, and no such prosecution shall be instituted except within six months next after the commission of such offence, unless the offence is continuous in its nature, in which case a prosecution may be instituted within six months of the date on which the commission or existence of the offence was first brought to the notice of the Chairman : Provided that the failure to take out any license under this Act shall be deemed to be a continuing offence until the expiration of the period for which such license is required to be taken out.

**533A. Police-officer to supply information to and co-operate with and assist Commissioners and municipal officers and servants. :-**

<sup>1</sup> It shall be the duty of every police-officer in a municipality-

(a) to communicate without delay to the municipal office any information which he receives of a design to commit or of the commission of any offence against this Act or any rule or by-law made thereunder, and

(b) to co-operate with and assist the Commissioners or any municipal officer or servant reasonably demanding his aid for the lawful exercise of any power vesting in the Commissioners or such municipal officer or servant under this Act or any rule or by-law made thereunder.

1. Sec. 533A ins. by W.B. Act 27 of 1955.

**534. Police-officer to arrest persons refusing to give name and residence :-**

(1) When any person, in the presence of a police-officer commits, or is accused of committing, any offence, under this Act .or any rule

or by law made in pursuance thereof and refuses, on demand of a police-officer, to give his name and residence or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained ; and he shall within twenty-four hours from the arrest, be forwarded to the nearest 19[Judicial Magistrate], unless before the expiration of that time his true residence are ascertained, in which case he shall be released on his executing a bond for his appearance before a <sup>1</sup> [Judicial Magistrate], if so required.

(2) Upon the recommendation of the Commissioners any servant of the Commissioners in receipt of a salary of not less than twenty-five rupees per mensem, when empowered in that behalf by a general or special order of the District Magistrate, may exercise the powers of a police-officer under this section. Suits.

1. Words subs. for the words "Magistrate" by W.B. Act 51 of 1980.

### **535. Notice of suits against Commissioners :-**

(1) No suit or other legal proceeding shall be brought against the Commissioners of any municipality or any of their agents, officers or servants, or any person acting under their direction, for any act purporting to be done under this Act or any rule or by-law made thereunder until the expiration of one month next after notice in writing has been delivered or left at the office of such Commissioners and also (if the suit or proceeding is intended to be brought against any officer or

(2) Every such suit or proceeding shall be commenced within six months next after the accrual of the cause of action, and not afterwards.

(3) When the suit or proceeding is for damages, tender of amends, if any, made before the suit or proceeding is brought may, in lieu of or in addition to any other plea, be pleaded. If the suit or proceeding was commenced after the tender or is proceeded with after payment into court of any money in satisfaction of the plaintiffs claim, and the plaintiff does not recover more than the sum tendered or paid, the defendant shall be entitled to full costs of the suit or proceeding after the tender or payment.

### **536. Contest of liability in civil courts :-**

(1) Any owner or occupier of land or of a building may contest his

liability to pay any expenses or fees under sections 519 to 521 or may contest the amount which he has been called upon to pay in a civil court of competent jurisdiction : Provided that the fact of such action having been instituted shall be no bar to the recovery of the said amount, in the manner provided by section 524.

(2) Where any damages or compensation other than compensation payable under section 98 are by this Act directed to be paid by the Commissioners the amount, and if necessary, the apportionment of the same, shall, in case of dispute, except as otherwise expressly provided in this Act, be ascertained and determined by a civil court of competent jurisdiction.

#### CHAPTER 26 SAVINGS

#### **537. Savings :-**

No assessment list or other list, notice, bill or other such document specifying or purporting to specify, with reference to any tax, rate, toll, charge, rent or fee, any person, property, thing or circumstance shall be invalid by reason only of a mistake in the name, residence, place of business or occupation of the person or in the description of the property, thing or circumstance, or by reason of any mere clerical error or defect of form; and it shall be sufficient that the person, property, thing or circumstance is described sufficiently for the purpose of identification, and it shall not be necessary to name the owner or occupier of any property liable in respect of a tax.

#### **538. Distress or sale not unlawful for want of form :-**

No distress or sale made under this Act shall be deemed unlawful nor shall any person making the same be deemed a trespasser on account of any error, defect or want of form in the bill, notice, summons, warrant-of distress, inventory or other proceeding relating thereto, nor shall such person be deemed a trespasser from the commencement on account of any irregularity afterwards committed by him, but all persons aggrieved by such irregularity may recover full satisfaction for any special damage sustained by them in any court of competent jurisdiction, subject to the provisions of section 535.

#### **539. Who to be deemed owner or occupier where there are gradations of owners or occupiers :-**

Whenever any right is conferred or duty imposed by or under this

Act, or by any rule or by-law made thereunder on the owner or occupier of any premises, and in consequence of there being gradations of owners or occupiers, doubt arises as to who is the owner or occupier entitled to exercise such right or bound to perform such duty, the Commissioners may, after due inquiry, determine from time to time which of such owners or occupiers shall be deemed to be so entitled or bound.

**540. Commissioners, municipal officers, etc., to be deemed public servants :-**

Every Commissioner, every municipal officer and servant, every person employed for the collection of any municipal rate, tax, or fee and every person authorized by the Chairman or the Commissioners at a meeting or otherwise to do any act under this Act or any rule or by-law made thereunder shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code ; and in the definition of legal remuneration in section 161 of that Code, the word Government shall, for the purposes of this section, be deemed to include a body of Municipal Commissioners.

**541. Prohibition of obstruction of municipal contractors. :-**

No person shall obstruct or molest any person (not being a person referred to in section 540) with whom the Commissioners have entered into a contract, in the performance or execution by such person of his duty or of anything which he is empowered or required to do by virtue, or in consequence of this Act or any rule or by-law made thereunder.

**542. Prohibition of removal of mark :-**

No person shall without the permission of the Commissioners remove any boundary mark set up under the provisions of this Act or any mark set up for the purpose of indicating any level, measurement or direction necessary to the execution of works authorized by this Act or by any rule or by-law made thereunder.

**543. Chaukidari Chakran lands :-**

Notwithstanding anything contained in section 3 of the Village Chaukidari Act, 1870, the provisions of Part II of the said Act, relating to chaukidari chakran lands, shall be applicable to all such lands which have been assigned before the commencement of the said Act for the benefit of any part of a municipality, and all duties and functions which the panchayat of a village or any member thereof is required to discharge under the provisions of the said Part shall be discharged, and all powers which the panchayat of a

village or any member thereof is authorized to exercise under the said Part shall be exercised by the Commissioners of such municipality, and the proceeds of the assessment on such lands made under the said Part shall be paid into the Municipal Fund; and shall be available for the purposes of such fund.

**543A. Power of State Government to proceed without consideration of views of the Commissioners at a meeting in case of default :-**

**1** . Whenever it is provided under this Act that the State Government may take action after considering the views of the Commissioners at a meeting, or shall not take action except after considering such views, if the Commissioners at a meeting fail to furnish the State Government with their views within such time or such extended time as the State Government may fix in that behalf, the State Government may proceed to take action in each case as if it were bound to take action after considering the views of the Commissioners as aforesaid.

1. Sec. 543A ins. by W.B. Act 27 of 1955.

**CHAPTER 27**

Delegation.

**544. Delegation of powers by the State Government :-**

The [State Government] may, with regard to municipalities generally or to any municipality or class of municipalities and subject to such conditions or restrictions as it may deem fit to impose, by notification delegate to the [District Magistrate] [or the Chief Executive Officer of the Council] any of the powers vested in [State Government] by this Act, except any power to make rules and the powers conferred by sections 6, 8, 13, 15, [285,548,549] 552 and 553.

**544A. Director of Local Bodies :-**

**1.** -

(1) The State Government may <sup>2</sup>\* \* \* \* appoint a Director of Local Bodies <sup>3</sup>[and vest him with] the powers conferred on or delegated under this Act to the <sup>4</sup>[District Magistrate] <sup>5</sup>[ , excluding the powers, if any, so conferred or delegated to the Chief Executive Officer of the Council,] and upon such <sup>6</sup>[vesting] the <sup>7</sup>[District Magistrate] shall cease to exercise the said powers.

(2) When the Director mentioned in sub-section (1) is appointed,

the State Government may delegate to him any of the powers vested in the State Government as provided for in section 544<sup>8</sup>[,excluding the powers, if any, vested in the Chief Executive Officer of the Council under this section,] as if he were the<sup>4</sup> [District Magistrate].

1. Secs.544A and 544B Ins. by W.B. Act 27 of 1955.
2. Words "If it thinks fit," om. by W.B. Act 51 of 1980.
3. Words subs. for the words "to exercise" by W.B. Act 10 of 1982.
4. Words subs. for the words "Commissioner of the Division" by W.B. Act 51 of 1980.
5. Words ins. by W.B. Act 17 of 1988.
6. Words subs. for the word "appointment" by W.B. Act 10 of 1982.
7. Words subs. for the word "Commissioner" by W.B. Act 51 of 1980.
8. Words ins. by W.B. Act 17 of 1988.

**544B. Inspector of Local Bodies :-**

<sup>1</sup>. The State Government 26\* \*\*\*\*\* may, by notification, appoint one or more<sup>2</sup> [Deputy Director or Assistant Director] of Local Bodies to exercise such of the powers and perform such of the functions referred to in sub-section (1) of section 545 as may be prescribed from time to time.

1. Secs.544A and 544B Ins. by W.B. Act 27 of 1955.
2. Words subs. for the words "Inspector or Inspectors" by W.B. Act 51 of 1980.

**545. Supervision by Commissioner, District Magistrate, etc**

**:-**

**1**

(1)<sup>2</sup>[<sup>3</sup>(Notwithstanding anything contained elsewhere in this Act, the Director of Local Bodies] or within the limits of his district or subdivision, <sup>4</sup>(excluding the hill areas,) the District Magistrate or the Magistrate in charge of a subdivision, as the case may be, when he is not a member of the municipality, <sup>5</sup>(or the Chief Executive Officer of the Council within the limits of the hill areas), may, ]

(a) inspect or cause to be inspected, any immovable property used or occupied by the Commissioners or any work in progress under the direction of the Commissioners or of a joint committee ;

<sup>6</sup>(b) inspect or examine any department of a municipality or any officer, service, work or thing under the control of the Commissioners or of such Committee ;

(c)<sup>7</sup>for the purpose of inspection or examination, require the Commissioners or such Committee

(i) to produce any book, record, correspondence, plan or other document,

(ii) to furnish any return, plan, estimate, statement, accounts or statistics, or

(iii) to furnish or obtain any report ;

(d) record in writing for the consideration of the Commissioners or of such Committee, any observations he thinks proper in regard to the proceedings or duties of the Commissioners or the Committee.

(2)<sup>8</sup> When a requisition is made under clause (c) of sub-section (1), the Commissioners or the Committee, as the case may be, shall comply with such requisition.

1. Sec. 545 remembered as sub-sec.(1) and sub-sec.(2) ins. by W.B. Act 27 of 1955.

2. Portion of words subs. for the words by W.B. Act 51 of 1980. which were as under: "The Commissioner of the Division or the District Magistrate or the Magistrate in charge of a subdivision when he is not a member of the municipality, within the limits of his division or district or subdivision, as the case may be, or a Magistrate of the first class authorised in writing by any one of them, may-".

3. Words subs. for the words The Director of Local Bodies by W.B. Act 10 of 1982.

4. Words ins. by W.B. Act 17 of 1988.

5. Words ins. by W.B. Act 17 of 1988.

6. Clause (b) subs. by W. B. Act 27 of 1955 which was earlier as under : "(b) by order in writing call for and inspect a book or document in the possession or under the control of the Commissioners or of such committee ;"

7. Clause (c) subs. by W. B. Act 27 of 1955 which was earlier as under : "(c) by order in writing require the Commissioners of such committee to furnish such statements, accounts, reports or copies of documents, relating to the proceedings or duties of the Commissioners or the committee, as he thinks fit to call for:".

8. Sec. 545 renumbered as sub-sec. (1) and sub-sec.(2) ins. by W.B. Act 27 of 1955.

#### **545A. Power of the State Government to call for documents, returns or information from the Commissioners**

:-

**1** . The State Government may at any time-



(a) call for any document in the possession or under the control of the Commissioners ;

(b) require the Commissioners to furnish any return, plan, estimate, statement, account or statistics ;

(c) require the Commissioners to furnish any information or report on any municipal matter.

1. Sec. 545A ins. by W.B. Act 27 of 1955.

**546. Inspection of municipal works and institutions by Government officers :-**

A work, or institution, constructed or maintained, in whole or part, at the expense of the Commissioners and all registers, books, accounts or other documents relating thereto shall, at all times, be open to inspection by such officers as the <sup>1</sup> [State Government] may appoint in this behalf.

1. Words "Provincial Government" first subs. for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and, thereafter, the word "State" subs. for the word "Provincial" by the Adaptation of Laws Order, 1950.

**547. Right of certain officers to attend and speak at meetings :-**

The Chief Engineer, Public Health Department, the Director of Public Health or Deputy or Assistant Director of Public Health, the Civil Surgeon of the district, the Executive Engineer, the Inspector of Schools, and any other officer specially authorised by the <sup>1</sup> [State Government] in this behalf shall be entitled to attend a meeting of the Commissioners to address the Commissioners on any matter affecting their respective departments.

1. Words "Provincial Government" first subs. for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and, thereafter, the word "State" subs. for the word "Provincial" by the Adaptation of Laws Order, 1950.

**548. Power to suspend action under Act :-**

**1**

(1) The State Government may, after giving the Commissioners a reasonable opportunity of being heard,

Provided that pending the hearing to be given to the Commissioners the State Government may suspend the operation of such proceeding or resolution.

<sup>2</sup>(2) The District Magistrate may, by order in writing, suspend within the limits of the district the execution of any resolution or order of the Commissioners, or prohibit the doing within these limits of any act which is about to be done, or is being done, in pursuance of, or under cover of, this Act or any rule or by-law made thereunder, if, in his opinion, the resolution, order or act is in excess of the powers conferred by law.

(3) When the <sup>3</sup>\*\*\*\*\* the District Magistrate makes any order under this section, he shall forthwith forward a copy thereof, with a statement of his reason for making it, to the <sup>4</sup>[State Government], <sup>5</sup> [who may, after giving the Commissioners a reasonable opportunity of being heard, rescind] the order or direct that it continue in force with or without modification, permanently or for such period as it thinks fit.

1. Sub-sec. (1)subs. by W. B. Act 51 of 1980 which was earlier as under : "(1)The State Government may by order in writing annul any proceeding which it considers not to be in conformity with law and with the rules in force thereunder and may do all things necessary to secure such conformity, or may suspend any resolution which it considers 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 or persons."

2. Sub-sec. (2) subs. by W. B. Act 51 of 1980 which was earlier as under : - "(2) The Commissioner of the Division or the District Magistrate 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 the Commissioners, 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 or any rule or by-law made thereunder, 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 serous breach of the peace. or to cause serious injury or annoyance to the public, or to any class or body of persons."

3. Words "the Commissioner of the Division or" om. by W. B. Act 51 of 1980.

4. Words "Provincial Government" first subs. for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and, thereafter, the word "State" subs. for the word "Provincial" by the Adaptation of Laws Order, 1950.

5. Words subs. for the words "who may thereupon rescind" by W. B. Act 51 of 1980.

#### **549. Powers of State Government in case of default :-**

(1) If at any time it appears to the <sup>1</sup>[State Government], that the

Commissioners have made default in performing any duty imposed on them by or under this or any other Act, the <sup>1</sup>[State Government] may, by an order in writing, fix a time for the performance of that duty.

(2) If such duty is not performed within the time fixed, the <sup>1</sup> [State Government] may appoint the District Magistrate to perform it, and may direct that the expense of performing it shall be paid, within such time as it may fix, to the Magistrate from the Municipal Fund.

1. Words "Provincial Government" first subs. for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and, thereafter, the word "State" subs. for the word "Provincial" by the Adaptation of Laws Order, 1950.

#### **550. . :-**

**1 \*\*\*\*\***

1. Sec. 550 om. by W. B. Act 51 of 1980 which was under :

#### **551. Power to District Magistrate to direct payment of expenses from Municipal Fund :-**

If the expense is not paid under sub-section (2) of section 549 <sup>1</sup> \*\*\*\*\* the District Magistrate, with the previous sanction of the 50[State 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 payable from the balance, in priority to any other charges against the same and such person shall pay accordingly.

1. Words and figures "or under sub-section (3) of section 550" om. by W.B. Act 51 of 1980.

#### **552. Power to dissolve body of Commissioners :-**

If, in the opinion of the <sup>1</sup>[State Government], the Commissioners have shown their incompetency to perform or have persistently made default in the performance of the duties imposed on them by or under this Act or by any other law, or have exceeded or abused their powers, the <sup>1</sup>[State Government] may, by an order published, with the reasons for making it, in the <sup>3</sup>[Official Gazette], direct that a fresh general election shall be held <sup>4</sup>\*\*\*\*\* immediately of persons to be Commissioners; and from the date <sup>5</sup> [of the first meeting of the newly formed body of Commissioners at which a quorum is present], the former Commissioners shall, unless they are re-elected or re-appointed 55[for the purpose of section 26],

vacate their offices:

Provided that the tenure of office of the Chairman of the outgoing body of Commissioners shall continue until that office is vacated in the manner provided by section 59.

1. Words "Provincial Government" first subs. for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937 and, thereafter, the word "State" subs. for the word "Provincial" by the Adaptation of Laws Order, 1950.

3. Words subs. for the word "Calcutta Gazette" by the Government of India (Adaptation of Indian Laws) Order, 1937.

4. Words "and fresh appointment shall be made "om. by W.B. Act 11 of 1947.

5. Words subs. for the words, figures and brackets "on which the results of such new election and appointment of Commissioners under section 26 [if any) are published in accordance with the provisions of section 50" by W. B. Act 51 of 1980.

**553. Power to supersede Commissioners in certain cases :-**

**1.** Notwithstanding anything contained in section 552, if, in the opinion of the State Government, there has been misappropriation of municipal fund on account of the incompetency of the Commissioners to perform, or their persistent default in the performance of, the duties imposed on them by or under this Act or by any other law, or where more than two-thirds of the total number of Commissioners holding office for the time being have, for any reason, resigned, or where, in the opinion of the State Government there is mismanagement in the affairs of the municipality, the State Government may, by an order published with reasons for making it, in the Official Gazette, supersede the Commissioners for a period to be specified in the order :

**2** Provided that such supersession shall not at the first instance be made for a period of more than one year, and such period may subsequently be extended for reasons to be recorded in writing by a period not exceeding six months.

1. Sec. 553 subs. by W. B. Act 51 of 1980 which was earlier as under: "553. Power to supersede Commissioners in case of incompetency, default or abuse of powers'. (1) If, in the opinion of the State of Government, the Commissioners have shown their incompetency to perform, or have persistently made default in the performance of the duties imposed on them by or under this Act or by any other law, or have exceeded or abused their powers, the State Government may. by an order published with the reasons for making it. In the Official Gazette, declare such Commissioners to be

incompetent, or in default, or to have exceeded or abused their powers, as the case may be, and supersede them for a period to be specified in the order : Provided that except in case of misappropriation of municipal funds or persistent default in the performance of duties by the Commissioners the State Government shall not ordinarily exercise power under this section until action has been taken under section 552. (2) The State Government may, if it considers it necessary so to do. by order extend or modify, the period of supersession."

2. Proviso ins. by W. B. Act 10 of 1982.

**554. Consequences of supersession of the body of Commissioners or of failure to assume office or of setting aside of election :-**

**12** [When an order of supersession has been passed under section 553, then with effect from the date of the order]

(aa) all the commissioner shall, as from the date of the order, vacate their offices as such commissioners'

(bb) all the powers and duties which may, under the provisions of this Act or any other Act or any Ordinance or any Regulation or any rule, by-law, order, notification or subsidiary legislation made under the provisions of this Act or such Regulation, be exercised and performed by the Chairman and by the Commissioners whether at a meeting or otherwise, shall be exercised and performed 80[, subject to such directions as the State Government may issue from time to time,] by such person or persons as the State Government may direct:

Provided that when the State Government directs more than one person to exercise any powers and perform any duties it may, by order, allocate such powers and duties among the several persons appointed in such manner as it thinks fit:

Provided further that the State Government shall fix the remuneration of such person or persons, and may direct that such remuneration shall, in each case, be paid from the Municipal Fund;

(cc) all property vested in such Commissioners shall vest in the State Government.

(2) The State Government may-, at any time,-

(a) by order reconstitute the body of municipal Commissioners by appointment of all Commissioners for such period as may be specified in the order, or

(b) order the holding of a general election for reconstitution of the body of municipal Commissioners, and on such reconstitution the provisions of sub-section (1) will cease to have effect with effect from the date of the first meeting of the newly appointed or elected Commissioners, as the case may be, at which a quorum is present.

1. Sec. 554 subs. by W. B. Act 18 of 1961, which was earlier as under : "554. Consequence of supersession. ; (1) When an order of supersession has been passed under section 553, the following consequences shall ensure : (a) all the Commissioners shall, as from the date of the order, vacate their offices as such Commissioners : (b) all the powers and duties which may, under the provisions of this Act or any rule or by-law made thereunder, be exercised and performed by the Chairman and by the Commissioners whether at a meeting or otherwise, shall, during the period of supersession, be exercised and performed by such person or persons as the Local Government may direct; (c) all property vested in such Commissioners shall, during the period of supersession, vest in the Government. (2) On the expiration of the period of supersession specified in the order, Local Government may- (i) extend the period of supersession for such further term as it may consider necessary, or (ii) reconstitute the Commissioners of the municipality by a fresh general election and fresh appointment and the persons who vacated their offices under clause (a) of sub-section (1) shall not be deemed disqualified for election or appointment, or (iii) reconstitute the Commissioners of the municipality by appointment only for such period as it may consider necessary and the persons who vacated their offices under clause (a) sub-section (1) shall not be deemed disqualified for appointment: Provided that the Local Government may, if circumstances permit, at any time before the expiration of the period of supersession take action either under clause (ii) of clause (iii) of this sub-section."

2. Portion of words and figures subs. for the portion of words, figures, letters and brackets by W. B. Act 51 of 1980 which was as under : "When an order of supersession has been passed under section 553. then with effect from the date of the order, or (ii) when (a) the Commissioners elected at a general election cannot, for any reason, assume office or are restrained by order of a Court from functioning, or (b) a general election is set aside by a Court otherwise than under the provisions of this Act. then with effect from such date as the State Government may, by order, specify. "

### **555. Withdrawal of sections expressly extended by the State Government :-**

Where specific provision is made in any section of this Act for its being extended by the 6I[State Government] to any municipality, the 61IState Government] may, at any time, by order, withdraw any section it may thus have extended to any municipality from

operation in such municipality, and such section shall cease to have effect in the said municipality from the date of the order.

**556. Disputes :-**

If any dispute arising out of the operation of this Act for the decision of which this Act does not otherwise provide arises between the Commissioners of any municipality constituted, under this Act, and any other local authority, such dispute shall be referred to the 61[State Government] whose decision shall be final and shall not be questioned in any court.

**557. Power to State Government to make rules for the amendment of certain schedules :-**

(1) The [State Government] may by rules alter, add to, or cancel any rule or parts thereof or may by notification alter, add, or cancel any entry contained, in 62[Schedules III, IIIA,IV, IVA,] VII, VIII and IX to this Act.

(2) All references in this Act to any schedule which may be amended under sub-section (1)63 \*\*\*\*\* shall be construed as references to such schedules as for the time being amended.

SCHEDULE 1  
SCHEDULE

<b>SCHEDULE I</b>
[Enactments repealed.].-Rep. By Ben. Act 1 of 1939.

SCHEDULE 2  
SCHEDULE

<b>SCHEDULE II</b>
Om. by W. B. Act 11 of 1947.

SCHEDULE 3  
Tax an carriages and on horses and other animals

<b>SCHEDULE III</b>	
(See sections 123, 168, 169, 171. 172 and 557.)	
<b>Tax an carriages and on horses and other animals.</b>	
	Per half-year
	Rs.

(1)	On every Jin-rickshaw.	4.00
(2)	On every 4-wheeled carriage drawn by two horses	10.00
(3)	On every 4-wheeled carriage drawn by one horse or a pair of ponies under thirteen hands	6.00
(4)	On every 2-wheeled carriage	5.00
(5)	On every horse	5.00
(6)	On every pony under thirteen hands and on every mule and donkey	3.00
(7)	On every elephant	15.00
(8)	On every camel	6.00
(9)	On every 4-wheeled carriage drawn by one pony under thirteen hands	6.00
(10)	On every cycle-rickshaw	6.00

### SCHEDULE 3A

Parts of plant or of combination of plant and machinery in certain cases not to be excluded in calculating the annual value of any holding

### **SCHEDULE IIIA**

[See section 128(3).]

**Parts of plant or of combination of plant and machinery in certain cases not to be excluded in calculating the annual value of any holding.**



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**SCHEDULE 4**  
**SCHEDULE**

**SCHEDULE IV.**

(See sections 182, 215 and 557.)

**Professions, trades and callings**

Serial No.	Classes
1	2
1.	Company or association or body of individuals which exercises any profession, trade or calling whatsoever for profit or as a benefit society, not being a registered co-operative society.
2.	Statutory Corporation set up by the Government for trading concerns sponsored by the Government and carrying on business for profit.
3.	Company, club, association or body of individuals, having no paid-up capital, which exercises any profession, trade or calling whatsoever for profit or as a benefit society, not being a registered co-operative society, merchant, banker, not being a registered co-operative society, money-lender, whole-sale trader, owner or occupier of a market, bazar or theatre or place of public entertainment, broker or dalal in jute, cotton, precious stones, landed property, country produce, silk or other merchandise, retail trader or shop-keeper, boarding-house-keeper, hotel-keeper, lodging-house-keeper, tea-stall-keeper, and eating-house-keeper.
4.	Commission agent, broker not included in serial number 3, architect, engineer, contractor, medical practitioner, dentist, barrister, and legal practitioner.
5.	Itinerant vendors hawking goods for sale.
6.	Any other trade, profession or calling not enumerated in serial numbers 1 to 5.

**SCHEDULE 4A**  
**SCHEDULE**

**SCHEDULE IVA**

(Sec section 182A)

**Tax on advertisements**

	Per month.	Per year
1. Advertisements on hoardings, walls or posts in the form of non-illuminate sky		Rs. 8.00 per 1 square metre of

	signs.		space.
2.	Advertisements on cloth hung across streets : or footpaths.	Re. 1 per running 30 centimetres.	
3.	Advertisements which are fixed to or against wall or outer face of a building.		Rs. 8.00 per 1 square metre of space.
4.	Advertisement suspended over or across street.		Rs. 8.00 per 1 square metre of space.
5.	Advertisement on hoarding, standing blank but bearing the name of the advertiser or with the announcement To be let" displayed thereon.	50 paise per square metre of space.	
6.	Advertisement board carried on vehicles (or advertisement displayed on the body of the vehicles).		Rs. 8.00 per 1 square metre of space.
7.	Advertisements boards carried by sandwich boardmen.	Re. 1 per board.	
8.	Advertisements exhibited on screens by mean of latern of similar devices.		Rs. 20.00 per 1 square metre of space.
9.	Posters on walls or hoardings.	20 paise each.	
10.	Fly-posters or hand-posters.	1 paise each.	

#### SCHEDULE 5

#### SCHEDULE

omited
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#### SCHEDULE 6

Rules as to the use of building-sites and the execution of building work.

#### SCHEDULE 7

Rules for the construction, etc., of private roads and bridges

<p><b>SCHEDULE VII</b></p> <p>(See sections 474, 477 and 557.)</p> <p><b>Rules for the construction, etc., of private roads and bridges.</b></p> <p>Part I-Roads.</p> <p><b>1. Application for permission to construct, reconstruct, or alter a private road.</b>-(1) Every application for permission to construct, re-construct or alter a private road other than a foot-path must be accompanied by-</p>
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- (a) a plan of the road, showing cross-sections,
- (b) type-drawings of all bridges to be provided or already provided for the road, and
- (c) a description of the provision which it is intended to make or which already exists in respect of retaining walls and revetments (if any) and drainage.

(2) Every application for permission to construct, re-construct or alter a private foot-path must be accompanied by a full description of the path.

**2. Slope.**-(1) A private road must be so constructed as to have a slope; inwards towards the hillside.

(2) Such slope must be not less than the gradient of the road.

**3. Retaining walls and revetments.**(1) Whenever the Commissioners so direct, the outer edge of a private road must be protected by retaining-walls, and the inner-cutting by revetments.

(2) Such walls and revetments must be of such number and must be placed in such positions as the Commissioners may direct, and must be constructed in accordance with the rules contained in Schedule IX.

**4. Drain.**- A stone-lined-drain must be provided on the inner-side of a private road, where such side is not rock.

## Part II-Bridges,

**5. Application for permission to construct, re-construct or alter a private bridge,**Every application for permission to construct, re-construct or alter a private bridge must be accompanied by drawings of the bridge.

**6. Water-way.** A private bridge must be constructed so as to leave sufficient water-way to pass the maximum discharge of the channel spanned by the bridge.

**7. Slope of flooring tinder bridge.**The flooring placed in the bed of the

channel under a private bridge must, as far as practicable, be laid at the same slope as that of the channel.

**8. Pocket above bridge.**When a pocket for the deposit of debris is cut in the hillside above a private bridge, otherwise than a solid rock, such pocket must be lined with masonry walling.

**9. Substitution of gratings for culverts.**When a small drain is crossed by a private road, a wooden or iron grating

must, if the Commissioners so direct, be laid over the drain, instead of a covered culvert.

#### SCHEDULE 8

Rules for the construction, etc., of private drains

#### SCHEDULE VIII

(See sections 471, 482 and 557.)

#### **Rules for the construction, etc., of private drains.**

**1. Construction of drains for sullage water.** Drains for sullage water shall be constructed with half or one-third glazed earthenware tile inverts and cement sides.

**2. Construction of drains for surface water.** (1) Drains for surface water only may be constructed either of dry rubble masonry or of any other material approved by the Commissioners, and may be either rectangular or U-shaped or V-shaped in section.

(2) Such drains shall not be connected with any drain carrying sullage water or sewage.

**3. Drains to be open.** Except with the written permission of the Commissioners no covered drain shall be constructed and no open drain shall be covered in.

**4. Sectional area.** The sectional area of every drain shall be subject to the approval of the Commissioners,

**5. Discharge.**-(1) Drains must discharge into the nearest water-channel or public drain, unless in any case the Commissioners otherwise direct,

(2) The outfall of a drain into a water-channel or public drain must be protected and guided in such manner as the Commissioners may direct.

(3) Where the drain of a private road joins the drain of a public road, the former drain must be so directed or so protected by strike-boards as to minimize the risk of damage to the public drain or road.

**6. Drain round masonry framed building.**-A masonry drain must be placed round every masonry or framed building or block of such buildings, and the site must be sloped from all sides towards such drain.

#### SCHEDULE 9

Rules as to revetting, turfing and sloping

#### SCHEDULE IX

(See sections 492 and 557.)

### **Rules as to revetting, turfing and sloping.**

#### **Part 1. Revetments, Retaining-walls and Toe-walls.**

**1. Foundation and bed-line.**-(1) The foundation of every revetment, retaining-wall or toe-wall must be taken down to original and firm soil or rock; and the bed-line must be cut at right angles with the face of the revetment or wall.

(2) The building of any revetment, retaining-wall or toe-wall shall not be commenced until the foundation and bed-line have been inspected and approved by the Commissioners.

**2. Materials.**-(1) A revetment, retaining-wall or toe-wall may be made of dry rubble masonry but must, in any case in which the Commissioners so direct, be made of lime masonry.

(2) No stone used shall be of greater height than its length or breadth.

**3. Laying of stones.**All stones used must be laid on their natural beds, and must be arranged so as to break joint as far as may be possible.

**4. Bonding.**-(1) One through bonding-stone or line of bonding-stones must be inserted at intervals of five feet in each course, and at points intermediate between the corresponding bonding-stones of the course below.

(2) Any of the bonding-stones which do not extend right through the wall must overlap each other for one-third of their length.

**5. Solidity.**Every revetment, retaining-wall or toe-wall must be built up solid to full section and spawls or chips shall not be used for filling the courses unless their use is unavoidable.

**6. Weep-holes.**Weep-holes must be provided at Intervals of 6[1.22 metres] horizontally and 6[1.22 metres] vertically, beginning with the course immediately above ground level.

**7. Sections.**-(1) Where a revetment, retaining-wall or toe-wall does not exceed 7[6.10 metres] in height and is not surcharged, the mean thickness of the revetment or wall above the footings shall not be less than one-third of the vertical height of the revetment or wall, measured from the top of the footings:

Provided that the width at the top shall in no case be less than 8[45.72 centimeters] and need not in any case exceed 9[1.07 metres].

(2) Where a revetment, retaining-wall or toe-wall does not

exceed 7[6.10 metres] in height and is surcharged, sub-rule (1) shall apply, the height being assumed for the purposes of that sub-rule to be one-and-a-half times the vertical height.

(3) Where a revetment or retaining-wall exceeds 7[6.10 metres] in height, detailed designs must be submitted to the Commissioners, and the sections must be such as the Commissioners may approve.

Part II-Sloping.

**8. Angle.**-When, in pursuance of any requisition or direction made or given by the Commissioners, any slope is to be reduced, the angle to which the slope is reduced shall not be greater than 37.