

CALCUTTA SUBURBAN POLICE ACT, 1866

2 of 1866

[21st March, 1866]

CONTENTS

1. Suburbs may be excluded from general police-district
2. Police for suburbs
3. Police to be under control of Commissioner of Police, Calcutta
- 3A. Power of State Government to frame rules
- 3B. Appointment, dismissal and punishment of subordinate ranks of the Police-force
- 3 C . Validity of appointment, dismissal and punishment of subordinate ranks in certain cases
- 4 . Suspension or dismissal or other punishment of subordinate ranks of police force by Commissioner
- 4A. Duties of Police-officers
5. Commissioner may fine for lesser breaches of discipline
6. Additional penalties for neglect of duty, etc
7. Police not to resign without notice
8. On enrolment, Police-officer to receive certificate
- 8A . Member of subordinate ranks of the police-force prohibited from other employment
- 8B. Offences by Police-officers
- 8C . Vexatious entry, search, seizure, arrest, detention, etc., by Police-officers
- 8D. False statement to obtain employment or release
9. Penalty for dismissed members not delivering up clothing, etc
10. Superannuation Fund
11. Disposal of proceeds of certain fines, etc
12. Appointment of special constables
13. Powers of special constables
14. Penalty for special constable neglecting or refusing to serve, etc
- 14A. Special police officers and Traffic Wardens
15. Appointment of additional Police-officer on application of private persons
- 15A. Constitution of divisions and sections
- 15B. Wrongfully entering or remaining in or on building, land, vehicle, etc
16. Apprehension and punishment of reputed thieves, etc
17. Power to order discontinuance of use of house, room or place as brothel, disorderly house or place of assignation in certain cases
- 17A. Penalty for breach of order. Rep

17B. Power of owner or lessor to determine lease or tenancy
17C. Power to order discontinuance of music in certain cases
17D. Power to prohibit, restrict, regulate or impose conditions on the use of microphones, etc
18. Penalty for keeping hotel, etc., without license
19. Excise license not to be granted without certificate of Commissioner of Police
20. Duration and condition of license
21. Penalty for keeping up signboard or notice after expiry of license
22. Commissioner may grant license for places for which no licenses are required under the Bengal Excise Act, 1909
23. Penalty for breach of condition of license
24. Fees for certificates, licenses and passes
25. Penalty for owning or keeping, or having charge of common gaming-house, etc.
26. Penalty for owning or keeping, or having charge of common gaming-house, etc.
27. Penalty for owning or keeping, or having charge of common gaming-house, etc.
28. Penalty for owning or keeping, or having charge of common gaming-house, etc.
29. Penalty for owning or keeping, or having charge of common gaming-house, etc.
30. Penalty for owning or keeping, or having charge of common gaming-house, etc.
31. Portion of fine may be paid to informer
32. Gambling in the streets
33. Pawn-brokers and money-changers to report stolen property under penalty for neglect
33A. Possession of or dealing with thing stolen or fraudulently obtained
34. Manufacture or possession of gunpowder
35. Licenses by Commissioner for sale and deposit of gunpowder, etc
36. Licenses for conveying and removing gunpowder
37. Commissioner may issue warrant to search for explosive substance
38. Act not to apply to explosive substances belonging to the Government
38A. Power of Commissioner to prohibit the use or the driving of certain types of vehicles in streets or public places
39. Power of Commissioner to make rules for regulation of traffic, etc
39A. Power of Commissioner and other officers to give directions to the public
39B. Enforcement of orders issued under the last foregoing section
39C. Power to give directions to prevent disorder at places of public amusements, etc
39CC. Prohibition of sale at a higher price of tickets once issued for

admission to an entertainment

39D. Power of Commissioner to cause reports to be taken of the Proceedings of public meeting

40. Penalty for committing in public streets offences

40A. Refugees for reception of certain classes of convicted beggars

41. Penalty for drunkenness, riotous or indecent behaviour in public

41A. Penalty for solicitation in a public place

42. Stray dogs

42A. Restrictions as to bringing, keeping or possessing dangerous animals

43. Power to arrest without warrant

43A. Arrest without warrant for solicitation

44. Arrest of person committing offence with respect to person or property of another

45. Persons taken into custody by Police-officer without warrant may be detained in police-station until brought before Magistrate or bailed

46. Power to take recognizance at police-station

47. Condition of recognizance

47A. Power of Commissioner of Police to require attendance and obtain statements of witnesses

47B. Power to search for persons wrongfully confined

47C. Procedure in making searches

48. Recovery and appropriation of fines

48A. Police to take charge of unclaimed movable property

48B. Disposal of such property

49. Powers of Joint and other Magistrates

49A. Public notice how to be given

49B. Consent etc., of Commissioner of Police or Police-officer how to be proved

49C. Stamping of signature

50. Powers of Deputy Commissioner

51. Interpretation

52. Act 21 of 1857 repealed in suburbs

SCHEDULE 1 :- SCHEDULE OF FEES

CALCUTTA SUBURBAN POLICE ACT, 1866

2 of 1866

[21st March, 1866]

An Act to provide for the better regulation of the police within the suburbs of the town of Calcutta. Preamble. WHEREAS it is expedient to exclude the suburbs of the town of Calcutta from the general police-district of Bengal, and to make provision for the better regulation of the police within the limits so excluded; It is enacted as follows:

1. Suburbs may be excluded from general police-district :-

It shall be lawful for the ¹[State Government] of ²[West Bengal] to exclude the suburbs of the town of Calcutta, or any portion thereof, from the general police-district of the ³[States] subject to ⁴[its] control; and the limits of the tract of country so excluded shall be defined in a notification to be published in the ⁴ [Official Gazette], and the operation of this Act shall be confined to such limits:

Provided that it shall be lawful for the said

1

1. Words subs. by the Government of India (Adaptation of Indian Laws) Order, 1937 and the Adaptation of Laws Order, 1950, respectively.

2. Subs. by the India (Adaptation of Existing Indian Laws) Order, 1947.

3. Word subs.by the Adaptation of Laws Order, 1950.

4. Subs. by the Government of India (Adaptation of Indian Laws) Order, 1937.

2. Police for suburbs :-

For the suburbs of the town of Calcutta as defined as aforesaid there shall be a police-force, which shall consist of such number of officers ¹* *, and shall be otherwise constituted in such manner, as shall be from time to time ordered by the ² [State Government] of [West Bengal].

1. Words repealed by Ben. Act 3 of 1910.

2. Subs. by the Government of India (Adaptation of Indian Laws) Order, 1937 and the Adaptation of Laws Order. 1950.

3. Police to be under control of Commissioner of Police, Calcutta :-

The police-force of the suburbs of the town of Calcutta shall be under the exclusive direction and control of the Commissioner of Police for the town of Calcutta, who may from time to time, subject to the ¹[control] of the said ² [State Government], frame such orders and regulations as he shall deem expedient relative to the general Government of the force, the places of residence, the classification, rank, distribution and particular service of the several members thereof, their inspection, and the description of arms, accoutrements and other necessities to be furnished to them, and all such other orders and regulations relative to the said police-force as the said Commissioner shall from time to time deem expedient for preventing neglect or abuse, and for rendering such

force efficient in the discharge of all its duties.

1. Word subs. by Ben. Act 7 of 1919.

2. Subs. by the Government of India (Adaptation of Indian Laws) Order, 1937 and the Adaptation of Laws Order. 1950.

3A. Power of State Government to frame rules :-

(1)¹ Subject to the provisions of this Act, the State Government may make rules relating to recruitment, conditions of service, disciplinary proceedings and punishments, in respect of members of the subordinate ranks of the Police-force.

(2) Any rules, orders or regulations made before the commencement of the Calcutta and Suburban Police (Amendment) Act, 1962 by any authority in respect of the aforesaid matters shall, in so far as they are not inconsistent with the provisions of this Act, be deemed to have been validly made and shall continue in force until other provisions are made in this behalf.

1. Sec. 3A ins. by W.B. Act 15 of 1962.

3B. Appointment, dismissal and punishment of subordinate ranks of the Police-force :-

1

(1) Subject to such rules as the State Government may make in this behalf, the Commissioner of Police shall have the power to appoint all members of the subordinate ranks of the Police-force:

Provided that the Commissioner of Police may, with the approval of the State Government, delegate such power of appointment in respect of all subordinate ranks of the Police-force except Inspectors,² [to any Additional, Joint, Deputy, Additional Deputy or Assistant Commissioner of Police] appointed under section 5 of the Calcutta Police Act, 1866.

(2) Subject to the provisions of sections 4 and 5, the appointing authority or an officer not lower in rank than the appointing authority, shall be competent to inflict all punishments on the members of the subordinate ranks of the Police-force in disciplinary cases.

1. See. 3B ins. by W. B. Act 15 of 1962.

2. Words subs. by W. B. Act 27 of 1969.

3C. Validity of appointment, dismissal and punishment of subordinate ranks in certain cases :-

10 Notwithstanding anything contained elsewhere in this Act or any decision of any court to the contrary, all appointments made by the Commissioner of Police or any other authority subordinate to him, all orders of dismissal or removal from office passed by any such appointing authority or other authority not subordinate to such appointing authority and all orders inflicting any other punishment passed by any authority, before the commencement of the Calcutta and Suburban Police (Amendment) Act, 1962, in respect of members of the subordinate ranks of the Police-force shall be deemed to be and to have always been validly passed as if the said Act were in force when such appointments were made or such orders were passed.

4. Suspension or dismissal or other punishment of subordinate ranks of police force by Commissioner :-

12

(1) The Commissioner of Police may, at any time, suspend or dismiss ³[or inflict any other punishment on] any member of the subordinate ranks of the police force whom he shall think remiss or negligent in the discharge of his duty or otherwise unfit for the same.

(2)⁴ A Police-officer shall not by reason of being suspended from office cease to be a Police-officer. During the term of such suspension the power, privileges and duties conferred or imposed upon him as a Police-officer shall be in abeyance, but he shall continue subject to the same responsibilities, discipline and penalties, and to the same authorities, as if he had not been suspended.

1. Sec. 4 renumbered as sub-sec. (1) by Ben. Act 7 of 1919.

2. Sub-sec. (1) subs. by the Government of India (Adaptation of Indian Laws) Order, 1937.

3. Words ins. by W.B. Act 15 of 1962.

4. Sub-sec. (2) ins by Ben. Act 7 of 1919.

4A. Duties of Police-officers :-

¹ (1) It shall be the duty of every Police-officer

(a) promptly to serve every summons and obey and execute every warrant or other order lawfully issued to him by competent authority, and to endeavour by all lawful means to give effect to the lawful commands of his superiors;

(b) to the best of his ability, to obtain intelligence concerning the

commission of cognizable offences, or designs to commit such offences, and to lay such information and to take such other steps, consistent with law and with the orders of his superiors, as are best calculated to bring offenders to justice or to prevent the commission of cognizable offences, or the commission of non-cognizable offences, within his view;

(c) to the best of his ability, to prevent the commission of public nuisances;

(d) to apprehend all persons whom he is legally authorised to apprehend, and for whose apprehension there is sufficient reason;

(e) to aid any other Police-officer, when called on by him or in case of need in the discharge of his duty, in such ways as would be lawful and reasonable on the part of the officer aided;

(f) to discharge such duties as are imposed upon him. by any law for the time being in force;

(g) to afford every assistance within his power to disabled or helpless persons in the streets, and to take charge of intoxicated persons

(h) to take prompt measures to procure necessary help for any person under arrest or in custody who is wounded or sick and, while guarding or conducting any such person to have due regard to his condition;

(i) to arrange for the proper sustenance and shelter of every person who is under arrest or in custody

;

(f) in conducting searches, to refrain from needless rudeness and the causing of unnecessary annoyance;

(k) in dealing with women and children, to act with strict regard to decency and with reasonable gentleness;

(l) to use his best endeavours

(i) to prevent any loss or damage by fire, and

(ii) to avert any accident or danger to the public;

(m) to regulate and control the traffic in the streets, to prevent obstruction therein, and to the best of his ability to prevent the

infraction of any rule or order made under this Act or under any other law for the time being in force for observance by the public in or near the streets;

(n) to keep order in the streets, and at and within public bathing, washing and landing places, fairs and all other places of public resort, and in the neighbourhood of places of public worship during the time of public worship;

(o) to regulate resort to public bathing, washing and landing places, to prevent overcrowding thereat and in public ferry-boats, and, to the best of his ability, to prevent the infraction of any rule or order lawfully made for observance by the public at any such place or any such boat; and

(p) to perform all duties imposed on him by rules for the time being in force under this Act, in the manner and subject to the conditions therein prescribed.

(2) All persons shall be bound to conform to the reasonable directions of a Police-officer given in fulfilment of any of the said duties.

(3) A Police-officer may restrain or remove any person resisting, or refusing to conform to, any such direction as aforesaid.

1. Sec. 4A ins. by Ben. Act 3 of 1910.

5. Commissioner may fine for lesser breaches of discipline :-

For any lesser breach of discipline or other misconduct not requiring the suspension or dismissal of the offender, a member ¹ [of the subordinate ranks of the police-force] may be fined by the Commissioner any sum not exceeding one-half of his monthly pay.

1. Words subs. by the Government of India (Adaptation of Indian Laws) Order, 1937.

6. Additional penalties for neglect of duty, etc :-

Rep. by Ben. Act 3 of 1910.

7. Police not to resign without notice :-

No member ¹ [of the subordinate ranks of the police-force] to be enrolled under this Act shall be at liberty to resign his office, or to withdraw himself from the duties thereof, unless expressly allowed so to do in writing by the Commissioner, or unless he shall have given to the Commissioner six months' notice of his intention if a

member of the mounted branch of the said force, and two months' notice if a member of any other branch; and every member of the said force who shall so resign or withdraw himself without such leave or notice shall be liable, on the order of the Commissioner, to forfeit all arrears of pay then due to him, and, on the sentence of a Magistrate, to pay a fine not exceeding fifty rupees, or to undergo imprisonment of either description for any term not exceeding two months.

1. Words subs. by the Government of India (Adaptation of Indian Laws) Order, 1937.

8. On enrolment, Police-officer to receive certificate :-

Every member of the police-force shall receive on his enrolment a certificate in the form hereunto annexed, under the signature of the Commissioner of Police, by virtue of which he shall be vested with the powers, functions and privileges of a Police-officer. Such certificate shall cease to have effect whenever the person named in it is suspended or dismissed, or otherwise removed from employment in the force.

8A. Member of subordinate ranks of the police-force prohibited from other employment :-

12 [A member of the subordinate ranks of the police-force] shall not, without the permission of the Commissioner of Police, either as principal or agent,

(a) engage in any trade, or

(b) be in any way concerned in the purchase or sale of any immovable property within the town or suburbs of Calcutta or of any interest therein, or

(c) hold any office or practise any profession or engage in any employment whatever other than his office or duties as such Police-officer.

1. Secs. 8A, 8B and 8C ins. by Ben. Act 3 of 1910.

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

8B. Offences by Police-officers :-

1 Any Police-officer who

(a) contravenes any provision of the last foregoing section, or

(b) is guilty of cowardice, or

(c) is guilty of any wilful breach or neglect of any provision of law or of any rule or order which it is his duty as such Police-officer to observe or obey, or

(d) is guilty of any violation of duty for which no punishment is expressly provided by any other law for the time being in force, shall be liable to imprisonment, with or without hard labour, for a term which may extend to three months, or to fine which may extend to one hundred rupees and which may be deducted from any salary due to him, or to both.

1. Secs. 8B. 8C and 8D inst. by Ben. Act 3 of 1910.

8C. Vexatious entry, search, seizure, arrest, detention, etc., by Police-officers :-

¹ Any Police-officer who

(a) without lawful authority or reasonable cause, enters or searches, or causes to be entered or searched, any building, vessel, tent or place, or

(b) vexatiously and unnecessarily seizes the property of any person, or

(c) vexatiously and unnecessarily detains, searches or arrests any person, or

(d) vexatiously and unnecessarily delays forwarding any person arrested to a Magistrate or to any other authority to whom he is legally bound to forward such person, or

(e) offers any unnecessary personal violence to any person in his custody, or

(f) holds out to an accused person any threat or promise not warranted by law, shall be liable to imprisonment, with or without hard labour, for a term which may extend to six months, or to fine which may extend to five hundred rupees, or to both.

1. Secs. 8B. 8C and 8D inst. by Ben. Act 3 of 1910.

8D. False statement to obtain employment or release :-

¹ Any person who knowingly makes a false statement or uses a false document, for the purpose of obtaining for himself or any other person employment or release from employment as a Police-officer, shall be liable to imprisonment, with or without hard labour, for a term which may extend to three months, or to fine which may

extend to one hundred rupees, or to both.

1. Secs. 8B. 8C and 8D inst. by Ben. Act 3 of 1910.

9. Penalty for dismissed members not delivering up clothing, etc :-

Every member of the police-force who shall be dismissed from or shall cease to hold and exercise his office, and who shall not forthwith deliver up his certificate, and all the clothing, accoutrements and appointments and other necessities which may have been supplied to him for the execution of his duty, to the Commissioner or to such person and at such time and place as shall be directed by the said Commissioner, shall be liable, on conviction before a Magistrate, to imprisonment of either description for any term not exceeding one month. And it shall be lawful for the Commissioner, or for any Magistrate, to issue his warrant to search for and seize all the clothing, accoutrements, appointments and other necessities which shall not be delivered over, wherever the same may be found.

10. Superannuation Fund :-

Rep. by Ben. Act 6 of 1905.

11. Disposal of proceeds of certain fines, etc :-

Rep. by Ben. Act 1 of 1890.

12. Appointment of special constables :-

The Commissioner of Police may, of his own authority, appoint ¹ [special constables] to assist on any temporary emergency.

1. Words subs. by W. B. Act 24 of 1955.

13. Powers of special constables :-

Every ¹ [special constable] so appointed shall have the same powers, privileges and protection, and shall be liable to perform the same duties, and shall be amenable to the same penalties, and be subordinate to the same authorities, as the ordinary officers of police.

1. Words subs. by W. B. Act 24 of 1955.

14. Penalty for special constable neglecting or refusing to serve, etc :-

If any person, being appointed a ¹ [special constable] as aforesaid, shall, without sufficient excuse, neglect or refuse to serve as such, or to obey such lawful order or direction as may be given to him for

the performance of his duties, he shall be liable, upon conviction before a Magistrate, to a fine not exceeding fifty rupees for every such neglect, refusal or disobedience.

1. Words subs. by W. B. Act 24 of 1955.

14A. Special police officers and Traffic Wardens :-

12

(1) Subject to the control of the State Government, the Commissioner of Police may raise a force of special police officers and a force of Traffic Wardens for the suburbs of the town of Calcutta and may also disband such a force without assigning any reason or serving any notice and without payment of any compensation or damages whatsoever to any member of the force.

(2) The strength of the forces of special police officers and Traffic Wardens shall be such as may be determined from time to time by the State Government.

(3) The Commissioner of Police shall be the appointing authority in respect of the special police officers and Traffic Wardens :

Provided that the Commissioner of Police may, in respect of special police officers and Traffic Wardens, belonging to such class or holding such rank as may be specified by him, delegate his power of appointment to any Additional, Joint, Deputy, Additional Deputy or Assistant Commissioner of Police authorised by him in this behalf.

(4) The Commissioner of Police may, with the previous approval of the State Government frame separate regulations for the special police officers and the Traffic Wardens relating to the following matters, namely:

(a) the method of recruitment and the form of certificate of appointment,

(b) classification and rank,

(c) uniform, equipment and badges,

(d) training, including attendance at drills and parades,

(e) allocation of duties and hours of duty,

(f) promotion, discipline and punishment, and

(g) all other terms and conditions of their service.

(5) A special police officer or a Traffic Warden appointed under this section shall, except in so far as it is not inconsistent with the other sub-sections of this section and any regulations framed under sub-section (4), have the same powers, privileges and protection and the same duties and shall be liable to the same penalties as ordinary officers of police.

(6) A special police officer or a Traffic Warden appointed under this section shall be a part-time officer who shall not be entitled to any remuneration for his services as such special police officer or Traffic Warden and whose appointment shall be liable to termination by the appointing authority any time after giving him one month's notice but without payment of any compensation or damages whatsoever.

1. Sec. 14A was first ins. by W. B. Act 24 of 1955. Later, it was subs. by W. B. Act 32 of 1974.

2. Sub-sec. (1) subs. by W. B. Act 43 of 1978.

15. Appointment of additional Police-officer on application of private persons :-

The ¹[State Government] may also, if ²[it] shall think fit, on the application of any person, showing the necessity of it, appoint any additional number of Police-offices to keep the peace at any place within the limits of the operation of this Act, at the charge of the person applying, but subject to the orders of the ³[Commissioner of Police], and for such time as ⁴[it] shall think fit; and every such Police-officer shall receive a certificate, by virtue of which he shall be vested with all the powers, privileges and duties of the Police-officers belonging to the ordinary force: Provided that the person upon whose application such appointment shall have been made may, upon giving one month's notice in writing to the Commissioner of Police, require that the Police-officers so appointed at his expense, shall be discontinued, and thereupon the ⁵[State Government] shall discontinue such additional Police-officers; and all moneys received ⁵[by the State Government] for the payment of any such additional Police-officers shall be accounted for by ⁴[it].

1. Words subs. by the Government of India (Adaptation of Indian Laws) Order, 1937 and the Adaptation of Laws Order, 1950, respectively.

2. Word subs. by the Government of India (Adaptation of Indian

Laws) Order, 1937.

3. Words subs. by the Government of India (Adaptation of Indian Laws) Order, 1937.

4. Words subs. by the Government of India (Adaptation of Indian Laws) Order, 1937.

5. Words subs. by the Government of India (Adaptation of Indian Laws) Order, 1937 and the Adaptation of Laws Order, 1950, respectively.

15A. Constitution of divisions and sections :-

1

(1) Subject to the control of the [State] Government, the Commissioner of Police shall, by order,

(a) constitute such and so many police divisions as he thinks fit, and

(b) sub-divide such divisions into such and so many sections as he thinks fit, and

(c) define the limits and extent of such division and sections.

(2) Every such order shall be published in the ² [Official Gazette] and in the manner prescribed by this Act for the publication of public notices

1. Secs. 15A and 15B ins. by Ben. Act 3 of 1910.

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

15B. Wrongfully entering or remaining in or on building, land, vehicle, etc :-

¹Whoever, without satisfactory excuse, wilfully enters or remains in or upon any dwelling-house or private premises or any land or ground attached thereto, or any ground, building, monument or structure belonging to the ² [Government] or appropriated to public purposes, or any vehicle, boat or vessel, shall, whether he causes any actual damage or not, be liable to fine which may extend to twenty rupees.

1. Secs. 15A and 15B ins. by Ben. Act 3 of 1910.

2. Words subs. by the Government of India (Adaptation of Indian Laws) Order, 1937 and the Adaptation of Laws Order, 1950, respectively.

16. Apprehension and punishment of reputed thieves, etc :-

A Police-officer may arrest without a warrant any person found, between sunset and sunrise, armed with any dangerous or

offensive instrument whatsoever, with intent to commit any offence against the person or property of another; any reputed thief found between sunset and sunrise, on board any vessel or boat, or lying or loitering in any bazar, street, * * ° yard, thoroughfare or other place, who shall not give a satisfactory account of himself; any person found, between sunset and sunrise, having his face covered or otherwise disguised, with intent to commit any such offences as aforesaid; any person found, between sunset and sunrise, in any dwelling-house or other building whatsoever, without being able satisfactorily to account for his presence therein; and any person having in his possession, without lawful excuse (the proof of which excuse shall be on such person), any implement of house-breaking; and such person shall be liable to imprisonment, with or without hard labour, for a term not exceeding three months.

17. Power to order discontinuance of use of house, room or place as brothel, disorderly house or place of assignation in certain cases :-

Rep. by Ben. Act 13 of 1923.

17A. Penalty for breach of order. Rep :-

by Ben. Act 13 of 1923.

17B. Power of owner or lessor to determine lease or tenancy :-

Rep. by Ben. Act 13 of 1923.

17C. Power to order discontinuance of music in certain cases :-

1

(1) The Commissioner of Police may, upon complaint made to him in writing by any person, by written order direct the discontinuance in any place of music or singing, the beating of drums or tomtoms, and the blowing ,or sounding of horns or other noisy instruments if he is satisfied that the same is a nuisance and ought to be summarily stopped either on account of the dangerous illness of, or because it seriously interferes with the reasonable occupation of, any person resident or lawfully engaged in the neighbourhood:

Provided that in any case where the discontinuance of music, or other sounds as aforesaid, is so ordered, it shall be lawful for a Magistrate, upon the complaint of any person aggrieved and if satisfied that the order complained of is unreasonable under the circumstances, to alter or reverse such order as he deems fit, and

the Commissioner of Police shall give effect to any such alteration or reversal:

Provided also that nothing in this section shall apply to music or other sounds as aforesaid in any place of public worship, or on the occasion of any religious observance or ceremony.

(2) Any person who contravenes an order of the Commissioner of Police passed under sub-section (1) shall be punished with a fine which may extend to one hundred rupees.

1. Sec. 17C subs. for the original sec. 17 by Act 3 of 1907.

17D. Power to prohibit, restrict, regulate or impose conditions on the use of microphones, etc :-

1

(1)

(a) If, in the opinion of the Commissioner of Police, it is necessary so to do for the purpose of preventing annoyance to, or injury to the health of, the public or any section thereof, or for the purpose of maintaining public peace and tranquillity, he may, by order prohibit, restrict, regulate or impose conditions on, the use or operation in any area within the suburbs of the town of Calcutta or in any vehicle within such area,

(b) The State Government may, on its own motion or on the representation of any person or persons, aggrieved, modify, alter or cancel any such order.

(2) A Police-officer, not below the rank of a Sub-Inspector or a Sergeant, may take such steps or use such force as may be reasonably necessary for securing compliance with any order made under clause (a) of sub-section (1) or any such order as modified or altered by the State Government under clause (b) of that sub-section and may seize any microphone, loudspeaker or other apparatus used or operated in contravention of the order.

(3) A Police-officer referred to above, who seizes any microphone, loudspeaker or other apparatus under sub-section (2), may also at the same time seize any vehicle in which such microphone, loudspeaker or other apparatus is being carried or conveyed or is being kept at that time :

Provided that any officer of the police-station within the limits of which the vehicle is seized not below the rank of a Sub-Inspector

may release such vehicle on a bond for such sum, not exceeding five hundred rupees, as he deems reasonable, being executed by the owner of the vehicle in favour of the State Government to produce the vehicle at the time of the investigation or the trial, and to surrender the vehicle, if directed to be forfeited under sub-section (4).

(4) Any person who contravenes any order of the Commissioner of Police made under clause (a) of sub-section (1) or who contravenes any such order as modified or altered by the State Government under clause (b) of that subsection, shall be punished with a fine which may extend to one hundred rupees and the court trying an offence under this section may also direct the forfeiture of any microphone, loudspeaker or other apparatus seized under sub-section (2) or any vehicle seized under sub-section (3) or released under the proviso to that sub-section.

(5) The provisions of this section shall be in addition to and not in derogation of the powers conferred by any other section of this Act.

1. Sec. 17D ins. by W. B. Act 20 of 1957.

18. Penalty for keeping hotel, etc., without license :-

Whoever has or keeps any hotel, tavern, punch-house, ale-house, arrack or toddy shop, or place for the sale or consumption of ganja, chandu or other preparation of opium, hemp or other intoxicating drug, plant or substance, ¹[or has or keeps any lodging-house whether provisions, liquors or refreshments are sold or consumed therein or not, or has or keeps any coffee-house, boarding-house, eating-house, other place of public resort and entertainment, wherein provisions, liquors or refreshments are sold or consumed (whether the same be kept or retained therein or procured elsewhere),] without a license to be obtained in the manner hereinafter mentioned, ² [shall be liable, on summary conviction before a Magistrate, to imprisonment, with or without hard labour, for a term not exceeding six months or to a fine not exceeding one thousand rupees or to both and for a second or subsequent offence also to forfeiture of all movable properties found in or on such hotel, tavern, house, shop or place:]

Provided that nothing in this Act shall apply to the sale, in reasonable quantities, of any drug, plant or substance in any chemist's or druggist's shop for medicinal purposes only.

1. Words subs. by Ben. Act 1 of 1943.

2. Words subs. by W. B. Act 15 of 1962.

19. Excise license not to be granted without certificate of Commissioner of Police :-

No license shall be granted under the provisions of ¹[the Bengal Excise Act, 1909], unless the person applying for such license shall produce a certificate from the Commissioner of Police, stating that a license' may be granted to him for the sale of spirituous liquors or intoxicating drugs, as the case may be, without risk or detriment to the preservation of peace and good order and containing a full statement of such conditions as may have been imposed and shall have remained in force, under the provisions hereinafter contained, at the date when such license shall be granted. No license so granted shall be renewable without a fresh certificate as aforesaid previously obtained from the Commissioner of Police. ²[The Commissioner of Police shall, in granting or refusing certificates under this section, be subject to the direction and control of the ³ [State Government]

1. Words and figures subs. by Ben. Act 1 of 1939.

2. Words subs. by Ben. Act 3 of 1910.

3. Word subs. by the Adaptation of Laws Order, 1950.

20. Duration and condition of license :-

It shall be competent to the Commissioner of Police, subject to the direction and control of the said ¹[State Government], to limit in such certificate as aforesaid, the period for which the license may be granted, and also to fix such conditions as he may deem necessary for securing the good behaviour of the keepers of the houses and places of entertainment as aforesaid, and for the prevention of drunkenness and disorder among the persons frequenting the same, and from time to time to vary such conditions, subject to such direction and control as aforesaid; and no license granted under ² [the Bengal Excise Act, 1909,] shall be valid unless it shall contain such conditions as shall have been imposed and shall remain in force for the time being under this section.

1. Words subs. by the Government of India (Adaptation of Indian Laws) Order, 1937

2. Words and figures subs. by Ben. Act 1 of 1939.

21. Penalty for keeping up signboard or notice after expiry of license :-

Whenever any license granted as aforesaid shall have ceased to

have effect, it shall be lawful for the Commissioner of Police to order the and the Adaptation of Laws Order, 1950, respectively. person to whom such license shall have been granted to remove or cause to be removed any sign-board or other notice which such person might have been theretofore bound, under the terms of his said license, to keep affixed on or near the house or place of public resort or entertainment for which such license had been granted; and any person who shall fail to obey any such order forthwith shall be liable, on conviction, to a fine of ten rupees for every day thereafter during which he shall so fail.

22. Commissioner may grant license for places for which no licenses are required under the Bengal Excise Act, 1909 :-

1

(1) The Commissioner of Police may, at his discretion, from time to time, grant licenses to the keepers of such houses or places of public resort and entertainment as aforesaid for which no such license as is specified in ²[the Bengal Excise Act, 1909,] is required, upon such conditions, to be inserted in every such license as he, with the sanction of the said ³[State Government], from time to time shall order, for securing the good behaviour of the keepers of the said houses or places of public resort or entertainment, and the prevention of drunkenness and disorder among the persons frequenting or using the same; and the said licenses may be granted by the said Commissioner for any term not exceeding one year: ⁴Provided that the said Commissioner may, by order, refuse to grant any licence under this sub-section, if, for reasons to be recorded in writing, he is of the opinion that

(i) the character or antecedents of the applicant for such licence or the nature of the trade or calling pursued by him, make him unsuitable for the grant of such licence; or

(ii) the location of the house or place of public resort and entertainment in respect of which such licence is required is unsuitable for the grant of such licence on the ground of congestion of traffic, want of adequate space for parking vehicles or difficulty in maintaining public peace, order or safety or on any other similar grounds.

⁵ (2) Any person aggrieved by an order refusing to grant a licence under the proviso to sub-section (1) may, within thirty days from the date of such order, prefer an appeal against such order to the

State Government and the State Government may, after giving the appellant an opportunity of being heard, confirm, modify or set aside such order.

1. Sec. 22 renumbered as sub-sec. (1) by W. B. Act 27 of 1969.
2. Words and figures subs. by Ben. Act 1 of 1939.
3. Words subs. by the Government of India (Adaptation of Indian Laws) Order, 1937 and the Adaptation of Laws Order, 1950, respectively.
4. Proviso ins. by W. B. Act 27 of 1969.
5. Sub-sec. (2) ins. by W.B. Act 27 of 1969.

23. Penalty for breach of condition of license :-

Any person committing a breach of any of the conditions of a license granted either under section 19 or section 22 of this Act shall, on conviction before a Magistrate, be punishable by a fine not exceeding one hundred rupees, and such fine shall be recovered from the person licensed, notwithstanding that such breach may have been owing to the default or carelessness of the servant or other person in charge of the shop or place of sale. Any person so convicted shall also be liable to the forfeiture of his license, at the discretion of the Commissioner of Police, subject to the direction and control of the said ¹ [State Government].

1. Words subs. by the Government of India (Adaptation of Indian Laws) Order, 1937 and the Adaptation of Laws Order, 1950, respectively.

24. Fees for certificates, licenses and passes :-

¹ For every certificate, license or pass granted by the Commissioner of Police under this Act there shall be levied a fee at the rate specified in the Schedule of fees annexed to this Act.

1. Subs. for the original Sec. by W. B. Act 19 of 1952.

25. Penalty for owning or keeping, or having charge of common gaming-house, etc. :-

penalty for being found playing in common gaming-house; power to authorise entry of common gaminghouse for search and seizure; evidence of house being common gaming-house; on conviction for keeping common gaming-house, instruments of gaming to be destroyed, etc.; proof of playing for stakes unnecessary; witnesses indemnified. Rep. by Ben. Act 2 of 1867.

26. Penalty for owning or keeping, or having charge of common gaming-house, etc. :-

penalty for being found playing in common gaming-house; power

to authorise entry of common gaminghouse for search and seizure; evidence of house being common gaming-house; on conviction for keeping common gaming-house, instruments of gaming to be destroyed, etc.; proof of playing for stakes unnecessary; witnesses indemnified. Rep. by Ben. Act 2 of 1867.

27. Penalty for owning or keeping, or having charge of common gaming-house, etc. :-

penalty for being found playing in common gaming-house; power to authorise entry of common gaminghouse for search and seizure; evidence of house being common gaming-house; on conviction for keeping common gaming-house, instruments of gaming to be destroyed, etc.; proof of playing for stakes unnecessary; witnesses indemnified. Rep. by Ben. Act 2 of 1867.

28. Penalty for owning or keeping, or having charge of common gaming-house, etc. :-

penalty for being found playing in common gaming-house; power to authorise entry of common gaminghouse for search and seizure; evidence of house being common gaming-house; on conviction for keeping common gaming-house, instruments of gaming to be destroyed, etc.; proof of playing for stakes unnecessary; witnesses indemnified. Rep. by Ben. Act 2 of 1867.

29. Penalty for owning or keeping, or having charge of common gaming-house, etc. :-

penalty for being found playing in common gaming-house; power to authorise entry of common gaminghouse for search and seizure; evidence of house being common gaming-house; on conviction for keeping common gaming-house, instruments of gaming to be destroyed, etc.; proof of playing for stakes unnecessary; witnesses indemnified. Rep. by Ben. Act 2 of 1867.

30. Penalty for owning or keeping, or having charge of common gaming-house, etc. :-

penalty for being found playing in common gaming-house; power to authorise entry of common gaminghouse for search and seizure; evidence of house being common gaming-house; on conviction for keeping common gaming-house, instruments of gaming to be destroyed, etc.; proof of playing for stakes unnecessary; witnesses indemnified. Rep. by Ben. Act 2 of 1867.

31. Portion of fine may be paid to informer :-

Rep. by Act 1 of 1903, now known as the Amending Act, 1903 vide

Act 10 of 1914, Sch. II.

32. Gambling in the streets :-

Rep. by Ben. Act 2 of 1867.

33. Pawn-brokers and money-changers to report stolen property under penalty for neglect :-

If any property answering the description set forth in any information which shall be given by any Police-officer to any pawn-broker or dealer in second-hand property, or money-changer, regarding property stolen or fraudulently obtained, shall then be, or thereafter come into the possession of, or be offered in pawn or for sale or change to, such pawn-broker, dealer or money-changer, he shall, without unnecessary delay, give information to that effect at the nearest ¹ [police-station], and shall also state the name and address given by the party by whom the same was offered, or from whom the same was received:

Provided always that, in the case of wearing apparel or other articles which it may be difficult for such pawn-broker or dealer to trace out and identify, no fine shall be exigible in respect of not reporting such articles, unless it shall appear to the Magistrate that such articles had been knowingly concealed by such pawn-broker or dealer.

1. Word subs. by Ben. Act 3 of 1910.

33A. Possession of or dealing with thing stolen or fraudulently obtained :-

1

(1) Whoever has in his possession, or conveys in any manner, or offers for sale or pawn, anything which there is reason to believe to have been stolen or fraudulently obtained shall, if he fails to account for such

(2) If any person charged under sub-section (1) in respect of anything declares that he received such thing from some other person, or that he was employed as a carrier, agent or servant to convey such thing for some other person, the Magistrate, after such further inquiry (if any) as he may deem necessary, may summon such other person, and any former or pretended purchaser or other person through whose possession such thing is alleged to have passed, to appear before him, and may examine such person and any witnesses who are produced to testify to such receipt,

employment or possession; and, if it appears to the Magistrate, that any such person had possession of such thing and had reasonable cause to believe that it was stolen or fraudulently obtained, the Magistrate may punish him with fine which may extend to one hundred rupees or with imprisonment, with or without hard labour, for a term which may extend to three months.

1. Sec. 33A ins. by Ben. Act 3 of 1910.

34. Manufacture or possession of gunpowder :-

Whoever shall manufacture gunpowder or, without a license from the Commissioner of Police, shall have in his possession, in any house, shop, warehouse or other building, at any one time, a greater quantity of gunpowder than ten pounds shall be liable to a fine not exceeding five hundred rupees, and also to forfeit such gunpowder so manufactured or possessed, together with the vessel or receptacle in which it may be contained.

35. Licenses by Commissioner for sale and deposit of gunpowder, etc :-

Rep. by Ben. Act 3 of 1910.

36. Licenses for conveying and removing gunpowder :-

The Commissioner of Police may grant to any person a license for the transit and carrying of gunpowder from one place to another, in such manner and in such quantity as he may deem advisable; and any person, not being duly licensed in that behalf, who shall carry or convey a greater quantity of gunpowder than one pound from one place to another, shall be liable to a fine not exceeding fifty rupees.

37. Commissioner may issue warrant to search for explosive substance :-

The Commissioner of Police, on credible information laid before him on oath, [and reduced to writing,] may issue his warrant authorising a Police-officer [not below the rank of Sub-Inspector] to search ¹* * any house, shop, magazine or other building or place in which he shall have reasonable ground to suspect that any ²[explosive substance] is manufactured, sold or kept, or any boat, carriage, cart or other vehicle in which any ²[explosive substance] may be suspected to be carried, or any person suspected of carrying the same, contrary to the provisions of this Act [or any other law or any rule made thereunder]; and all ² [explosive substance] found on such search shall, together with the vessels or

receptacles in which it may be stored, be immediately seized and kept, pending the judgment of a Magistrate.

1. Words repealed by Ben. Act 3 of 1910.
2. Words subs. by Ben. Act 3 of 1910.

38. Act not to apply to explosive substances belonging to the Government :-

None of the ¹[three] last preceding sections shall extend to any ²[magazine or store belonging to the Government], or building for the making or deposit of ³[explosive substances] under the authority or for ⁴[the use of any Government], or to any ³[explosive substance] ³ [belonging to the Government].

1. Word subs. by Ben. Act 3 of 1910.
2. Words subs. by the Government of India (Adaptation of Indian Laws) Order, 1937 and the Adaptation of Laws Order, 1950, respectively.
3. Words subs. by Ben. Act 3 of 1910.
4. Words subs. by the Government of India (Adaptation of Indian Laws) Order, 1937.

38A. Power of Commissioner to prohibit the use or the driving of certain types of vehicles in streets or public places :-

1

(1) With the ² [State] Government, the Commissioner of Police may, from time to time by notification in the Official Gazette, prescribe the types of vehicles which shall not be driven or used in streets or public places within such limits as may be specified in this behalf by the Commissioner of Police in the said notification. Section 38 of the Calcutta Suburban Police Act, 1866 is controlled by the provisions of sections 517 of the Cr. P.C. when claim made by a third party. Azahar Ali vs. State of W. Bengal. 1956 Cr L J 532.

(2) Whoever uses or drives in a street or public place within the limits specified under sub-section (1), a vehicle of a type the use or driving of which has been prohibited under that sub-section, shall be liable to fine which may extend to five hundred rupees, and the vehicle in respect of which the offence has been committed shall be forfeited to the [Government]

1. Sec. 38A ins. by W. B. Act 35 of 1948.
2. Word subs. by the Government of India (Adaptation of Indian

Laws) Order, 1937.

39. Power of Commissioner to make rules for regulation of traffic, etc :-

1

(1) With the previous sanction of the State Government, the Commissioner of Police may, after previous publication, from time to time, make rules .

(a) for licensing and controlling persons offering themselves for employment at quays, wharves or landing places for the carriage of passengers' baggage, and fixing and providing for the enforcement of a scale of charges for the labour of such persons when so employed;

(b) regulating traffic of all kinds in streets and public places, and the use of streets and public places by persons riding, or driving, leading or riding in vehicles, or leading or accompanying cattle, or walking, so as to prevent danger, obstruction or inconvenience to the public;

(c) regulating the conditions under which vehicles may remain standing in streets and public places, and the use of streets as halting places, for vehicles or cattle;

(d) prescribing the number and position of lights to be used on vehicles in streets and public places;

(e) regulating and controlling the conveyance of timber, bamboos, scaffold-poles, ladders, iron girders, beams or bars, boilers or other unwieldy articles, or coal or bricks, lime or other building materials through the streets, and the route and hours for such conveyance

(f) for licensing, controlling, or in view to preventing obstruction, inconvenience or annoyance to residents or passengers in the vicinity, prohibiting the playing of music in streets or in public places other than public buildings and the precincts thereof;

(g) for licensing, controlling, or, in view to preventing risk, danger or damage to residents or passengers in the vicinity, prohibiting the carrying of any explosive substance in streets or public places;

(h) for controlling, in the interests of the public convenience and safety, the illumination of streets and public places, and the erection of structures on or over any street or public place, or against the exterior of any building abutting thereon, for the

purposes of illumination;

(i) for authorising and regulating the removal by the police, of any structures referred to in clause (h) of this section, or any appliances for illumination placed on or over any street or public place or against the exterior of any building abutting thereon, when the Commissioner of Police considers that the same are likely to cause obstruction, danger or damage to residents or passengers in the vicinity; or

(j) regulating the means of entrance and exit at places of public amusement, entertainment and assembly, and the lighting thereof when used by the public, and providing for the maintenance of public safety and the prevention of disturbance therein:

Provided that nothing in this section shall affect the provisions of the Indian Arms Act, 1878, or the Indian Explosives Act, 1884.

(2) Any rules made under this section may, with the like sanction, be altered or rescinded by the Commissioner of Police after previous publication of the alteration or rescission.

(3) Every rule and alteration of a rule made under this section, and every rescission of any such rule, shall be published in the ² [Official Gazette] and in the manner prescribed by this Act for the publication of public notices.

(4) Whoever contravenes any rule made under this section shall be liable,

(i) if the rule were made under clause (a), clause (b), clause (c) or clause (f) of sub-section (1) to fine which may extend to fifty rupees, or

(ii) if the rule were made under clause (d), clause (e) or clause (g) of sub-section (1) to imprisonment with or without hard labour, for a term which may extend to eight days, or to fine which may extend to fifty rupees, or to both, or

(iii) if the rule were made under clause (h), clause (i) or clause (J) of sub-section (1) to fine which may extend to one hundred rupees.

1. Sec. 39 subs. by Ben. Act 3 of 1910.

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

39A. Power of Commissioner and other officers to give

directions to the public :-

1

(1) The Commissioner of Police, and , subject to the orders of the Commissioner of Police every Police-officer of a rank not inferior to that of Sub-Inspector, may, with a view to securing the public safety or convenience, but not so as to contravene any rule made under the last foregoing section, or the provisions of any license granted under any such rule, give all such directions, either orally or in writing, as he may consider necessary to

(a) secure the orderly conduct of persons constituting processions and assemblies in streets;

(b) prescribe the routes by which, and the times at which, any such procession may, or may not, pass;

(c) prevent obstructions on the occasion of all processions and assemblies and in the neighbourhood of all places of worship during the time of public worship, and in all cases when any street or public place or place of public resort may be thronged or liable to be obstructed;

(d) keep order on and in all streets, quays, wharves and landing places, and all other public place or places of public resort; or

(e) regulate and control music, the beating of drums, tomtoms and other instruments and the blowing or sounding of horns or other noisy instruments in any street or any public place other than public buildings and the precincts thereof.

(2) The Commissioner of Police may also, subject to the control of the ²[State] Government, whenever and for such time as he may consider it necessary to do so for the preservation of the public peace or public safety, by notification, publicly promulgated or addressed to individuals, prohibit

(i) the carrying of swords, spears, bludgeons, guns or other offensive weapons in any public place;

(ii) the carrying, collection and preparation of stones or other articles intended to be used as missiles, or of instruments of means of casting or impelling missiles;

(iii) the exhibition of persons, corpses, figures or effigies, in any public place; and

(iv) the public utterance of cries, singing of songs or playing of music.

(3) The Commissioner of Police may also, subject to the control of the ²[State] Government, whenever and for such time as he may consider necessary, by notification publicly promulgated or addressed to individuals,

(i) may be of a nature to outrage morality or decency, or

(ii) are likely, in the opinion of the Commissioner of Police, to inflame religious animosity or hostility between different classes, or to incite to the commission of an offence, to a disturbance of the public peace, or to resistance to, or contempt of, the law or lawful authority.

(4) The Commissioner of Police may also, by order in writing prohibit any procession or public assembly, whenever and for so long as he considers such prohibition to be necessary for the preservation of the public peace or public safety:

Provided that no such prohibition shall remain in force for more than seven days without the sanction of the ⁴[State] Government.

(5) The Commissioner of Police may also, subject to the orders of the ³ [State] Government, by public notice, temporarily reserve for any public purpose any street or public place, and prohibit persons from entering the area so reserved, save under such conditions as may be prescribed by the Commissioner of Police.

(6) Whoever contravenes any direction, order or prohibition lawfully given or made under this section shall be liable,

(i) if the direction, order or prohibition were given or made under sub-section (1) or sub-section (5) to fine which may extend to one hundred rupees, or

(ii) if the prohibition were made under sub-section (2), sub-section (3) or sub-section (4), to imprisonment, with or without hard labour, for a term which may extend to one month, or to a fine which may extend to one hundred rupees, or to both.

1. Sec. 39A subs. by Ben. Act 3 of 1910.

2. Word subs. by the Adaptation of Laws Order, 1950.

4. Words subs. by Adaptation of Laws Order, 1950.

39B. Enforcement of orders issued under the last foregoing

section :-

1

(1) Whenever a notification, order in writing or public notice has been duly issued under sub-section (2), sub-section (3), sub-section (4) or sub-section (5) of the last foregoing section, then,

(a) in the case of a notification issued under clause (i), clause (ii) or clause (iii) of the said sub-section (2), or in the case of a public notice issued under the said sub-section (5) any Magistrate or any Police-officer, or

(b) in the case of a notification issued under clause (iv) of the said sub-section (2), or under the said sub-section (3), or in the case of an order issued under the said sub-section (4) any Magistrate or any Police-officer of or above the rank of Sub-Inspector,

(2) Any Magistrate or Police-officer acting under sub-section (1) may also seize anything used or about to be used in contravention of such notification, order or notice as aforesaid, and anything so seized shall be disposed of as any magistrate having jurisdiction may order.

1. Sec. 39B and 39C subs. by Ben. Act 3 of 1910.

39C. Power to give directions to prevent disorder at places of public amusements, etc :-

1

(1) For the purpose of preventing serious disorder or manifest an imminent danger to the persons assembled at any place of public amusement; or at any assembly or meeting to which the public are invited or which is open to the public, the Police-officer of highest rank, superior to that of Head Constable, who is present, may, subject to such rules, directions and orders as may have been lawfully made, give such reasonable directions as he may think necessary as to the mode of admission of the public to, and for securing the peaceful and orderly conduct of persons attending at, such place, assembly or meeting; and all persons shall be bound to conform to such directions.

(2) The Police shall have free access to every such place of public amusement, assembly or meeting, for the purpose of giving effect to the provisions of sub-section (1) and to any direction given thereunder.

(3) Whoever disobeys or fails to conform to any lawful and reasonable direction given by any Police-officer under sub-section (1) shall be liable to fine which may extend to one hundred rupees.

1. Sec. 39C subs. by Ben. Act 3 of 1910.

39CC. Prohibition of sale at a higher price of tickets once issued for admission to an entertainment :-

1

(1) For the purpose of preventing disorder or disturbance at or near any place where any entertainment is held, the Commissioner of Police may, with the previous sanction of the State Government, by order (of which public notice shall be given), prohibit within a radius of one furlong from the place of entertainment, the sale or the offer for sale of tickets once issued for admission as spectators to such entertainment at a price higher than the price at which such tickets were originally issued.

(2) Whoever contravenes any order referred to in sub-section (1) shall be liable to imprisonment for a term which may extend to three months or to fine which may extend to one hundred rupees or to both.

(3) Any police officer below the rank of Sub-Inspector may arrest without warrant any person committing an offence punishable under this section.

(4) In this section the expression 'entertainment' means any exhibition, performance, amusement, game or sport to which person are admitted as spectators on production of tickets.

1. Sec. ins. by W. B. Act 19 of 1952.

39D. Power of Commissioner to cause reports to be taken of the Proceedings of public meeting :-

1 The Commissioner of Police may, by order in writing, depute one or more Police-officers, not below the rank of Head Constable, or other persons, to attend any public meeting for the purpose of causing a report to be taken of the Proceedings of such meeting if in the opinion of the Commissioner of Police, to be recorded in writing, the meeting is likely to promote sedition or disaffection or to cause disturbance of the public peace and tranquillity.

1. Sec. 39D ins. by Ben. Act 14 of 1939.

40. Penalty for committing in public streets offences :-

Whoever, within such limits as shall be from time to time defined by the Commissioner of Police, with the sanction of the said ¹[State] Government, in any * * ²street, * * * ²thoroughfare or place of public resort, shall commit any of the following offences shall be liable to a fine not exceeding fifty rupees:

(1) whoever shall drive, ride or lead any elephant or camel without ⁴[a pass] from the Commissioner of Police;

(2) whoever shall drive any vehicle * * * ⁵, at any time between three-quarters of an hour after sunset and one hour before sunrise, without a sufficient light ***** ⁴.

(3) whoever, without reasonable cause, shall drive a * * * ⁴vehicle otherwise than on the left or near side of the road;

(4) whoever shall expose for show, hire or sale any horse or other animal, or any carriage, or shall clean or dress any horse or other animal, or shall clean any carriage or other conveyance, or shall make or repair any part of any cart or carriage, except in cases of accident where repair on the spot is necessary, or shall train or break any horse, except in such place and at such times as may be allowed by the Commissioner;

(4a)⁸ whoever exposes or keeps any article so as to cause obstruction in any public thoroughfare;

(5) to (9) Rep. by Ben. Act 3 of 1910.

(6) to (9) Rep. by Ben. Act 3 of 1910.

(7) to (9) Rep. by Ben. Act 3 of 1910.

(8) to (9) Rep. by Ben. Act 3 of 1910.

(9) to (9) Rep. by Ben. Act 3 of 1910.

(10) whoever shall set fire to or burn any straw or other matter, or light any bonfire, or want only discharge any firearm or air-gun, or , let off or throw any firework, or send up any fire balloon, except at such times and places as shall from time to time be allowed by the Commissioner of Police;

(11) whoever, by driving a hackery or cart with insufficiently greased wheels, shall create a noise which is reasonably calculated to cause annoyance to persons frequenting or residing near the thoroughfare in which such hackery or cart is driven;

(12) Rep. by Ben. Act 3 of 1910;

(13) whoever, without the consent of the owner or occupier, shall affix any bill or notice, or any paper, against or upon any building, wall, ⁹[tree, fence, post, pole or other erection,] or shall write upon, deface or mark any such building, wall, ⁶ [tree, fence, post, pole or other erection,] with chalk or paint, or in any way whatsoever;

(14) whoever shall bathe or wash himself in any * 69 street, or in, upon, or by the side of, any public tank, reservoir or aqueduct, not being a place set apart for such purpose;

(15) whoever shall obstruct or incommode a person bathing at any place set apart as a bathing place, by wilful intrusion, or by using such place as a landing place, or by anchoring or otherwise fastening or keeping boats, or by washing * 69 cattle or dogs, at or near such place, or in any other way;

(16) Rep. by Ben. Act 1 of 1869;

(17) whoever, in any public * 70 street, thoroughfare or place shall beg or apply for alms, or shall expose or exhibit any sores, wounds, bodily ailment or deformity with the object of exciting charity or of obtaining alms, or shall seek for or obtain alms, by means of any false statement or pretences;

(18) whoever, wilfully and indecently exposes his person or commits a nuisance by easing himself.

1. Word subs. by the Adaptation of Laws Order. 1950.

2. Words repealed by Ben. Act 3 of 1910.

4. Subs. by W. B. Act 19 of 1952.

5. Words repealed by Ben. Act 3 of 1910.

8. Clause (4a) ins. by Ben. Act 3 of 1910.

9. Words subs. by Ben. Act 3 of 1907.

40A. Refugees for reception of certain classes of convicted beggars :-

Rep. by Ben. Act 7 of 1943.

41. Penalty for drunkenness, riotous or indecent behaviour in public :-

¹ Whoever is found drunk and is incapable of taking care of himself, or is guilty of any riotous or indecent behaviour in any public street or thoroughfare, or in any place of public amusement or resort, shall be liable, on summary conviction before a

Magistrate, to a fine not exceeding twenty rupees, or to imprisonment, with or without hard labour, for a term not exceeding eight days.

1. Sec. 41 subs. by Ben. Act 2 of 1886.

41A. Penalty for solicitation in a public place :-

Rep. by Ben. Act 4 of 1933.

42. Stray dogs :-

It shall be lawful for the Commissioner of Police, by order in writing to be affixed at the principal police-stations, and also to be published in some public newspaper, to appoint, from time to time, certain periods within which any dogs found straying in the streets, or beyond the enclosures of the house of the owners of such dogs, may be destroyed.

42A. Restrictions as to bringing, keeping or possessing dangerous animals :-

1

(1) No person shall bring, keep or possess in the sub-68.

(2) Whoever contravenes the provisions of sub-section (1) shall be liable, on conviction before a Magistrate, to a fine not exceeding two hundred rupees.

1. Sec. 42A ins. by W. B. Act 15 of 1962.

43. Power to arrest without warrant :-

1

(1) Subject to the restrictions imposed by clause (b) of sub-section (1) of section 39B in the case of offences there referred to, any Police-officer may arrest without a warrant any person committing in his presence in any street or public place any offence punishable under

(a) any section of this Act ²*, or

(b) any rule made under this Act, or

(c) any other law for the time being in force, if such person,

(i) after being warned by a Police-officer, persists in committing such offence, or

(ii) is unknown to such Police-officer and, when asked by such Police-officer to give his name and address, refuses to give the

same, or gives a name or address which such Police-officer has reason to believe to be false, or cannot then and there ascertain to be true, or

(iii) is unknown to such Police-officer, and his name and address cannot be ascertained then and there and he refuses to accompany the Police-officer to a police-station on being required so to do.

Explanation. This sub-section does not restrict the exercise by any Police-officer of any power of arrest conferred upon him by ³[sub-section (3) of section 39CC or by] any other law

(2)⁴ Should the true name and residence of any such person not be ascertained within twenty-four hours from the time of arrest, or should he fail to execute a recognizance for his appearance before a Magistrate, or, if so required, to furnish sureties, he shall forthwith be forwarded to a Magistrate having jurisdiction.

1. Sec. 43 subs. by Ben. Act 3 of 1910.

2. Words, figures and letter repealed by Ben. Act 6 of 1933.

3. Ins. by W.B. Act 19 of 1952.

4. Sub-sec. (2) inst. by Ben. Act 3 of 1910.

43A. Arrest without warrant for solicitation :-

Rep. by Ben. Act 6 of 1933.

44. Arrest of person committing offence with respect to person or property of another :-

Whoever commits an offence on or with respect to the person or property of another, or, in committing an offence under this Act, injures or damages the person or property of another, may, if his name and address be unknown, be apprehended by the person injured, or by any person who may be using the property to which the injury may be done, or by the servant of either of such persons or by any person authorised by or acting in aid of him, and may be detained until he gives his name and address, and satisfy such person that the name and address so given are correct, or until he can be delivered into the custody of a Police-officer.

45. Persons taken into custody by Police-officer without warrant may be detained in police-station until brought before Magistrate or bailed :-

Every person taken into custody without a warrant by a Police-officer under this Act shall be taken to the nearest ¹ [police-station] in order that such person may be detained until he can be brought

before the Magistrate or until he shall enter into recognizances, with or without sureties, for his appearance before the Magistrate. Any person so detained and not entering into recognizances, with or without such sureties, shall be carried before the Magistrate within twenty-four hours from the time of his being taken into custody.

1. Word subst. by Ben. Act 3 of 1910.

46. Power to take recognizance at police-station :-

Whenever any person shall be brought to a ¹[police-station] charged with any offence against this Act, it shall be lawful for the officer in charge of such ¹ [police-station], or any superior officer of Police, if he shall deem it prudent, to enlarge such person on his own recognizance, with or without sureties, conditioned as hereinafter mentioned.

1. Word subst. by Ben. Act 3 of 1910.

47. Condition of recognizance :-

Every recognizance so taken shall be without fee or reward, and shall be conditioned for the appearance of the person thereby bound before a Magistrate at his next sitting; and all the persons executing the said recognizance shall acknowledge themselves jointly and severally bound in the sum not exceeding one thousand rupees thereby acknowledged; and the time and place of appearance shall be specified in the said recognizance, or in the condition thereof; and the officer taking the recognizance shall enter in a book, to be kept for the purpose, the name, residence and occupation of the party, and his surety or sureties (if any) entering into such recognizance, together with the condition thereof and the sum thereby acknowledged, and shall return every such recognizance to the Magistrate present at the time and place when and where the party is bound to appear.

47A. Power of Commissioner of Police to require attendance and obtain statements of witnesses :-

1

(1) If, in the course of any investigation, the Commissioner of Police has reason to believe that a cognizable offence has been committed, he may, by order in writing, require the attendance, before himself or before any officer serving under him not below the rank of Sub-Inspector, who is investigating a cognizable offence, of any person then being within the limits of the town or

suburbs of Calcutta, or within thirty miles of such limits, who, from the information given or otherwise, appears to be acquainted with the facts or circumstances of the case; and such person shall attend as so required.

(2) The Commissioner of Police, or any officer aforesaid may examine orally any person so attending, and may reduce into writing any statement made by him; and such person shall be bound to answer all question relating to the case put to him by the Commissioner or such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

(3) The Commissioner of Police may, in any case, forward to the Superintendent of Police of the district in which any person, from whom any information is required relating to the facts or circumstances of the case under investigation, is believed to be, such questions and such statement as may be necessary for the purpose of obtaining the information desired; and such Superintendent shall, on receipt thereof, cause such person to be examined orally, and his statement to be reduced into writing, in the same manner and subject to the same provisions as if an investigation were being made into such offence in such district, and shall forward the statement reduced into writing to the Commissioner of Police.

(4) Subject to any rules made by the ²[State] Government. ³ * * *
* [of the State Government], of the reasonable expenses of any person residing in the town or suburbs of Calcutta who attends for the purposes of any investigation before himself or any other Police-officer under this section, and shall order payment, as aforesaid, of the reasonable expenses of any person not so residing who attends as aforesaid.

1. Sec. 47A ins. by Ben. Act 3 of 1910.

2. Word subs. by the Adaptation of Laws Order, 1950.

3. Words repealed by Act 38 of 1920.

47B. Power to search for persons wrongfully confined :-

If information is given on oath to the Commissioner of Police that any person is confined under such circumstances that the confinement amounts to an offence, and if it is for any reason impracticable to make an application to a Magistrate under section 100 or section 552 of the Code of Criminal Procedure, 1898, the Commissioner may issue a search-warrant to any Police-officer not

below the rank of Sub-Inspector; and the officer to whom such warrant is directed may search for the person indicated in such warrant, in accordance with such directions as may be given therein; and the person, if found, shall immediately be taken before a Magistrate, who shall make such order as in the circumstances of the case seems proper.

47C. Procedure in making searches :-

(1) Before any officer makes a search under this Act, he shall call upon two or more respectable persons to attend and witness the search.

(2) The search shall be made in the presence of such persons and a list of all things seized in the course of the search, and of the places in which they are respectively found, shall be prepared by the said officer and signed by the said witnesses; but no person witnessing a search under this section shall be required to attend the court as a witness of the search unless specially summoned by it.

(3) The occupant of the place searched or some person in his behalf, shall, in every instance, be permitted to attend during the search; and a copy of the list prepared under sub-section (2), signed by the said witnesses, shall be delivered to such occupant or person at his request.

48. Recovery and appropriation of fines :-

All fines imposed under the authority of this Act shall be recoverable in the manner prescribed by section 61 of the Code of Criminal Procedure, and the amount so levied shall be appropriated to any fund applicable to Police purposes:

Provided that it shall be lawful for the Magistrate, when it shall appear to him that the fine cannot be realised by recourse to the provisions above mentioned, to sentence the offender to imprisonment in lieu of any fine to which such offender is liable under this Act, and the term of such imprisonment shall be fixed in accordance with the scale laid down in section 67 of the Indian Penal Code.

48A. Police to take charge of unclaimed movable property :-

1

(1) The Police shall, for the purpose of safe custody, take

temporary charge of

(a) all unclaimed movable property found by them, and

(b) all movable property found lying in any public street, if the owner or the person in charge of such property on being directed to remove the same, refuses or omits to do so within a reasonable time; and may, for the said purpose, take temporary charge of any unclaimed movable property made over to them.

(2) Property of which the Police have taken charge under sub-section (1) shall be handed over to the Commissioner of Police.

1. Secs. 48A and 48B ins. by Ben. Act 1 of 1929.

48B. Disposal of such property :-

(1) If the said property appears to have been left by a person who has died intestate, and not to be under two hundred rupees in value, the Commissioner of Police shall communicate with the Administrator-General, with a view to its being dealt with under the Administrator-General's Act, 1913, or any other law for the time being in force.

(2) In every other case the Commissioner of Police shall issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto to appear before himself or some other officer whom he appoints in this behalf and establish his claim within six months from the date of proclamation.

(3) If the property, or any part thereof, is subject to speedy and natural decay, or consists of live-stock, or if the property appears to be of less value than five rupees, it may forthwith be sold by auction under the orders of the Commissioner of Police and the net proceeds of such sale shall be dealt with in the same manner as is hereinafter provided for the disposal of the said property.

(4) The Commissioner of Police shall, on being satisfied of the title of any claimant to the possession or administration of any property referred to in sub-section (2), order the same to be delivered to him, after deduction or payment of the expenses properly incurred by the Police in the seizure and detention thereof.

(5) The Commissioner of Police may, at his discretion, before making any order under sub-section (4), take such security as he may think proper from the person to whom the said property is to

be delivered; and nothing hereinbefore contained shall affect the right of any person to recover the whole or any part of such property from the person to whom it may have been delivered pursuant to such order.

(6) If no person establishes his claim to such property within the period prescribed in sub-section (2), it shall be at the disposal ¹ [of the State Government]; and the property or such part thereof as has not already been sold under sub-section (3), may be sold by auction under orders of the Commissioner of Police.

1. Subs. by the Government of India (Adaptation of Indian Laws) Order, 1937 and the Adaptation of Laws Order, 1950, respectively.

49. Powers of Joint and other Magistrates :-

Rep. by Ben. Act 1 of 1874.

49A. Public notice how to be given :-

¹ Any public notice required to be given under any of the provisions of this Act shall be in writing, shall be signed by the Commissioner of Police, and shall be published, in the locality to be affected thereby, by affixing copies thereof in conspicuous public places, or by proclaiming the same with beat of drum or by advertising the same in such local newspapers, English or vernacular, as the Commissioner of Police may deem fit, or by any two or more of these means and by any other means he may think suitable.

1. Secs. 49A to 49C ins. by Ben. Act 3 of 1910.

49B. Consent etc., of Commissioner of Police or Police-officer how to be proved :-

Whenever under this Act or any rule made hereunder the doing or the omitting to do anything or the validity of anything depends upon the consent, approval, declaration, opinion or satisfaction of the Commissioner of Police or of any other Police-officer, a written document signed by the Commissioner of Police or by such officer, purporting to convey or set forth such consent, approval, declaration, opinion or satisfaction shall be sufficient evidence thereof.

49C. Stamping of signature :-

Every license, written permission, notice or other document [not being a summons or warrant or search-warrant, or a notification issued under sub-section (3) of section 39A or an order made under sub-section (4) of that section, or an order made under section

47A] required by this Act, or any rule made hereunder, to bear the signature of the Commissioner of Police shall be deemed to be properly signed if it bears a facsimile of his signature stamped thereon.

50. Powers of Deputy Commissioner :-

¹[The Additional, Joint, Deputy, Additional Deputy or Assistant Commissioner of Police] for the town of Calcutta may, under the orders of the Commissioner, ² [perform all or any of the duties, exercise all or any of the powers or perform all or any of the functions] vested in the latter by the provisions of this Act.

1. Words first subs. by W.B. Act 15 of 1962. Then the present words subs. by W. B. Act 27 of 1969.
2. Words subs. by W.B. Act 15 of 1962.

51. Interpretation :-

The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say): the word "property" shall include any chattel, money or valuable security; the word "person" shall include a corporation; the word "month" shall mean calendar month; the word "oath" shall include any affirmation or declaration lawfully substituted for an oath; ¹* * * * the word "cattle" shall, besides horned cattle, include horses, asses, mules, sheep, goats and swine; ²* * * ³"explosive substance" shall be deemed to include any materials for making any explosive substance; also any apparatus, machine, implement or material used, or intended to be used, or adapted for causing, or aiding in causing, any explosion in or with any explosive substance; also any part of any such apparatus, machine or implement. "place of public amusement" shall mean any place, enclosure, building, tent, booth or other erection, whether permanent or temporary, where music, singing, dancing or any diversion or game, or the means of carrying on the same is provided, and to which the public are admitted, either on payment of money or with the intention that money may be collected from those admitted, otherwise than for a bona fide charitable purpose, and shall include a race-course, circus, theatre, music-hall, billiard-room, bagatelle- room, gymnasium and fencing-school; ⁴"place of public entertainment" shall mean any place, whether enclosed or open, to which the public are admittted, and where any kind of food, drink, drug, betel or tobacco is supplied for consumption on

or off the premises for the profit or gain of any person owning or having an interest in or managing such place; and shall include a lodging-house where any kind of food, drink, drug, betel or tobacco is supplied for consumption therein or not and a refreshment-room, eating-house, coffee-house, tea shop, snack shop, sanck bar, sweetmeat-shop, liquor-house, boarding-house, hotel, restaurant, tavern, wine-shop, beer-shop, spirit-shop, arrack-shop, toddy-shop, ganja-shop, bhang-shop, opium-shop, tobacco-shop, bidi-shop, cigarette-shop, zarda-shop, betel-shop, and betel leaf massalla shop; ⁵"Police-officer" shall mean any member of the Calcutta police-force, ⁶[and shall include the Commissioner of Police, an Additional Commissioner of Police, a Joint Commissioner of Police, a Deputy Commissioner of Police, an Additional Deputy Commissioner of Police and an Assistant Commissioner of Police]; ⁵"Police-station" shall mean any post or place declared generally or specially, by the ⁸[State] Government, to be a police-station, and shall include any local area specified by the ⁷[State] Government in this behalf; ⁵"public place" shall include the banks of the river, the docks, the jetties, warehouses to which the public have access, every public building and monument and the precincts thereof and all places accessible to the public for drawing water, washing or bahting, or for purposes of recreation; ⁵"street" shall mean any road, lane, footway, square, court, alley or passage, whether a thoroughfare or not, to which the public have, permanently or temporarily, a right of access; ¹²"subordinate ranks" shall mean the ranks below Assistant Commissioner; ¹³ "vehicle" shall include any locomotive, automobile, tramcar, carriage, cart, van, dray, truck, hand-cart, bicycle, tricycle, motor-cycle or other wheeled conveyance of any description capable of being used on the streets.

1. Definition of "common gaming-house" repealed by Ben. Act 4 of 1913.
2. Clauses repealed by Act 1 of 1903.
3. These definitions ins. by Ben. Act 3 of 1910.
4. This definition first inst. by Ben. Act 3 of 1910. Then it was subs. by W.B. Act 48 of 1978.
5. These definitions ins. by Ben. Act 3 of 1910.
6. Words subs. by W. B. Act 27 of 1969.
8. Word subs. by the Adaptation of Laws Order, 1950.
12. This definition ins. by the Government of India (Adaptation of Indian Laws) Order, 1937.
13. This definition ins. by Ben. Act 3 of 1910.

52. Act 21 of 1857 repealed in suburbs :-

Rep. by Act 1 of 1903. ¹ FORM OF CERTIFICATE (Referred to in section 8.) A. B. has been appointed a member of the Calcutta police force, and is vested with the powers, functions and privileges of a Police-officer. CALCUTTA; Commissioner of Police. The,19

1. Form of certificate subs. by Ben. Act 3 of 1910.

SCHEDULE 1

SCHEDULE OF FEES

(See section 24.)	
SCHEDULE OF FEES.	
(See section 24.)	
A. Fees for Licenses	
Description of items.	Fees.
For every tea shop, aerated water shop, Cold drink shop, soda fountain.	Rs. 100 per year and also an additional fee of Rs. 10 per month or fraction of a month if music is to be played in such place.
For every coffee house, boarding house, eating house or sweetmeat shop.	Rs. 250 per year and also an additional fee of Rs. 15 per month or fraction of a month if music is to be played in such place.
For every hotel run in western style.	Rs. 1,000 per year for hotel. Rs. 2,000 per year for hotel and restaurant.
For every betel shop or shops selling bidi or cigarette or tobaccos or zarda or massalla for betel leaf.	Rs. 60 per year.
For every restaurant, snack shop, snack bar.	Rs. 250 per year.
For every lodging house for pilgrms	Rs. 50 per year.
For every lodging house for Seamen	Rs. 100 per year.
For every other case.	Rs. 10 per year :