

**BOMBAY PROVINCIAL MUNICIPAL CORPORATIONS ACT,  
1949**

**59 of 1949**

**[29th December, 1949]**

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## **BOMBAY PROVINCIAL MUNICIPAL CORPORATIONS ACT,**

**1949**

**59 of 1949**

**[29th December, 1949]**

An Act to provide for the establishment of Municipal Corporation for certain cities in the Province of Bombay. WHEREAS it is expedient to provide for the establishment of municipal corporations in [the City of Ahmedabad] and certain other cities with a view to ensure a better municipal government of the said cities. It is hereby enacted as follows :-

CHAPTER 1  
PRELIMINARY

**1. Short title and commencement :-**

(1) This Act may be called The Bombay Provincial Municipal Corporations Act, 1949 .

<sup>1</sup>[(2) It extends to the whole of the State of Gujarat.]

(3) This section shall come into operation at once. The remaining provisions of the Act shall come into operation in the City of Ahmedabad and <sup>2</sup> such other cities] on such dates as the State Government may by notification in the Official Gazette, specify in respect of each city on the respective dates the said provisions shall apply to places outside the said cities in the manner, to the extent and for the purposes expressly provided therein.

1. Sub-section (2) was substituted for the original by Gujarat 3 of 1973, s, 2.

2. These words were substituted for the words and brackets "the City of Poona and such other cities (outside Greater Bombay)" by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

**2. Definitions :-**

In this Act, unless there be something repugnant in the subject or context,

<sup>1</sup>(1A) "annual letting value" means, -

(i) in relation to any period prior to 1st April, 1970, the annual rent for which any building or land or premises, exclusive of furniture or machinery contained or situate therein or thereon, might, if the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947

(Bombay LVII of 1947.) were not in force, reasonably be expected to let from year to year with reference to its use;

(ii) in relation to any other period, the annual rent for which any building or land or premises, exclusive of furniture or machinery contained or situate therein or thereon, might reasonably be expected to let from year to year with reference to its use;

Provided that, for the purpose of sub-clause (ii),-

(a) in respect of any building or land or premises the standard rent of which has been fixed under Section 11 of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, (Bombay LVII of 1947) the annual Rent thereof shall not exceed the annual amount of the standard rent so fixed;

<sup>2</sup>(aa) in respect of any building or land or premises, the standard rent of which is not fixed under section 11 of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, (Bombay LVII of 1947.) the annual rent received by the owner in respect of such building or land or premises shall, notwithstanding anything contained in any other law for the time being in force, be deemed to be the annual rent for which such building or land or premises might reasonably be expected to let from year to year with reference to its use;

(aaa) Clause (aa) shall not apply to a case where the annual rent received by the owner in respect of such building or land or premises is in the opinion of the Commissioner less than the annual rent for which such building or land or premises might, notwithstanding anything contained in any other law for the time being in force, reasonably be expected to let from year to year with reference to its use;]

(b) in the case of any land of a class not ordinarily let the annual rent of which cannot in the opinion of the Commissioner be easily estimated, the annual rent shall be deemed to be six per cent, of the estimated market value of the land at the time of assessment;

(c) in the case of any building of a class not ordinarily let, or in the case of any industrial or other premises of a class not ordinarily let, or in the case of a class of such premises the building or buildings in which are not ordinarily let, if the annual rent thereof cannot in the opinion of the Commissioner be easily estimated, the annual rent shall be deemed to be six per cent, of the total of the

estimated market value, at the time of the assessment, of the land on which such building or buildings stand or, as the case may be, of the land which is comprised in such premises, and the estimated cost, at the time of the assessment, or erecting the building or, as the case may be, the building or buildings comprised in such premises;]

.

(2) "appointed day" means with reference to any local area the day on which such area is constituted the City of Ahmedabad, <sup>3</sup>\* \* \* or any other city, as the case may be, under Section 3 ;

<sup>4</sup>(2A) "Approved co-operative bank" means such co-operative bank registered or, deemed to be registered under the <sup>6</sup>Bombay Co-operative Societies Act, 1925, (Bombay VII of 1925.) as may be approved by the State Government by general or special order;]

(3) "bakery of bake-house" means any place in which bread, biscuits or confectionery are baked, cooked or prepared in any manner what so ever for the purposes of sale or profit;

(4) "budget grant" means the total sum entered on the expenditure side of a budget estimate under a major head as prescribed by rules and adopted by the corporation, and includes any sum by which such budget grant may be increased or reduced by a transfer from or to other heads in accordance with the provisions of this Act and rules:

(5) "building" includes a house, out-house, stable, shed, hut and other enclosure of structure whether of masonry, bricks, wood, mud, metal or any other material whatever, whether used as a human dwelling or otherwise, and also includes verandahs, fixed platforms, plinths, doorsteps, walls including compound walls and fencing and the like;

(6) "by-law" means a by-law made under Section 458 ;

[6-A) "Carpet area" means the floor area of a building excluding the area over which a wall whether outer or inner is erected]

(7) "cesspool" includes a settlement tank or other tank for the reception or disposal of foul matter from buildings;

[(7-A) "Chawl" means a building consisting of two or more tenements whether having common sanitary and other facilities or

not and declared as such by the common by notification in the official Gazette]

**7**(8) "the city" means a larger urban area as specified under sub-clause (2) of article 243 Q of the constitution of India and includes other local areas already declared to be a city prior to the commencement of the Bombay Provincial Municipal Corporation (Gujarat Second Amendment) Act. 1993 (Gujarat 16 of 1993),]

**8**(8A) "Civil Appellate Court" means in the case of the City of Ahmedabad the High Court and in the case of any other City, the District Court having jurisdiction in the District in which the City is situate;]

(9) "the Commissioner" means the Municipal Commissioner for the City appointed under Section 36 and includes an Acting Commissioner appointed under Section 39 ;

(10) "the Corporation" means the Municipal Corporation of the City;

(11) "Councilor" means a person who is duly elected as a member of the Corporation under this Act;

**8**(11A) "Criminal Appellate Court" means in the case of the City of Ahmedabad, the High Court and in the case of any other City, the Sessions Court having jurisdiction in the Sessions Division in which the City is situate;]

(12) "cubical contents" 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 storey or where the building consists of one storey only, the upper surface of its floor;

(13) "dairy" includes any farm, cattle-shed, milk store, milk shop or other place from which milk is supplied for sale or in which milk is for the purposes of sale of manufactured for into batter, ghee, cheese, curds or dried or condensed milk for sale and, in the case of a dairyman who does not occupy only place 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 or other place in which milk is sold for consumption on the premises only;

(14) "dairyman" includes the keeper of a cow, buffalo, goat, ass or other animal, the milk of which is offered or intended to be offered for sale for human consumption, and any surveyor of milk and any

occupier of a dairy;

(15) "dairy produce" includes milk, butter, ghee, curd, butter milk, cream, cheese and every product of milk;

(16) "dangerous disease" means cholera, plague, smallpox or any other epidemic or infectious disease by which the life of human beings is endangered and which the Corporation may from time to time by public notice declare to be a dangerous disease;

(17) "drain" includes a sewer, tunnel, pipe, ditch, gutter or channel and any ' cistern, flush-tank, septic tank or other device for carrying off or treating <sup>10</sup>[sewage, trade effluent], offensive matter, polluted water, sullage, waste water, rain water or sub-soil water and any culvert, ventilation, shaft or pipe or other appliance or fitting connected therewith, and any ejectors, compressed air mains, sealed sewage mains and special machinery or apparatus for raising, collecting, expelling or removing <sup>11</sup>sewage, trade effluent] or offensive matter from any place;

(18) "eating house" means any premises to which the public or any section of the public are admitted and where any kind of food is prepared or supplied for consumption on the premises or elsewhere for the profit or gain of any person owning or having an interest in or managing such premises;

<sup>12</sup>(18A) "election" means and includes entire election process commencing from the delimitation of constituencies to be known as wards and all stages culminating in to election of a councilor and it is always deemed to have meant and included entire election process as aforesaid]

(19) "essential services" means services in which any municipal officer, servant or other person is employed by or on behalf of the Corporation and which are specified in the rules;

(20) "factory" means a factory as defined in the Indian Factories Act, 1948; (LXIII of 1948).

(21) "filth" includes sewage, nightsoil and all offensive matter;

<sup>13</sup>(21A) "Finance Commission" means a Finance Commission constituted under article 243-1 of the Constitution of India.]

(22) "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 species and condiments;

(23) "form" means a form appended to the rules;

(24) "frame 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;

(25) "goods" includes animal;

**14**(25A) "hotel" includes an eating house or any premises where the public or any section of the public are supplied for consumption meals, drinks or any eatables on payment price;]

(26) "house-drain" means any drain of, and used for the drainage, of one or more buildings or premises and made merely for the purpose of communicating therefrom with a municipal drain;

(27) "house-gully" or "service passage" means a passage or strip of land constructed, set apart or utilised for the purpose of serving as a drain or of affording access to a privy, urinal, cesspool or other receptacle of filthy or polluted matter, to municipal servants or to persons employed in the cleansing thereof or in the removal of such matter therefrom;

(28) "hut" means any building which is constructed principally of wood, mud, leaves, grass, cloth or thatch and includes any temporary structure of whatever size or any small building of whatever material made which the Corporation may declare to be a hut for the purpose of this Act;

**15**(28A) "industrial premises" means premises including the precincts thereof in any part of which a manufacturing process is being carried on or is ordinarily .carried on.

Explanation : "manufacturing process" includes producing, making, extracting, altering, ornamenting, finishing or otherwise processing, treating or adapting any goods;]

(29) "the Judge" means **1617**in the City of Ahmedabad,] the Chief Judge of the Court of Small Causes or such other Judge of the Court as the Chief Judge may appoint in this behalf] and in any other City the Civil Judge (Senior Division) having jurisdiction in the City;

(30) "land" includes land which is being built upon or is built upon or covered with water, benefits to arise out of land, things attached to the earth or permanently fastened to anything attached to the earth and rights created by legislative enactment over any street;

(31) "licensed plumber", "licensed survey or", "licensed architect", "licensed engineer", "licensed structural designer" and "licensed clerk of works", respectively, means a person licensed by the Corporation as a plumber, surveyor, architect, engineer, structural designer or a clerk of works under this Act;

(32) "lodging house" means a building or part of a building where lodging with or without board or other service is provided for a monetary consideration;

(33) "market" includes any place where persons assemble for the sale of, or for the purpose of exposing for sale, live-stock or food for live-stock or meat, fish, fruit, vegetables, animals intended for human food or any other articles of human food whatsoever with or without the consent of the owner of such place, notwithstanding that there may be no common regulation of the concourse of buyers and sellers and whether or not any control is exercised over the business of or the persons frequenting the market by the owner of the place or any other person;

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

**18**(34A) "Metropolitan area" means an area as specified under clause (c) of article 243P of the constitution of India.

(34B) "Municipal area" means the territorial area of a Corporation as referred to in clause (d) of article 243P of the Constitution of India.]

(35) "municipal drain" means a drain vested the Corporation;

(36) "municipal market" means a market vested in or managed by the Corporation;

(37) "municipal slaughter house" means a slaughter house vested in or managed by the Corporation;

(38) "municipal tax" means any impost levied under the provisions of this Act:

(39) "municipal water-works" means water-works belonging to or vesting in the Corporation;

(40) "nuisance" includes any act, omission place of thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell or hearing or which is or may be dangerous to life or injurious to health or property;

(41) "occupier" includes-

(a) any person who for the time being is paying or is liable to pay to the owner the rent or any portion of the rent of the land or building in respect of which such rent is paid or is payable,

(b) an owner living in or otherwise using his land or building,

(c) a rent free tenant,

(d) a licensee in occupation of any land or building, and

(e) any person who is liable to pay to the owner damages for the use and occupation of any land or building;

(42) "octroi" means a cess on the entry of goods into the limits of a city for consumption, use or sale therein;

(43) "offensive matter" includes animal carcasses, dung, dirt and putrid or putrifying substances other than sewage;

(44) "official year" means the year commencing on the first day of April;

(45) "owner" means- fa) when used with reference to any premises, the person who receives the rent of the said premises, or who would be entitled to receive the rent thereof if the premises were let and includes-

(i) an agent or trustee who receives such rent on account of the owner,

(ii) an agent or trustee who receives the rent of, or is entrusted with or concerned for, any premises devoted to religious or charitable purposes,

(iii) a receiver, sequestrator or manager appointed by any Court of competent jurisdiction to have the charge of, or to exercise the rights of an owner of, the said premises, and

(iv) a mortgagee-in-possession, and (b) when used with reference

to any animal, vehicle or boat, includes the person for the time being in charge of the animal, vehicle or boat;

**19**(45A) "population" in relation to city means the population as asceratined at last preceeding census of which the relevant figures have been published.]

(46) "premises" includes messuages, buildings and lands of any tenure whether open or enclosed, whether built on or not and whether public or private;

**20**46A) "private drain" means a drain which is not a municipal drain;]

(47) "private street" means a street which is not a public street;

(48) "privy" means a place set apart for defecating or urinating or both, together with the structure comprising such place, the receptacle therein for human excreta and the fittings and apparatus, if any, connected there with, and includes a closet of the dry type, an aqua privy, a latrine and a urinal;

(49) "property tax" means a tax on buildings and lands in the city;

(50) "public place" includes any public park or garden or any ground to which the public have or are permitted to have access;

(51) "public securities" means-

(a) securities of the Central Government or a n y **19**[State] Government,

(b) securities, stocks, debentures or shares the interest whereon has been guaranteed by the Central pr the **22**[State] Government,

(c) debentures or other securities for money issued by or on behalf of any local authority in exercise of the powers conferred by any enactment for the time being in force in any part of **23**the territory of India],

(d) securities expressly authorized by any order which the **21**[State] Government makes in this behalf;

(52) "public street" means any street-

(a) heretofore levelled, paved, metalled, channelled, sewerred or repaired out of municipal or other public fund, or

(b) which under the provisions of Section 224 is declared to be, or under any other provision of this Act becomes, a public street;

(53) "rack-rent" means the amount of the annual rent for which the premises with reference to which the term is used might reasonably be expected to let from year to year ascertained for the purpose of fixing the rateable value of such premises :

**2526**(54) "rateable value" means the value of any building or land fixed whether with reference to any given premises or otherwise, in accordance with the provisions of this Act and the rules for the purpose of assessment to property taxes;]]

(55) "regulation" means a regulation made under Section 465 ;

**27**55A) "relevant Small Cause Courts Act" means in the case of the City of Ahmedabad the Presidency Small Cause Courts Act, 1882 (XV of 1882) and in the case any other City, the Provincial Small Cause Act, 1887;[(IX of 1887)]

(56)

(a) a person is deemed to "reside" in any dwelling which, or some portion of which he sometimes uses, whether interruptedly or not, as a sleeping apartment, and

(b) a person is not deemed to cease to "reside" in any such dwelling merely because he is absent from it or has elsewhere another dwelling in which he resides if there is the liberty of returning to it at any time and no abandonment of the intention of returning to it;

(57) "rubbish" includes dust, ashes, broken bricks, mortar, broken glass, garden or stable refuse and refuse of any kind which is not offensive matter or sewage;

(58) "rules" includes rules in the Schedule and rules made under Section 454 and Section 456 ;

(59) "the Schedule" means the Schedule appended to this Act;

**28**(59A) "scheduled bank" means a bank included in the Second Schedule to the Reserve Bank of India Act, 1934; (II of 1934)]

(60) "sewage" means night-soil and other contents of water closets, latrines, privies, urinals, cesspools, or drains and polluted water from sinks, bath rooms stables, cattle-sheds and other like places

and includes trade effluent and discharges from manufactories of all kinds;

(61) "special fund" means a fund constituted under Section 91 ;

(62) "standing order" means an order made under Section 466 ;

**29**(62A) "State Election Commission" means a state Election commission referred to in article 243k of the constitution of India]

(63) "street" includes any highway and any causeway bridge arch road, lane, footway, sub-way, court, alley or riding path of passage, whether a thoroughfare or not, over which the public have a right of passage or access or have passed and had access uninterruptedly for a period of twenty years, and, when there is a footway as well as carriage way in any street, the said term includes both;

(64) "sweetmeat shop" means any premises or part of any premises used for the manufacture, treatment or storage for sale, or for the sale, wholesale or retail of any ice-cream, confections or sweetmeats whatsoever, for whomsoever intended, and by whatsoever name the same may be known, and whether the same be for consumption on or outside the premises;

(65) "theatre tax" means a tax on amusements or entertainments;

(66) "trade effluent" means any liquid either with or without particles of matter in suspension therein, which is wholly or in part produced in the course of any trade or industry carried on at trade premises, and in relation to any trade premises means any such liquid as aforesaid which is so produced in the course of any trade or industry carried on at those premises, but does not include domestic sewage;

(67) "trade premises" means any premises used or intended to be used for carrying on any trade or industry;

(68) "trade refuse" means and includes the refuse of any trade, manufacture or business;

(69) "Transport Manager" means the Transport Manager of the Transport Undertaking appointed under Section 40 and includes an acting Transport Manager appointed under Section 41 ;

(70) "Transport Undertaking" means all undertakings acquired, organised, constructed, maintained, extended, managed or

conducted by the Corporation for the purpose of providing mechanically propelled transport facilities for the conveyance of the public and includes all moveable and immovable property and rights vested or vesting in the Corporation for the purposes of every such undertaking;

(71) "vehicle" includes a carriage, cart, van, dray, truck, hand-cart, bicycle, tricycle, motor-car, and every wheeled conveyance which is used or is capable of being used on a street;

<sup>1</sup> (72) "water closet" means a closet used as a privy in which discharges are pushed in or carried off by water, and includes an acqua privy, gas plant, latrine attached with gas plant, a closet of type known as P.R.A.I. (Planning Research Action Institute) type, septic tank type, hand flush type, bore hole type, clap trap type or any other type which the State Government may, be notification in the Official Gazette, specify;]

(73) "water-connection" includes-

(a) any tank, cistern, hydrant, stand-pipe, meter or tap situated on a private property and connected with water-main or pipe belonging to the Corporation; and

(b) the water-pipe connecting such tank, cistern, hydrant, stand-pipe, meter or tap with such water-main or pipe;

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

(75) "water for domestic purposes" shall not include water for cattle, or for horses, or for washing vehicles, when the cattle, horses or vehicles are kept for sale or hire, or by a common carrier, and shall not include water for any trade, manufacture or business, or for building purposes, or for watering gardens, or for fountains or for any ornamental or mechanical purposes;

(76) "water-work" includes a lake, stream, spring, well, pump, reservoir, cistern, tank, duct, whether covered or open, sluice, mainpipe, culvert, engine, water truck, hydrant, stand-pipe, conduit, and machinery, land, building or thing for supplying or used for supplying water or for protecting sources of water supply.

1. Clause (1A) was and was deemed always to have been inserted by Gujarat 5 of 1970, Section 2 (1).

2. These clauses were inserted by Guj, 3 of 1984, Section 2.

3. The words "or the City of Poona' were omitted by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.
4. Clause (2A) was inserted by Bombay 19 of 1954 Section 2.
6. Clause (8) substituted by Gujarat 16 of 1993 Section 2(1).
3. Clause (8) substituted by Gujarat 16 of 1993 Section 2(1).
7. Clause (8A) was inserted by Gujarat 8 of 1968, Section 2 (1).
8. Clause (11A) was inserted, Guj.8 of 1968., Section (2). 2
10. These words were substituted for the word "sewage" by Gujarat 19 of 1964, Section 2 (1).
11. Clause (18A) was inserted by Gujarat 16 of 1993 Section 2 (2)
12. Clause (21A) was inserted by Gujarat 16 of 1993 Section 2 (3)
13. clause (25A) was inserted by Gujarat 8 of 1969, Section 2 (3).
14. Clause (28A) was inserted by Git. 8 of 1968, Section 2 (4).
15. These words were substituted for the words "in the Cities of Ahmedabad and Poona" by the Gujarat Adaptation or Laws (State and Concurrent Subjects) Order, 1960.
16. These words were substituted for the words "in the City of Ahmedabad the Judge of the Court of Small Causes" by Gujarat 8 of 1968, Section 2 (S)
17. Clause (34-A) (34-B) inserted by Gujarat 10 of 1993 Section 2 (4)
18. Clause (45A) was original inserted by Gujarat 1 of 1981, Section 2. and substituted by Gujarat 10 of 1993 Section 2 (5)
19. Clause (46A) was inserted by Gujarat 19 of 1964, Section 2 (2).
20. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
22. This portion was substituted for the words "the Dominion of India", the Adaptation of Laws Order, 1950.
23. Clause (54) was substituted for the original by Gujarat 8 of 1968, Section 2 (6).
25. Clause (54) was and was deemed always to have been substituted by Gujarat 5 of 1970, Section 2(2).
26. Clause (55A) was inserted by Gujarat 8 of 1968. Section 2 (7).
27. Clause (59A) was inserted by Bombay 10 of 1953, Section 2.
28. Clause (62-A) was inserted by Gujarat 16 of 1993 Section 2 (b)
29. Clause (72) was substituted by Gujarat 1 of 1979, Section 2.

### **3. Declaration of local area to be cities for purposes of the Act :-**

**1** .]

1. Section-3 deleted by Gujarat 10 of 1993 Section 3

### **3A. Consequences on alteration of limits of City :-**

**1**

(1) (a) Where by a notification <sup>2</sup>caluse (2) of article 243Q of constitution of India] any area is included within the limits of a City, all appointments, notifications, notices, taxes, orders,

schemes, licences, permissions, rules, by-laws or forms made, issued, imposed or granted under this Act by the Corporation in respect of the City and in force within the City immediately before the area is included in the City, shall, notwithstanding anything contained in this Act or any other law for the time being in force, extend to and be in force in the area so included from the date on which the area is included in the City.

(b) Where there are in force in the area included in a City, any appointments, notifications, notices, taxes, orders, schemes, licences, permissions, rules, bye-laws or forms immediately before such area is included in the City either corresponding to or inconsistent with the appointments, notifications, notices, taxes, orders, schemes, licences, permissions, rules, bylaws or forms extended and brought into force by clause (a), such appointments, notifications, notices, taxes, orders, schemes, licences, permissions, rules, by-laws or forms shall stand superseded.

(2) Where by a notification <sup>3</sup>[Clause (2) of article 243 Q of Constitution of India] any area is, excluded from the limits of a City, all appointments, notifications, notices taxes, orders, schemes, licenses, permissions, rules, by-laws or forms made issued, imposed or granted under this Act by the Corporation in respect of the City and in force within its area immediately before the area is excluded from the City shall, notwithstanding anything contained in this Act or any other law for the time being in force, continue to be in force in the area so excluded until they are superseded or modified.

(3) Where by a notification <sup>3</sup>[Clause (2) of article 245 Q of Constitution of India] the limits of any City are altered so as to

(a) include any area therein, or

(b) exclude any area therefrom, the State Government may, notwithstanding anything contained in this Act or any other law for the time being in force, by order published in the Official Gazette, provide for all or any of the following matters, namely :-

<sup>5</sup>(i) in a case falling under clause (a), the interim increase in the number of councilors shall be filled by election of additional members from amongst such persons entitled to vote at such election from such area, as the State Government may determine and the term of such councilor shall be for the remainder of the during of the Corporation.

(ii) in a case falling under clause (b), the removal of councilors, who in the opinion of the State Government shall represent the area so excluded from the city]

(iii) .....

(iv) the transfer, in whole or in part, of the assets, rights and liabilities of the surrendering local authority (including the rights and liabilities under any contract made by it) to the absorbing local authority or to the State Government and the terms and conditions for such transfer;

(v) the substitution of any absorbing local authority for the surrendering local authority or the addition of any such absorbing local authority , as a party to any legal proceeding to which a surrendering local authority is a party and the transfer of any proceeding pending before a surrendering local authority or any authority or officers subordinate to it to the absorbing local authority or any authority or officer subordinate to it;

(vi) the transfer or re-employment of any employees of a surrendering local authority to or by the absorbing local authority or the termination of services of any employee of a surrendering local authority, and the terms and conditions applicable to such employee after such transfer or re-employment or termination;

(vii) the continuance within the area so included in, or excluded from, a City under clause (a) or (b) of all or any budget estimates, assessments, assessment list or, as the case may be, assessment book, valuations, measurements or divisions made or authenticated by, or in respect of, the surrendering local authority and in force within its area immediately before the notified day, until they are superseded or modified;

(viii) the removal of any difficulty which may arise on account of any change referred to in clauses (a) and (b)

(4) Where an order is made under sub-section (3) transferring the assets, rights and liabilities of a surrendering local authority, then by virtue of that order, such assets, rights and liabilities of such local authority shall vest in, and be the assets, rights and liabilities of, the absorbing local authority.

(5) The Corporation constituted for the City and functioning immediately before the alteration of the limits of the City shall,

subject to the addition or exclusion of members under sub-section (3) and the other provisions of this section continue to function till the expiry of its term under this Act and on such expiry it shall be reconstituted in the manner provided in this Act.

Explanation I. - In this section, unless the context otherwise requires-

(1) "absorbing local authority" means the local authority in the area under whose jurisdiction an area is included under <sup>6</sup>clause (20) of article 243Q of constitution of India]

(2) "local authority" means the Corporation of a City, a municipality for a municipal borough, a nagar panchayat, or, as the case may be, a gram panchayat; and includes, where such Corporation, municipality or panchayat has been superseded or dissolved, the person or persons appointed to exercise the powers or to perform the functions of such Corporation, municipality or panchayat;

(3) "notified day" means the day on which the alteration of the limits of a City -<sup>7</sup>\* \* \*]takes effect

(4) "surrendering local authority" means the local authority from the area under whose jurisdiction any area is excluded <sup>8</sup> [ clause (2) of article 243 Q of the constitution of India]

Explanation II.- For the purposes of clause (2) of Explanation I, the person or committee appointed under Section 264B of the Gujarat Municipalities Act, 1963 (Gujarat 34 of 1964.) for a notified area constituted under Section 264A of that Act shall be deemed to be a municipality and the notified area or an area deemed to be a notified area under Section 16 of the Gujarat Industrial Development Act, 1962 , (Gujarat XXIII of 1962.) shall be deemed to be a municipal borough.]

1. Section 3A was inserted with effect on and from the 1st April, 1986 by Gujarat 19 of 1986, Section 2

2. This words substituted for the words "under sub-section (30) of section -3 by Gujarat Act No.16 of 1993 Section 4(1)

3. This words was substituted for the words "under sub-section (3) of section-3 by Gujarat 16 of 1993 Section 4 (1)

5. In sub-section (3) for paragraphs (i), (ii) and (ii) paragraphs (i) (iii) substituted by Guj. 16 of 1993s. 4 (2)

6. This words was substituted for the words "under sub-section 13 of section -3 by Guj.16 of 1993 Section 4(1)

7. This words "under section-3 " was deleted by Gujarat 16 of 1993 Section 4 (3)

8. This words substituted for the words "under sub-section (30 of the Section -3 by Guj.16 of 1993 Section 4(1)

CHAPTER 2  
CONSTITUTION

**4. Municipal authorities charged with execution of the Act**

:-

(1) The municipal authorities charged with carrying out the provisions of this Act are for each City :-.

(A) a Corporation;

(B) a Standing Committee;

(C) a Municipal Commissioner;

(D) a Transport Committee;

(E) a Transport Manager.

(2) The duties imposed on the Corporation in respect of primary education shall be performed in accordance with the provisions of the Bombay Primary Education Act, 1947, (Bombay LXI of 1947.) and for the purposes of the said Act the Corporation shall be deemed to be an authorised municipality within the meaning of the said Act with power to control all approved schools within the City, and to appoint an Administrative Officer.

**5. Constitution of Corporation :-**

(1) Every Corporation shall, by the name of "The Municipal Corporation of the City of....." be a body Corporate and have perpetual succession and a common seal and by such name may sue and be sued.

<sup>1</sup>(2) Each Corporation shall consist of councilor's chosen by direct election.

(3) Where general Election is to be held immediately after,

(i) "a larger urban area" as specified under clause (2) of the article 243 Q of the Constitution of India, is made, or

(ii) the census is taken under the census Act (37 of 1949) 1948 and the relevant figures of which have been published, or

(iii) the limits of a city are altered,-

(a) the State Government shall, by notification in the official Gazette, determine the number of wards into which the city shall be divided, the number of councillors to be elected to the Corporation and the number of seats to be reserved in favour of the scheduled castes; the scheduled Tribes, the backward classes and women as provided in this section, and

(b) the State Election Commission thereafter shall carry out the determination of the boundaries of the wards and the allocation of seats reserved in favour of the scheduled Castes, Scheduled Tribes, the backward classes and women among the wards in the prescribed manner.

(4) Seats shall be reserved by the State Government for the scheduled castes and the Scheduled Tribes in every Corporation and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled "by direct election in the Corporation as the population of the scheduled castes and scheduled Tribes in city bears to the total population of the city and such seats may be allotted by rotation to different wards in the City in the prescribed manner.

(5) One-third of the total number of seats reserved under sub-section (4) shall be reserved by the State Government for women belonging to the scheduled castes or, as the case may be, the Scheduled Tribes.

(6) One-tenth of the total number of seats to be filled by direct election in every corporation shall be reserved for persons belonging to backward classes and one third of the seats so reserved for backward classes shall be reserved for women belonging to the backward classes.

(7) One-third including the number of seats reserved for women belonging to the scheduled castes, the scheduled Tribes and the backward classes) of the total number of the seats to be filled by direct Election in the Corporation shall be reserved for women and such, seats may be allotted by rotation to different wards in the city in the prescribed manner.

(8) The reservation of seats under sub-section (4) (5) and (6) the reservation of office of Mayor under Section 19<sup>2</sup> [other than the reservation for women under sub-section (7)] shall cease to have effect on the expiration of the period specified in Art.334 of the

## Constitution of India .

provided that any person elected to any of such reserved seats shall continue as a councilor during the term of the office for which he was validly elected, notwithstanding that the reservation of seats has so ceased to have effect. Explanation : For the purpose of this section :-

(1) 'Scheduled Castes" means such castes, races or tribes, or parts of, or groups within such castes, races or tribes as are deemed to be scheduled castes in relation to the State of Gujarat under article 341 of the Constitution of India;

(2) 'Scheduled Tribes" means such tribes or tribal communities or parts of, or groups within such tribes or tribal communities as are deemed to be -scheduled Tribes in relation to the State of Gujarat under article 342 of the Constitution of India; and

(3) 'backward classes" means classes declared as socially and Educationally backward classes by the State Government from time to time]

1. This Clause (2) to (8) substituted for clause 91) to (4) by Guj, 16 of 1993 5.5

2. Section 5A deleted by Gujarat 16 of 1993 Section 2(5).

### **5A. Constitution of corporation pursuant to general election held first after in elusion of an area in city :-**

**1 ]**

1. Section 5A deleted by Gujarat 16 of 1993 Section 2(5).

### **6. Duration of Corporation :-**

**1**

(1) Every Corporation unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer.

(2) A Corporation Constituted upon the dissolution before the expiration of its duration shall continue only for the remainder of the period for which it would have continued under Sub-section (1) had it not been so dissolved.

1. Section 5A deleted by Gujarat 16 of 1993 Section 2(5).

### **6A. Terms of office of Councilors :-**

The term of the office of the Councilors shall be co-extensive with

the duration of the corporation.

**6B. Election to Constitute the Corporation :-**

An election to constitute a corporation shall be completed -

(a) before the expiration of its duration specified in sub-section (1) of the Section 6 ;

(b) before the expiration of six months form the date of its dissolution : provided that where the remainder of the period for which the dissolved Corporation would have continued is less than six months, it shall not be necessary to hold any election under this section for constituting the Corporation for such period;

**6C. Transitory Provision :-**

(1) Notwithstanding anything contained in Section 6B , where the duration of the Corporation has already expired before the Commencement of the Bombay provincial Municipal Corporation (Gujarat second Amendment) Act (Guj.16 of 1993), 1993 (hereinafter referred to as "the, said Act") or is due to expire within one year

(2) Where the duration of existing Corporation expires after one year form the said date, the election to Constitute such Corporation shall be completed before the expiry of its duration]

**7. Resignation of office by councillor :-**

Any councillor may resign his office at any time by notice in writing to the Commissioner and, on such notice being given, his office shall becomes vacant as from the date of the notice.

**7A. Provision for appointment of Administrator after expiry of normal term of office of Councillors :-**

<sup>1</sup> (D Where,

(i) the duration of a Corporation has already expired or is due to expire during the transitory period as referred to in sub-section (1) of Section 6C and election to constitute the Corporation not be Completed before the expiry of its duration, or

(ii) due to unforeseen circumstances such as natural calamity riots, Communal disturbance the election to constitute Corporation could not be completed before the expiry of its duration, the State Government may be order published in the official Gazette appoint a person as an Administrator to manage the affairs of the

Corporation during the period from the date specified in the order upto the date immediately preceding the date of the first meeting, after general election]

(2) During the said period, all the powers and duties of the Municipal authorities (except the Municipal Commissioner and the Transport Manager) charged with carrying out the provisions of this Act and of the Corporation under any other law for the time being in force shall be exercised and performed by the Administrator.

(3) The Administrator may by an order in writing delegate any of the powers and duties to be exercised or performed by him under sub-section (2) to any officer for the time being serving under the Corporation.

(4) The Administrator shall receive such remuneration from the Municipal Fund as the State Government may from time to time by general or special order determine.]

1. Sub-section (1) was substituted by Gujarat 13 of 1993 Section 7.

## **8. Qualifications of voters :-**

**1**

(1) For every ward, there shall be a list of voters.

(2) The list of voters shall be the same as the electoral roll of the Gujarat Legislative Assembly prepared and revised in accordance with the provisions of the Representation of the people Act, 1950 for the time being in force and as revised, modified, up dated and published in accordance with the provisions of sub-section (3).

(3) Subject to the Superintendence, direction and control of the State Election Commission the list of voters shall be revised, modified up dated and published by such officers as may be designated by the State Election Commission in this behalf in the prescribed manner.

(4) No person shall be entitled to have his name included in the list of voters for more than one ward and for any ward more than once.

(5) The list of voters for any ward published under sub-section (2) Shall remain in operation until a revised list of voters in respect of a Municipal Corporation is so published.]

1. Section-8 was substituted by Gujarat II of 1994 Section 1

## **9. Qualification for election as councillor :-**

(1) Subject to the provisions of this Act, a person who is enrolled in the municipal election roll as a voter for a ward <sup>1</sup> and has attained the age of twenty one year on the last date Fixed for making nomination for election] shall be qualified to be a councillor and to be elected either from such ward or from any other ward.

(2) Any person who ceases to be a councillor shall, if qualified under sub- section (1), be eligible for re-election as such.

1. These words added after the words "voter for a ward" by Gujarat 16 of 1993 Section 8.

## **10. Disqualification for being a councillor :-**

(1) Subject to the provisions of Section 13 , Section 17 and Section 404 , a person shall be disqualified for being elected and for being a councillor if such person

<sup>1</sup>(a-1) has been convicted of an offence under the Protect in of Civil Rights Act, 1955, (Act 22 of 1955.) unless a period of five years has elapsed, since his release from imprisonment;]

(a) has been sentenced by any court to imprisonment or whipping <sup>2</sup>for an offence under any other law for the time being in force] involving- moral turpitude and punishable with imprisonment for a term exceeding six

(b) is undischarged insolvent;

(c) holds the office of Commissioner or any other office or place of profit under the corporation;

(d) is a licensed surveyor, architect or engineer, structural designer, clerk of works or plumber or a member of a firm of which any such licensed person is a member ;

(e) holds any judicial office with jurisdiction within the limits of the City;

(f) subject to the provisions of sub-section (2), has directly or indirectly, by himself or his partner any share or interest in any contract or employment with, by or on behalf of the Corporation;

(g) having been elected a councillor is retained or employed in any professional capacity either personally or in the name of a firm in which he is a partner or whom he is engaged in a professional

capacity in connection with any cause or proceeding in which the Corporation or the Commissioner or the Transport Manager is interested or concerned; or

(h) fails to pay any arrears of any kind due to the Corporation by him, otherwise than as a trustee, within three months after a special notice in this behalf has been served on him by the Commissioner.

**3**(i) is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State : Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty one years]

(2) A person shall not be deemed to have incurred disqualification under clause (f) of sub-section (1) by reason only of his-

(a) receiving a municipal pension;

(b) having any share or interest in

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

(iv) any joint stock company or any society registered or deemed to be registered under the Bombay Co-operative Societies Act, 1925, (Bombay VII 1925) which shall contract with or be employed by the Commissioner or the Transport Manager on behalf of the Corporation;

(v) the occasional sale to the Commissioner or Transport Manager on behalf of the Corporation of any article in which he regularly trades to a value not exceeding in the aggregate in any one official year two thousand rupees; or

(vi) the occasional letting out on hire to the Corporation or in the hiring from the Corporation of any article for an amount not exceeding in the aggregate in any one official year five hundred rupees;

(c) occupying as a tenant for the purpose of residence any premises belonging to the Corporation; **4\*** ]

(d) receiving conveyance charges as a member of the Transport Committee; **5**or]

6(e) being a relative of a person in employment with or under or by or on behalf of the Corporation.]

7 (3) A person who at any time during the term of his office is disqualified under the Gujarat Provisions for Disqualification of Members of Local Authorities for Defection Act, 1986 (Gujarat 23 of 1986) for being a councillor shall cease to hold office as such councillor.]

1. Clause (a-1) was inserted by Gujarat 1 of 1979, Section 3 (i).
2. These words were substituted for the words "for an offence." ibid., Section 3 (ii).
3. This Sub-section (i) was added by Gujarat 16 of 1993 Section 9
4. The word "or" was deleted by Gujarat 17 of 1968, Section 3 (1).
5. This word was added, ibid., Section 3 (2).
6. Clause (e) was inserted by Gujarat 17 of 1968, Section 3(3).
7. Sub-section (3) was added by Gujarat 23 of 1986, Section 9.

### **11. Disabilities from continuing as councillor :-**

A councillor shall cease to hold office as such if at any time during his term of office he -

(a) becomes disqualified for being a councillor by reason of the provisions of Section 10 ;

(b) absents himself during three successive months from the meetings of the Corporation, except from, temporary illness or other cause to be approved by the Corporation;

(c) absents himself from <sup>1</sup> \*\*\*] the meetings of the Corporation during six successive months from any cause whatever, whether approved by the Corporation or not; or

(d) acts as a councillor or as a member of any committee of the corporation by voting on or taking part in the discussion of, or asking any question concerning any matter in which he has directly or indirectly by himself or his partner any such share or interest as in described in clause (b) of sub-section (2) of Section 10 or in which he is professionally interested on behalf of a client, principal or other person.

1. The words "or is unable to attend" were deleted by Gujarat 1 of 1979, Section 4

### **12. Questions as to disqualification to be determined by the Judge :-**

(1) If any doubt or dispute arises whether a councillor has ceased

to hold office as such under Section 11 , such councillor or any other councillor may, and, at the request of the Corporation, the Commissioner shall, refer the question to the Judge.

(2) On a reference being made to the Judge under sub-section (1) such councillor shall not be deemed to be disqualified until the Judge after holding an inquiry in the manner provided by or under this Act determines that he has ceased to hold office.

### **13. Liability of councillors to removal :-**

(1) The <sup>1</sup>[State] Government may, on the recommendation of the Corporation supported by the vote of not less than three-fourths of the whole number of councillors, remove from office with effect from such date as may be specified in the order of removal any councillor elected under this Act, if it is satisfied that such councillor has been guilty of misconduct in the discharge of his duty or of any disgraceful conduct or has become incapable of performing his duties as a councillor : Provided that no recommendation shall be made by the Corporation under this section unless the councillor to whom it relates has been given a reasonable opportunity of showing cause why such recommendation should not be made.

(2) A person who has been removed from office under sub-section (1) shall be disqualified for being elected and for being a councillor for a period of five years from the date of his removal unless the <sup>1</sup> [State] Government relieves him of the disqualification by an order which it is hereby empowered to make. Election of Councillors

1. This word was substituted for the word 'Provincial" by the Adaptation of Laws Order, 1950.

### **14. Election by State Election Commission :-**

(1) The superintendence, direction and control of the preparation of electoral rolls for, and conduct of, all the election of the Corporations shall be vested in the State Election Commission.

(2) The State Election Commission shall hold the election as per rules made by the State Government.

(3) The provision of Section 7 of the Bombay General clauses Act, 1904 . (Bombay I of 1904) 1904 shall not apply to anything done or suffered under the provision repealed or substituted by the Bombay provincial Municipal Corporations (Gujarat Second Amendment) Act. (Gujarat 16 of 1993) 1993 (here in after referred

to as "the said Act")

(4) The State Election Commissioner shall be appointed within two months of the coming into force of the said Act.

(5) The State Government shall when so required by the State Election Commission, make available to it the staff as may be necessary for the discharge of the function conferred it by clause (1) of article 243K of the Constitution of India.

(6) The State Election Commissioner appointed immediately after the commencement of the said Act shall commence the work of delimitation of the Constituencies to be known as wards within one month from the date of his appointment as per the last published census figures.

(7) Notwithstanding anything confined in the principal Act or in any decree, order or direction of any court, the election of the corporation shall be held in accordance with the provisions of the Constitution (seventy-fourth Amendment) Act, 1992 on Municipalities and the provisions of the Bombay provincial Municipal Corporation Act. (Bombay LIX of 1949) 1949 as amended by the said Act and the rules made by the State Government in this behalf]

#### **15. Casual vacancies how to be filled :-**

(1) In the event of non-acceptance of office by a person elected to be a councillor, or of the death, resignation, disqualification or removal of a councillor during his term of office, there shall be deemed to be a casual vacancy in the office, and such vacancy shall be filled as soon as conveniently may be, and, in any case, within three months of the date on which it is known that such vacancy has occurred, by the election of a person thereto, who shall hold office so long only as the councillor in whose place he is elected would have been entitled to hold it if the vacancy had not occurred :

Provided that no election shall be held for the filling of a casual vacancy if general elections are due to be held within six months of the occurrence of the vacancy.

(2) The provisions of Section 18 shall apply to an election held for the filling of a casual vacancy.

#### **16. Election petitions :-**

(1) If the qualification of any person declared to be elected a councillor is disputed, or if the validity of any election is questioned, whether by reason of the improper rejection by the Commissioner of a nomination or of the improper rejection or refusal of a vote, or by reason of a material irregularity in the election proceedings corrupt practice, or any other thing materially affecting the result of the election, any person enrolled in the municipal election roll may at any time within ten days after the result of the election has been declared, submit an application to the Judge for the determination of the dispute or question.

(2) The <sup>1</sup> [State] Government may, if it has reason to believe that an election has not been a free election by reason of the large number of cases in which undue influence or bribery has been exercised or committed, by order in writing, authorise any officer to make an application to the Judge at any time within one month after the result of the election has been declared for a declaration that the election of the returned candidate or candidates is valid.

(3) The Judge shall decide the applications made under sub-section (1) or (2) after holding an inquiry in the manner provided by or under this Act.

Explanations.- For the purpose of this section :- (1) "corrupt practice" means one of the following practices, namely :-

(a) any gift, offer or promise by a candidate or his agent or by any person with the connivance of a candidate or his agent of any gratification, pecuniary or otherwise, to any person whomsoever, with the object, directly or indirectly of inducing a person to stand or not to stand as, or to withdraw from being, a candidate at an election or a voter to vote or refrain from voting at an election or as a reward to a person for having so stood or not stood or for having withdrawn his candidature or a voter for having voted or refrained from voting;

(b) any direct or indirect interference or attempt to interfere on the part of a candidate or his agent or of any other person with the connivance of the candidate or his agent with the free exercise of any electoral right, including the use of threats of injury of any kind or the creation or attempt to create fear of divine displeasure or spiritual censure, but not including a declaration of public policy or a promise of public action or the mere exercise of a legal right without intent to interfere with a legal right;

(c) the procuring or abetting or attempting to procure by a candidate or his agent or by any other person with the connivance of a candidate or his agent, the application by a person for a voting paper in the name of any other person whether living or dead or in a fictitious name or by a person for a voting paper in his own name when, by reason of the fact that he has already voted in the same or some other ward, he is not entitled to vote;

(d) the removal of a voting paper from the polling station during polling hours by any person with the connivance of a candidate or his agent;

(e) the publication by a candidate or his agent or by any other person with the connivance of the candidate or his agent of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election;

(f) any acts specified in paragraphs (a), (b), (d) and (e) when done by a person who is not a candidate or his agent or a person acting with the connivance of a candidate or his agent;

(g) the application by a person at an election for a voting paper in the name of any other person, whether living or dead, or in a fictitious name, or for a voting paper in his own name when, by reason of the fact that he has already voted in the same or another ward, he is not entitled to vote; or

(h) the receipt of, or agreement to receive, any gratification of the kind described in paragraph (a) as a motive or reward for doing or refraining from doing any of the acts therein specified;

(2) a corrupt practice shall not be deemed to have been committed in the interests of a returned candidate if the Judge is satisfied that it was of a trivial and limited character which did not affect the result of the election, that in all other respects the election was free from any corrupt, practice on the part of the candidate or any of his agents, that it was committed without the sanction or connivance or contrary to the orders of the candidate or his agents and that the candidate and his agents took all reasonable means for preventing the commission of corrupt practices at the election.

1. This word was substituted for the word "Provincial" by the

Adaptation of laws Order, 1950.

**17. Disqualification of voter for corrupt practice :-**

<sup>1</sup> [\* \* \*]

1. Section 17 deleted by Gujarat 11 of 1994 Section 4.

**18. Procedure if election fails or is set aside :-**

(1) If at any general elections or an election held to fill a casual vacancy, no councillor is elected or an insufficient number of councillors are elected or the election of any or all of the councillors is set aside under this Act and there is no other candidate or candidates who can be deemed to be elected in his or their place, the <sup>1</sup> [State Election Commission] shall appoint another day for holding a fresh election and a fresh election shall be held accordingly.

(2) A councillor elected under this section shall be deemed to have been elected to fill a casual vacancy under Section 15 .

1. This word were substituted for the word "the commissioner" by Gujarat 16 of 1993 Section 11

**19. Mayor and Deputy Mayor :-**

(1) The Corporation shall at its first meeting after general elections and at its first meeting in the same month in each succeeding year elect from amongst the councillors one of its member to be the Mayor and another to be the Deputy Mayor.

<sup>1</sup>(1-A)

(a) The office of the mayor in every Corporation shall be reserved by the State Government for scheduled castes, scheduled Tribes, backward classes and women in the prescribed manner.

(b) The reservation made under clause (a) shall as nearly as may be, in the same proportion as provided in their favour under Section 5 .

(2) The Mayor and the Deputy Mayor shall hold office until a new Mayor and a new Deputy Mayor have been elected under subsection (1) and, in a year in which general elections have been held, shall do so notwithstanding that they have not been returned as councillors on the results of the elections.

(3) A retiring Mayor or Deputy Mayor shall be eligible for re-election

to either office.

<sup>2</sup>provided that Mayor shall be eligible for re-election subject to the provision of Sub-section (1-A)]

(4) The Deputy Mayor may resign his office at any time by notice in writing to the Mayor and the Mayor may resign his office at any time by notice in writing to the Corporation.

(5) If any casual vacancy occurs in the office of Mayor or Deputy Mayor the Corporation shall, as soon as convenient after the occurrence of the vacancy, choose one of its member to fill the vacancy and every Mayor or Deputy Mayor so elected shall hold office so long only as the person in whose place he is appointed would have been entitled to hold it if the vacancy had not occurred.<sup>3</sup>

<sup>3</sup> Honoraria, fees and allowance]

1. These Sub-section were inserted by Gujarat 16 of 1993 Section 12(2)

2. These proviso inserted by Gujarat 16 of 1993 Section 12 (3)

3. This heading and section 19A were inserted by Bombay 80 of 1958, Section 2.

### **19A. Honoraria, fees or allowance :-**

(1) With the previous sanction of the State Government, the Corporation may pay each councillor such honoraria, fees or other allowances as may be prescribed by rules made by the Corporation under this section.

(2) The Corporation shall place at the disposal of the Mayor annually such sum <sup>1</sup> x x x] by way of sumptuary allowance as it may determine.

(3) Notwithstanding anything contained in Section 10 , the receipt by a

Standing Committee

1. "not exceeding Rs.3000/- deleted by Guj.3 of 1999 Section 3

### **20. Constitution of Standing Committee :-**

(1) The Standing Committee shall consist of twelve councillors.

(2) The Corporation shall at its first meeting after general elections appoint twelve persons out of its own body to be members of the Standing Committee.

(3) One-half of the members of the Standing Committee shall retire every succeeding year at noon on the first day of the month in which the first meeting of the Corporation mentioned in sub-section (2) was held : Provided that all the members of the Standing Committee in office when general elections are held shall retire from office on the election of a new Committee under sub-section (2).

(4) The members who shall retire under sub-section (3) one year after their election under sub-section (2) shall be selected by lot at such time previous to the date for retirement specified in sub-section (3) and in such manner as the Chairman of the Standing Committee may determine, and in succeeding years the members who shall retire under this section shall be those who have been longest in office Provided that in the case of a member who has been reappointed, the term of his office for the purposes of this sub-section shall be computed from the date of his reappointment.

(5) The Corporation shall at its meeting held in the month preceding the date of retirement specified in sub-section (3) appoint fresh members of the Standing Committee to fill the offices of those who are due to retire on the said date.

(6) Any councillor who ceases to be a member of the Standing Committee shall be eligible for reappointment.

## **21. Appointment of Chairman of Standing Committee :-**

(1) The Standing Committee shall at its first meeting after its appointment under sub-section (2) of section 20 and at its first meeting in the same month in each succeeding year appoint one of its own number to the Chairman.

3

(2) The Chairman shall hold office until his successor has been appointed under sub-section (1) but shall be eligible for reappointment.

(3) Notwithstanding the provisions of sub-sections (1) and (2) the Chairman shall vacate office as soon as he ceases to be a member of the Committee.

(4) If any casual vacancy occurs in the office of the Chairman, the Standing Committee shall, as soon as conveniently may be after the occurrence of the vacancy, appoint one of its members to fill

such vacancy and every Chairman so appointed shall continue in office so long only as the person in whose place he is appointed would have held it if such vacancy had not occurred.

**22. Members of Standing Committee absents himself from meetings to vacate seat :-**

Any member of the Standing Committee who absents himself during two successive months from the meeting of the Committee, except on account of temporary illness or other cause to be approved by the Committee, or absents himself from, or is unable to attend, the meetings of the Committee during four successive months from any cause whatever, whether approved by the Committee or not, shall cease to be a member of the Standing Committee and his seat shall thereupon be vacant.

**23. Casual vacancies in Standing Committee how to be filled :-**

In the event of non-acceptance of office by a councillor appointed to be a member of the Standing Committee or of the death or resignation of a member of the said Committee or of his becoming incapable of acting previous to the expiry of his term of office or of his seat becoming vacant under Section 22 or on his ceasing to be a councillor, the vacancy shall be filled up, as soon as it conveniently may be, by the appointment of person thereto, who shall hold office so long only as the members in whose place he is appointed would have been entitled to hold it, if the vacancy had not occurred.

**24. Standing Committee may delegate powers to Special Committee or Sub- committee :-**

(1) The Standing Committee may, from time to time, by a resolution carried by the vote of at least two-thirds of its members present at the meeting, delegate to any Special Committee appointed under Section 30 any of its powers and duties in respect of any matter with which such Special Committee is competent to deal, or refer to any such Committee any such matter for disposal or report, and every such Special Committee shall conform to any instructions that may from time to time to given to it by the Standing Committee in this behalf : Provided that every such resolution shall be reported by the Standing Committee to the Corporation as soon as possible, and the Corporation may at any time cancel such resolution.

(2) The Standing Committee may, subject to the rules, by a specific resolution in this behalf delegate any of its powers and duties to sub-committees consisting of such members of the Standing Committee thinks fit and every such sub-committee shall conform to any instructions that may from time to time be given to it by the Standing Committee.

## **25. Appointment of Transport Committee :-**

(1) In the- event of the Corporation acquiring or establishing a Transport Undertaking there shall be a Transport Committee consisting of nine members for the purpose of conducting the said undertaking in accordance with the provisions of this Act and subject to the conditions and limitations as are contained therein.

(2) The Corporation shall at its first meeting after a Transport Undertaking is acquired or established appoint eight members of the Transport Committee from among persons who in the opinion of the Corporation have had experience of, and shown capacity in, administration or transport or in engineering, industrial, commercial, financial or labour matters and who may or may not be councillors.

(3) A person shall be disqualified for being appointed, and for being a member of the Transport Committee if, under the provisions of this Act or any other law for the time being in force, he would be disqualified for being elected as, and for being, a councillor.

(4) The Chairman of the Standing Committee shall be a member of the Transport Committee ex-officio.

(5) One-half of the members of the Transport Committee appointed by the Corporation shall retire in every second year on the first day of the month in which the meeting referred to in sub-section (2) was held.

(6) The members who shall retire two years after their appointment under sub- section (2) shall be selected by lot at such time previous to the first day of the month immediately preceding the date of their retirement and in such manner as the Chairman of the Transport Committee shall determine; thereafter the members of the Transport Committee who shall retire shall be the members who were longest in office:

Provided that in the case of a member who has been reappointed,

the term of his office for the purpose of this sub-section shall be computed from the date of his reappointment.

(7) Vacancies caused by the retirement of members under sub-section (5) shall be filled by the appointment by the Corporation of duly qualified persons thereto at its ordinary meeting in the month immediately preceding the occurrence of the vacancies :

Provided that in a year in which general elections of councillors are held, such vacancies shall be filled by the Corporation at its first meeting after such elections if such meeting-is due to be held within three months of the occurrence of the vacancies and, in such event, the members who would under sub-section (5) have retired on the date specified therein shall continue to be in office until new members have been appointed under this sub-section.

(8) A retiring member shall be eligible for re-appointment.

(9) In the event of non-acceptance of office by any, person appointed to be a member of the Transport Committee or of the death, resignation or disqualification of a member of the Committee or of his becoming incapable of acting, or of his office becoming vacant under the provisions of Section 26 , the vacancy shall be filled up, as soon as conveniently may be, by the appointment by the Corporation of a duly qualified person thereto, and such person shall hold office so long only as the person in whose place he is appointed would have held it if the vacancy had not occurred.

## **26. Disqualification of members of Transport Committee :-**

(1) Any person who, having been appointed a member of the Transport Committee,-

(a) becomes disqualified for being a member of the Committee under the provisions of sub-section (3) of Section 25 , or

(b) acts as member of the Committee by voting or taking part in the discussion of or asking any question concerning any matter in which he has directly or indirectly, by himself or his partner, any such share or interest as is described in clause (b) of sub-section (2) of Section 10 or in which he is professionally interested on behalf of a client, principal or other person, or

(c) absents himself during two successive months from the meetings of the Committee except from temporary illness or other cause to be approved by the Committee, or

(d) absents himself from or is unable to attend the meetings of the Committee during four successive months from any cause whatsoever, whether approved by the Committee or not, shall cease to be a member of the Committee and his office shall thereupon become vacant.

(2) If any doubt or dispute arises whether a vacancy has occurred under sub-section (1) the Commissioner shall, at the request of the Corporation, refer the question to the Judge.

### **27. Chairman of Transport Committee :-**

(1) The Transport Committee shall at its first meeting after its appointment under sub-section (2) of Section 25 and at its first meeting in the same month in each succeeding year appoint one of its number to be the Chairman.

(2) The Chairman shall hold office until his successor has been appointed under sub-section (1) but shall be eligible for reappointment.

(3) Notwithstanding the provisions of sub-sections (1) and (2) the Chairman shall vacate office as soon as he ceases to be a member of the Committee.

(4) In the event of the office of Chairman falling vacant previous to the expiry of his term the Committee shall, as soon as conveniently may be after the occurrence of the vacancy, appoint one of its member to fill such vacancy and the Chairman so appointed shall hold office so long only as the person in whose place he is appointed would have held it if such vacancy had not occurred.

### **28. Conveyance charges for attendance at meetings of Transport Committee :-**

The Chairman and members of the Transport Committee shall be paid such conveyance charges for attending meetings of the Committee as may be prescribed by rules.

### **29. Sub-Committees of Transport Committee :-**

(1) The Transport Committee may from time to time appoint out of its own body sub-committees consisting of such number of persons as the Committee thinks fit.

(2) The Committee may by specific resolution carried by the vote of at least two-thirds of its members present at the meeting delegate

any of its powers and duties to a sub-committee and may also by a like resolution define the sphere of business of such sub-committee.

(3) The Committee may refer to a sub-committee appointed under sub-section (1) for inquiry and report or for opinion any matter with which the Committee is competent to deal.

### **29A. Constitution of wards Committee :-**

#### **1**

(1) Where the population of the city is three lakhs or more, shall be constituted by the State Government wards committee or committees consisting of one or more wards within the territorial area of a Corporation.

(2) Each wards Committee shall consist of -

(a) Councillors of the Corporation representing a ward within territorial area of the ward Committee.

(b) Such other member, not exceeding five, having interest in civic administration, as may be nominated by the State Government Provided that a person shall be disqualified for being appointed, and for being a member of the wards committee, if under the provisions of this Act or any other law for the time being in force, he would be disqualified for being elected as and for being, a councillor.

(3) The wards committee shall as its first meeting after its constitution under sub-section (1) and at its first meeting in the same month in each succeeding years shall elect :-

(a) one ward the councillor representing that ward in the Corporation; or

(b) two or more wards, one of the councillors representing such wards in the Corporation Elected by the members of the Wards Committee, to be the chairperson of that Committee.

(4) the chairperson shall hold office until his successor has been elected and shall be eligible for re-election.

(5) The Chairperson shall vacate office as he ceases to be a "Councillor.

(6) In the event of the office of the chairperson falling vacant before the expiry of his term, the wards committee shall as soon as

conveniently may be after the occurrence of the vacancy, elect new chairperson in accordance with sub-section (3). provided that a chairperson so elected shall hold office so long only as the person in whose place he is elected would have it if such vacancy had not occurred.

(7) The duration of the wards committee shall be co-extensive with duration of the chairperson.

(8) The State Government shall by rules define the functions and duties of the wards committee, the territorial areas of such committee and the procedure to be adopted by such committee for transaction of its business.

(9) The chairperson and member of the wards committee shall be paid such conveyance charges for attending the meeting of the committee as may be prescribed by the rules]

1. New section 29A was inserted by Gujarat 16 of 1993 Section 13

### **30. Special Committees of the Corporation :-**

(1) The Corporation may from time to time appoint out of its own body, Special Committees which shall conform to any instructions that the Corporation may from time to time give them.

(2) The Corporation may by specific resolution passed by the vote of not less than two-thirds of the councillors present and voting at a meeting of the Corporation define the sphere of business of each Special Committee and direct that all matters and questions included in any such sphere shall in the first instance be placed before the appropriate Committee and shall be submitted to the Corporation with such Committee's recommendation; and the Corporation may also by a like resolution delegate any of its powers and duties to specified Special Committees.

(3) Every Special Committee shall appoint two of its number to its Chairman and Deputy Chairman :

Provided that no councillor shall, at the same time, be the Chairman of more than one Special Committee.

(4) The Chairman and in his absence the Deputy Chairman and, in the absence of both, such other member as may be chosen by the members of the Special Committee present at a meeting thereof shall preside at the meeting.

(5) Any member of a Special Committee who absents himself during two successive months from the meetings of such Committee, except on account of temporary illness or other cause to be approved by such Committee, or absents himself from or is unable to attend the meetings of such Committee during four successive months from any cause whatever, whether approved by such Committee or not, shall cease to be a member of such Committee and his seat shall thereupon be vacant.

(6) All the proceedings of every Special Committee shall be subject to confirmation by the Corporation :

Provided that if, in delegating any of its powers or duties to a Special Committee under sub-section (2), the Corporation directs that the decision of such Committee shall be final, then so much of the proceedings of such Committee as relates to such powers or duties shall not be subject to confirmation by the Corporation, if such decision is supported by at least half the total number of members of such Committee.

Provided further that any Special Committee may by a resolution supported by at least half the whole number of members direct that action be taken in accordance with the decision of such Committee without waiting for confirmation,, of its proceedings by the Corporation, where such confirmation is required, if such Committee considers that serious inconvenience would result from delay in taking such action; but if the Corporation does not subsequently confirm, the proceedings of such Committee such steps as may still be practicable shall be taken without delay to carry out the orders of the Corporation.

(7) The Corporation may at any time dissolve or alter the constitution of a Special Committee.

(8) The constitution of Special Committees and the conduct of business at meetings of such Committees, the keeping of minutes and the submission of reports and other matters before such Committees shall be regulated by rules.

### **31. Appointment of Ad hoc Committees :-**

(1) The Corporation may from time to time appoint out of its own body such ad hoc Committees consisting of such number of councillors as it shall think fit, and may refer to such Committees for inquiry and report or for opinion, such special subjects relating

to, the purposes of this Act as it shall think fit, and direct that the report of any such committee shall be submitted through the Standing Committee or a Special Committee constituted under Section 30 .

(2)'An ad hoc Committee appointed under sub-section (1) may, with the previous sanction of the Corporation, co-opt not more than two persons who are not councillors but who in the opinion of the Committee possess special qualifications for serving thereon.

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### **32. Joint transactions with other local authorities :-**

(1) The Corporation may from time to time join with a local authority or with a combination of local authorities-

(a) in appointing a joint committee out of their respective bodies for any purpose in which they are jointly interested, and in appointing a chairman of such committee;

(b) in delegating to any such committee power to frame terms binding on each such body as to the construction and future maintenance of any joint work, and any power which might be exercised by any of such bodies; and

(c) in framing and modifying rules for regulating the proceedings of any such committee in respect of the purpose for which the committee is appointed.

(2) Where the Corporation has requested the concurrence of any other local authority under the provisions of sub-section (1) in respect of any matter and such other local authority has refused to concur, the <sup>1</sup>[State] Government may pass such orders as it deems fit requiring the concurrence of such other local authority, not being a cantonment authority, in the matter aforesaid and such other local authority shall comply with such orders.

(3) If any difference of opinion arises between the Corporation and any other local authority which has joined the Corporation under this section, the matter shall be referred to t h e <sup>1</sup>[State] Government whose decision thereupon shall be final and binding;

Provided that, if the local authority concerned is a cantonment authority, any such decision shall not be binding unless it is confirmed by the Central Government. (4) The Corporation may

from time to time <sup>3</sup>in the case of any cantonment authority with the sanction of the State Government and the Officer Commanding-in-Chief, the Command, and in other cases] with" the sanction of the <sup>1</sup>[State] Government enter into an agreement with a local authority or with a combination of <sup>5</sup>or a tax on vehicles, boats or animals] by the Corporation on behalf of the bodies so agreeing and, in that event, the provisions of this Act shall apply in respect of such levy as if the area of the City were extended so as to include the area or areas subject to the control of such local authority or such combination of local authorities.

<sup>6</sup> (5) Whea, any agreement such as is referred to in sub-section (4) has been entered into, then the total of the collection of such octroi, toll or tax made in the City and in the area or areas ordinarily subject to the control of such other local authorities and the costs thereby incurred shall be divided between the Municipal Fund and the fund or funds subject to the control of such other local authority or authorities, as the case may be, in such proportion as may have been determined by the agreement.]

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

3. These words were inserted by Bombay 5 of 1958, Section 2 (1) (a).

5. These words were inserted, by Bombay S of 1958., Section 2 (1) (b).

6. This sub-section was added, *ibid.*, s 2 (2).

**33. Vacancy in Corporation, etc., not to invalidate its proceedings :-**

No act or proceedings of the Corporation or of any committee or sub-committee appointed under this Act shall be questioned on account of any vacancy in its body.

**34. Proceedings of Corporation etc., not vitiated by disqualification, etc. of members thereof :-**

No disqualification of, or defect in, the election or appointment of any person acting as a councillor, as the Mayor or the Deputy Mayor or the presiding authority of the Corporation or as the Chairman or a member of any Committee or sub-committee appointed under this Act shall be deemed to vitiate any act or proceeding of the Corporation or of any such Committee or sub-committee, as the case may be, in which such person has taken part, provided the majority of the persons, who were parties to

such act or proceedings were entitled to act.

**35. Proceedings of meetings to be good and valid until contrary proved :-**

Until the contrary is proved, every meeting of the Corporation or of a Committee or sub-committee in respect of the proceedings whereof a minute has been made and signed in accordance with this Act or the rules shall be deemed to have been duly convened and held, and all the members of the meeting shall be deemed to have been duly qualified; and where the proceedings are proceedings of a Committee or sub-committee, such Committee or sub-Committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minute.

**36. Appointment of the Commissioner :-**

(1) The Commissioner shall from time to time be appointed by the <sup>1</sup>[State] Government.

(2) The Commissioner shall in the first instance hold office for such period not exceeding three years as the <sup>1</sup>[State] Government may fix and his appointment may be renewed from time to time for a period not exceeding three years at a time.

(3) Notwithstanding the provisions of sub-section (2) the Commissioner may at any time, if he holds a lien on the service of the <sup>3</sup>Government] be recalled to such service after consultation with the Corporation and may further at any time be removed from office by me <sup>1</sup> [State] Government for incapacity, misconduct or neglect of duty and shall forthwith be so removed if at a meeting of the Corporation not less than five-eighth of the whole number of councillors vote in favour of a resolution requiring his removal.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

3. This word was substituted for the word "Crown", ibid.

**37. Salary of Commissioner :-**

(1) The Commissioner shall receive from the Municipal Fund such monthly salary and allowance as the <sup>1</sup>[State] Government may from time to time after consultation with the Corporation determine : Provided that the salary of the Commissioner shall not be altered to his disadvantage during the period for which his appointment

has been made or renewed.

(2) The Commissioner shall devote his whole time and attention to the duties of his office as prescribed in this Act or in any other law for the time being in force and shall not engage in any other profession, trade or business whatsoever : Provided that he may with the sanction of the Corporation serve on any Committee constituted for the purpose of any local inquiry or for the furtherance of any object of local importance or interest.

(3) When a salaried servant of the <sup>2</sup>Government] is appointed as the Commissioner such contribution to his pension, leave and other allowances as may be required by the conditions of his service under the <sup>2</sup>Government] to be made by him or on his behalf shall be paid to the <sup>1</sup> [State] Government from the Municipal Fund.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

2. This word was substituted for the word "Crown", ibid.

### **38. Grant of leave of absence to Commissioner and leave allowance :-**

(1) The <sup>1</sup>[State] Government may from time to time with the absent of the Standing Committee grant leave of absence to the Commissioner for such period as it thinks fit.

(2) The allowance to be paid to the Commissioner while absent on leave shall be of such amount not exceeding his salary, as shall be fixed by the <sup>2</sup>[State] Government and shall unless the Commissioner is a salaried servant of the <sup>3</sup>Government], be paid from the Municipal Fund : Provided that, if the Commissioner is a salaried servant of the <sup>3</sup>Government] he amount of such allowance shall be regulated by the rules for the time being in force relating to the leave allowance of salaried servants of the <sup>3</sup> Government] of his class.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

2. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

3. This words was substituted for the words "Crown" Ibid.

### **39. Appointment and remuneration of acting Commissioner :-**

During the absence on leave or other temporary vacancy in the

office of the Commissioner, the <sup>1</sup>[State] Government may appoint a person to act as the Commissioner and every person so appointed shall exercise the powers and perform the duties conferred and imposed by this Act or any other law for the time being in force on the Commissioner and shall be subject to all the liabilities, restrictions and conditions to which the Commissioner is liable and shall receive such monthly salary not exceeding the salary for the time being payable to the Commissioner as the <sup>1</sup> [State] Government shall determine.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

#### **40. Appointment of Transport Manager :-**

(1) In the event of the Corporation acquiring or establishing a Transport Undertaking the Corporation shall, subject to the approval of the <sup>1</sup>[State] Government, appoint a fit person to be the Transport Manager of the Transport Undertaking.

(2) The Transport Manager shall receive such monthly salary and allowance as the Corporation shall from time to time, with the approval of the <sup>1</sup> [State] Government determine: Provided that the salary of the Transport Manager shall not be altered to his disadvantage during his period of office.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

#### **41. Leave of Transport Manager :-**

(1) Leave of absence may be granted from time to time to the Transport Manager by the Transport Committee with the assent of the Corporation.

(2) The allowance to be paid to the Transport Manager whilst so absent on leave shall be of such amount, not exceeding the amount of his salary, as shall be fixed by the Corporation.

(3) During the absence on leave or other temporary vacancy in the office of the Transport Manager the Transport Committee, with the assent of the Corporation, may appoint a person to act as Transport Manager; every person so appointed shall

#### **42. Commissioner not to be interested in any contract etc. with Corporation :-**

(1) No person shall be qualified to be appointed or to be the Commissioner if he has, directly or indirectly, by himself or his partner, any share or interest in any contract with, by or on behalf of, the Corporation or in any employment with, by or on behalf of the Corporation other than as Commissioner.

(2) Any Commissioner who shall acquire, directly or indirectly, by himself or his partner, any share or interest in any such contract or employment as aforesaid shall cease to be Commissioner and his office shall become vacant.

(3) Nothing in this section shall apply to any such share or interest in any contract or employment with, by or on behalf of the Corporation as, under sub-clause (ii) or (iv) of clause (b) of subsection (2) of Section 10 it is permissible for a councillor to have without his being thereby disqualified for being a councillor.

#### CHAPTER 3

#### PROCEEDINGS OF THE CORPORATION, STANDING COMMITTEE, TRANSPORT COMMITTEE AND OTHER BODIES

### **43. Proceedings of the Corporation Standing Committee, etc**

:-

(1) The meetings of the Corporation, the Standing Committee, the sub-committees of the Standing Committee, the Transport Committee, the sub-committees of the Transport Committee, Special Committees and ad hoc Committees shall be held and the business before them shall be disposed of in the manner prescribed by rules.

(2) The Commissioner shall have the same right of being present at a meeting of the Corporation and of taking part in the discussions thereat as a councillor, and with the permission of the presiding authority, may at any time make a statement or explanation of facts, but he shall not be at liberty to vote upon, or to make, any proposition at such meeting.

(3) The Corporation may require any of its officers to attend any meeting or meetings of the Corporation at which any matter dealt with by such officers in the course of his duties is being discussed; when any officer is thus required to attend any such meeting, he may be called upon to make a statement or explanation of facts or supply such information in his possession relating to any matter dealt with by him as the Corporation may require.

(4) The Commissioner shall have the same right of being present at a meeting of the Standing Committee or of a sub-committee and of taking part in the discussions thereat as a member of the said committee, but he shall not be at liberty to vote upon, or make, any proposition at such meeting.

(5) The Commissioner and in his absence the Deputy or Assistant Commissioner authorised by the Commissioner in this behalf and the Transport Manager and in his absence any officer authorised by the Transport Manager in this behalf shall have the same right of being present at a meeting of the Transport Committee or of a sub-committee and of taking part in the discussion thereat as a member of the said committee, but shall not be at liberty to vote upon or make any proposition at such meeting.

**44. Right to ask questions :-**

A councillor may, subject to the conditions prescribed by rules, ask questions on any matter relating to the administration of this Act or the municipal Government of the City.

CHAPTER 4

MUNICIPAL OFFICERS AND SERVANTS-THEIR APPOINTMENT AND CONDITIONS OF SERVICE

**45. Appointment of City Engineer, etc :-**

(1) The Corporation shall from time to time appoint fit persons to be City Engineer, Medical Officer of Health, Municipal Chief Auditor and Municipal Secretary.

(2) The Corporation may from time to time with the approval of the <sup>1</sup>[State] Government create an appointment of Deputy Municipal Commissioner or an appointment of Assistant Municipal Commissioner or so many such appointments as it considers necessary, and may appoint a fit person or fit persons to such appointments.

(3) An officer appointed under this section shall have such qualifications as may be prescribed under the rules and shall receive such monthly salary and allowances as the Corporation may with the approval of the <sup>1</sup>[State] Government from time to time fix :

Provided that the salary of no officer shall be altered to his disadvantage during his period of office.

(4) Every appointment made under this section excepting an

appointment of a Municipal Secretary shall be subject to confirmation by the <sup>3</sup>[State] Government and any officer whose appointment the <sup>2</sup>[State] Government refuses to confirm shall be removed from office forthwith.

(5) On the occurrence of a vacancy in any office specified in this section an appointment shall be made thereto by the Corporation within four months from the date on which the vacancy occurred or, in the event of the removal of an officer under sub-section (4), within thirty days of the receipt by the Corporation of the order of the <sup>2</sup>[State] Government.

(6) In default of an appointment being made by the Corporation under Sub-section (5), the <sup>2</sup> [State] Government may appoint a fit person to fill the vacancy and such appointment shall for all purposes be deemed to have been made by the Corporation.

(7) Pending the settlement of an appointment under sub-section (1) or sub-section (5), the Corporation may appoint a person to fill the vacancy temporarily and may direct that the person so appointed shall receive such monthly salary and allowances not exceeding the maximum fixed under sub-section (3) for the time being as it thinks fit:

Provided that no such appointment shall extend beyond or be made after a lapse of six months from the date on which the vacancy occurs.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

3. This word was substituted for the word "'Provincial" by the Adaptation of Laws Order, 1950.

#### **46. Powers and Duties of City Engineer and Medical Officer of Health :-**

The City Engineer and the Medical Officer of Health shall perform such duties as they are directed by or under this Act to perform and such other duties as may be required of them by the Commissioner.

#### **47. Powers and Duties of Municipal Chief Auditor :-**

(1) The Municipal Chief Auditor shall-

(a) perform such duties as he is directed by or under this Act to perform and such other duties with regard to the audit of the

accounts of the Municipal Fund as shall be required of him by the Corporation or by the Standing Committee and with regard to the audit of the accounts of the Transport Fund as shall be required of him by the Transport Committee;

(b) prescribe, subject to such directions as the Standing Committee may from time to time give, the duties of the auditors and assistant auditors, clerks and servants immediately subordinate to him; and

(c) subject to the orders of the Standing Committee, exercise supervision and control over the acts and proceedings of the said auditors, assistant auditors, clerks and servants and, subject to the regulations, dispose of all questions relating to the service, remuneration and privileges of the said auditors, assistant auditors, clerks and servants.

(2) The Municipal Chief Auditor shall not be eligible for further office under the Corporation after he has ceased to hold his office.

**48. Powers and duties of Municipal Secretary :-**

The Municipal Secretary shall be the Secretary of the Corporation and also of the Standing Committee and shall-

(a) perform such duties as he is directed by or under this Act to perform and such other duties in and with regard to the Corporation and the Standing Committee as shall be required of him by those bodies respectively;

(b) have the custody of all papers and documents connected with the proceedings of -

(i) the Corporation and any Committee appointed by the Corporation under section 30 or 31,

(ii) the Standing Committee and any sub-committee thereof;

(c) prescribe, subject to such directions as the Standing Committee may from time to time give the duties of the officers and servants immediately subordinate to him; and

(d) subject to the orders of the Standing Committee exercise supervision and control over the acts and proceedings of the said officers and servants and, subject to the regulations, dispose of all questions relating to the service, remuneration and privileges of the said officers and servants.

**49. Powers and duties of Deputy or Assistant Municipal**

## **Commissioner :-**

(1) A Deputy Municipal Commissioner or Assistant Municipal Commissioner shall, subject to the orders of the Commissioner, exercise such of the powers and perform <sup>1</sup>such of the duties of the Commissioner, including powers and duties of a judicial or quasi-judicial nature] as the Commissioner shall from time to time depute to him :

Provided that the Commissioner shall inform the Corporation of the powers and duties which he from time to time deposes to a Deputy Municipal Commissioner or Assistant Municipal Commissioner :

<sup>2</sup> Provided further that nothing in this sub-section shall be deemed to empower the Commissioner to issue any order regulating the exercise of powers or performance of duties of a judicial or quasi-judicial nature deputed by him.]

(2) All acts and things performed and done by a Deputy Municipal Commissioner or Assistant Municipal Commissioner during his tenure of office and by virtue thereof shall for all purposes be deemed to have been performed and done by the Commissioner.

1. These words were and were deemed always to have been substituted for the words "such of the duties of the Commissioner" by Gujarat 5 of 1970, Section 4(1)

2. This proviso was and was deemed always to have been added, ibid., Section 4(2).

## **50. Conditions of service of statutory officers of Corporation** :-

(1) The Transport Manager and all officers appointed under Section 45 shall, subject to the provisions of sub-section (2), devote their whole time and attention to the duties of their respective offices and shall not engage in any other profession, trade or business whatsoever.

(2) The Corporation may, subject to the regulations, permit the Transport Manager or any other officer referred to in sub-section (1) to perform while on duty or during leave a specified service or series of services for a private person or body or for a public body, including a local authority or for the Government and to receive remuneration therefor.

(3) The Transport Manager or any other officer referred to in sub-section (1) shall be removable at any time from office for

misconduct or for neglect of, or incapacity for. the duties of his office on the votes of not less than one half of the whole number of councillors.

(4) In all matters not otherwise provided for in this Act, the conditions of service of the Transport Manager and other officers specified in sub-section (1) shall be regulated by the regulations.

**51. Number, designations, grades, etc. of other municipal officers and servants :-**

(1) Subject to the provisions of sub-section (4) the Standing Committee shall from time to time determine the number, designations, grades, salaries, fees, and allowances of auditors, assistant auditors, officers, clerks and servants to be immediately subordinate to the Municipal Chief Auditor and the Municipal Secretary respectively.

(2) The Commissioner shall, from time to time, prepare and bring before the Standing Committee a statement setting forth the number, designations and grades of the other officers and servants who should in his opinion be maintained; and the amount and nature of the salaries, fees and allowances, which he proposes should be paid to each

.

(3) The Standing Committee shall, subject to the provisions of sub-section

(4), sanction such statement either as it stands or subject to such modifications as it deems expedient

<sup>1</sup>(4) No new permanent office of which the minimum monthly salary; exclusive of allowances, exceeds such amount as may be fixed by the State Government by a general or special order from time to time in the case of each Corporation shall be created except with the previous sanction of the Corporation and no new office of which the minimum or maximum monthly salary exclusive of allowances exceeds such amount as may be fixed in this behalf by the State Government, by a general or special order, from time to time in the case of each Corporation shall be created except with the previous sanction of the State Government.]

(5) Nothing in this section shall be construed as affecting the right of the Corporation or of the Commissioner to make any temporary

appointment which it or he is empowered to make under Section 53

.

<sup>2</sup> Explanation.- An increase in the salary of any permanent office shall be deemed, for the purpose of sub-section (4), to be creation of new office if, by reason of such increase, the minimum or, as the case may be, the maximum monthly salary, exclusive of allowances, exceeds the minimum, or, as the case may be, the maximum amount fixed by State Government for the purpose of the said sub-section (4).]

1. Sub-section (4) was substituted by Gujarat 1 of 1979, Section 5 (i).

2. This Explanation was substituted, *ibid.*, Section 5 (ii).

## **52. Restriction on employment of permanent officers and servants :-**

No permanent officer or servant shall be entertained in any department of the Municipal administration unless he has been appointed under Section 40 or Section 45, or his office and emoluments are covered by sub-section (1) of Section 51 or are included in the statement sanctioned under sub-section (3) of Section 51 and for the time being in force.

## **53. Power of appointment in whom to vest :-**

(1) The power of appointing municipal officers, whether temporary or permanent, whose minimum monthly salary exclusive of allowances <sup>1</sup>exceeds such amount as may be fixed in this behalf by the State Government, by a general or special order, from time to time in the case of each Corporation] shall vest in the Corporation : Provided that temporary appointments for loan works carrying <sup>2</sup>a minimum monthly salary, exclusive of allowances of the amount as so fixed by the State Government] may be made for a period of not more than six months by the Commissioner with the previous sanction of the Standing Committee on condition that

(2) Save as otherwise provided in sub-section (1), the power of appointing municipal officers and servants, whether temporary or permanent, under the immediate control of the Municipal Chief Auditor and the Municipal Secretary shall vest in the Municipal Chief Auditor or the Municipal Secretary, as the case may be, subject, in either case, to the approval of the Standing Committee unless the said Committee in any particular case/of class of cases dispenses with his requirement.

(3) Save as otherwise provided in this Act, the power of appointing municipal officers and servants whether permanent or temporary vests in the Commissioner : Provided that such power in respect of permanent appointments shall be subject to the statement for the time being in force prepared and sanctioned under Section 51 :

Provided further that no temporary appointment shall be made by the Commissioner for any period exceeding six months and no such appointment carrying <sup>3</sup> a monthly salary exceeding such amount as may be fixed in this behalf, by a general or special order, from time to time by the State Government in the case of each Corporation] shall be renewed by the Commissioner on the expiry of the said period of six months without the previous sanction of the Standing Committee.

1. These words were substituted for the words "is or exceeds four hundred rupees", *ibid.*, s. 6 (i).

2. These words were substituted for the words "a monthly salary of rupees four hundred or more exclusive of allowances", *ibid.*, Section 6 (ii).

3. These words were substituted for the words "a monthly salary of more than one hundred rupees, exclusive of allowances" by Gujarat 1 of 1979, Section 6 (iii).

#### **54. Manner of making appointments :-**

(1) There shall be a Staff Selection Committee consisting of the Commissioner or any other officer designated by him in this behalf, the Municipal Chief Auditor, the Head of the Department concerned and not more than one other officer nominated by the Commissioner.

(2) The Staff Selection Committee shall, in the manner prescribed in the rules, select candidates for all appointments in the municipal service other than appointments referred to the sub-section (1) of Section 53 and other than those which the Corporation may, with the previous approval of the <sup>1</sup> [State] Government, by order specify in this behalf, unless it is proposed to fill the appointment from amongst persons already in municipal service or unless the appointment is of temporary character and is not likely to last for more than six months.

(3) Every authority competent to make appointments in the municipal service shall make appointments of the candidates so selected in accordance with the directions given by the Staff Selection Committee.

(4) With reference to officers and servants appointed under Chapter XX, the

(5) Subject to the provisions of this section, any appointment of a municipal officer or servant shall be made in the manner prescribed in the rules, save as expressly provided therein.

1. This word substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

**55. Saving in respect of officers and servants appointed under Chapter XX :-**

Nothing in Section 51 , Section 52 and Section 53 shall apply to officers and servants appointed under the provisions of Chapter XX.

**56. Imposition of penalties on municipal officers and servants :-**

(1) A competent authority may subject to the provisions of this Act impose any of the penalties specified in sub-section (2) on a municipal officer or servant if such authority is satisfied that such officer or servant is guilty of a breach of departmental rules or discipline or of carelessness, neglect of duty or other misconduct or is incompetent: Provided that-

(a) no municipal officer or servant whose monthly salary, exclusive of allowances, <sup>1</sup>exceeds such amount as may be fixed in this behalf, by a general or special order, by the State Government in the case of each Corporation] shall be dismissed by the Commissioner without the previous approval of the Standing Committee;

(b) any officer appointed by the Corporation excepting the Transport Manager may be suspended by the Standing Committee, pending, an order of the Corporation, such suspension and the reason therefore being forthwith reported to the Corporation;

(c) the Commissioner may impose any of the penalties specified in clauses (a), (b), (c), (d) and (e) of sub-section (2) on any officer appointed by the Corporation other than the Transport Manager or any officer appointed under Section 45 ;

(d) the Municipal Chief Auditor and the Municipal Secretary may impose any of the penalties specified in clauses (a), (b), (c), (d) and (e) of sub- section (2) on any officer or servant immediately subordinate to them and drawing a monthly salary <sup>2</sup> not exceeding

such amount as may be fixed by the State Government, by a general or special order, from time to time in case of each Corporation] subject to a right of appeal to the

(2) The penalties which may be imposed under this section are the following, namely:-

(a) censure;

(b) with-holding of increments or promotion including stoppage at an efficiency bar;

(c) reduction to a lower post or time-scale, or to a lower stage in a time- scale;

(d) fine;

(e) recovery from salary of the whole or part of any pecuniary loss caused to the Corporation;

(f) suspension;

(g) removal from municipal service which does not disqualify from future employment;

(h) dismissal from municipal service which ordinarily disqualifies from future employment.

(3) No officer or servant shall be reduced to a lower post or removed or dismissed from service under this section unless he has been given a reasonable opportunity of showing cause against such reduction, removal or dismissal : Provided that this sub-section shall not apply-

(a) Where a person is reduced, removed or dismissed on the ground of conduct which has led to his conviction on a criminal charge; or

(b) Where the competent authority is satisfied that, for reasons to be recorded in writing by such authority, it is not reasonably practicable to give that person an opportunity or showing cause.

(4) Subject to the provisions of clause (d) of the proviso to sub-section (1), any municipal officer or servant who is reduced, removed or dismissed by any authority other than the Corporation may, within one month of the communication to him of the order of reduction, removal or dismissal, appeal to the authority immediately superior to the authority which imposed the penalty

and the appellate authority may, after obtaining the remarks of the authority which imposed the penalty, either confirm the order passed or substitute for it such order as it considers just, including an order for the imposition of some lesser penalty, and effect shall forthwith be given to any order passed by the appellate authority which shall be conclusive :

Provided that for the purposes of this sub-section the Standing Committee shall be deemed to be the authority immediately superior to the Commissioner and the Corporation shall be deemed to be the authority immediately superior to the Standing Committee.

(5) With reference to officers and servants appointed under Chapter XX the provisions of this section shall apply as if for the word "Commissioner" the words "Transport Manager" and for the words "Standing Committee" the words "Transport Committee" had been substituted.

Explanation- (1) For the purposes of this section a competent authority is the authority which under the provisions of this Act is competent to make the appointment to the post held by the particular municipal officer or servant, (2) The monthly salary which would ordinarily be admissible to a municipal officer or servant on the date immediately preceding the date of the order imposing a penalty shall be deemed to be his salary for the purpose of the proviso to sub- section (1).

1. These words were substituted for the words "exceeds two hundred rupees" by Gujarat I of 1979, Section 7 (a).

2. These words were substituted for the words "not exceeding rupees one hundred and fifty, exclusive of allowances", *ibid.*, Section 7 (b).

## **57. Leave of absence :-**

(1) Leave of absence may be granted subject to the regulations by the Commissioner to any municipal officer or servant whom he has the power of appointing and for a period not exceeding one month to any other municipal officer, other than the Transport Manager, officers and servants immediately subordinate to the Municipal Chief Auditor or the Municipal Secretary and officers and servants appointed under Chapter XX.

<sup>1</sup> (2) Leave of absence for a period not exceeding one month may be granted by the Municipal Chief Auditor or the Municipal

Secretary, as the case may be, to an officer or servant, immediately subordinate to him and receiving a monthly salary, exclusive of allowances, not exceeding such amount as may be fixed in this behalf, by a general or special order, by the State Government in the case of each Corporation.]

(3) Leave of absence may be granted by the Standing Committee to any officer or servant not covered by sub-section (1) or sub-section (2) excepting the Transport Manager and officer and servants appointed under the provisions of Chapter XX.

1. Sub-section (2) was substituted by Gujarat 1 of 1979, Section Section

### **58. Acting appointments :-**

(1) The appointment of a person to act in the place of an officer absent on leave may be made when necessary and subject to the regulations by the authority granting the leave of absence :

(a) when an officer appointed under Section 45 is granted leave of absence for a period exceeding one month, the appointment of a person to act for him shall be made by the Corporation and, excepting an appointment to act for the Municipal Secretary, shall be reported forthwith to the <sup>1</sup>[State] Government;

(b) any appointment reported to the <sup>1</sup>[State] Government under clause (a) may be disallowed by it and from the time of being so disallowed shall be null and void as from the date of the receipt by the Corporation of the order of the <sup>1</sup> [State] Government.

(2) A person appointed under this section to act for any officer or servant shall, while so acting, perform the same duties and exercise the same powers and be subject to the same liabilities, restrictions and conditions which such officer or servant is bound to perform or may exercise or to which such officer or servant is liable.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

### **59. Disqualification of Municipal Officers and Servants :-**

(1) Any person who has, directly or indirectly, by himself or his partner, any share or interest in any contract with, by, or on behalf of the Corporation, or in any employment with, by, or on behalf of the Corporation other than as a municipal officer or servant, shall be disqualified for being a municipal officer or servant.

(2) Any municipal officer or servant who shall acquire, directly or indirectly, by himself or his partner, any share or interest in any such contract or employment as aforesaid shall cease to be a municipal officer or servant and his office shall become vacant.

(3) Nothing in this section shall apply to any such share or interest in any contract or employment with, by, or on behalf of the Corporation as under sub-clause (ii) or (iv) of clause (b) of sub-section (2) of Section 10 , it is permissible for a councillor to have, without his being thereby disqualified for being a councillor. Explanation.-The expression 'municipal officer" includes the Transport Manager appointed under Section 40 and any person appointed to act for the Transport Manager under Section 41 .

**60. Occupation of, and liability to vacate, premises provided by Corporation for municipal officers and servants :-**

(1) Any municipal officer or servant occupying any premises provided by the Corporation for his residence-

(2) If any person who is bound or required under sub-section (1) to vacate any premises fails to do so, the Commissioner may order such person to vacate such premises and may take such measures as will prevent him from remaining on or again entering on the premises.

(3) With reference to a municipal officer or servant appointed under Chapter XX, the provisions of this section shall apply as if for the word "Commissioner" the words "Transport Manager" had been substituted.

**60A. Provident Fund to be deposited in Government Treasury :-**

**1**

(1) where the Corporation has established a provident fund for the benefit of any of its officers and servants, such fund shall, notwithstanding anything contained in any law for the time being in force, be deposited in the State Government treasury in accordance with such directions as the State Government may, from time to time, by an order in writing give and thereupon,-

(i) the subscriber to the fund shall be entitled to interest on the balance in his provident fund account at the same rate, at which the State Government servant is for the time being entitled to on the balance in his provident fund account, and

(ii) the rules for the time being in force relating to the limits of withdrawals from the provident fund as applicable to such Government servant shall, so far as may be, apply to the subscriber.

(2) Nothing in this section shall apply to a provident fund established by the corporation to which the Employees' Provident Funds Act, 1952 ( XIX of 1952) applies.]

1. Section 60A was inserted by Gujarat 11 of 1979, Section 2. Sch., Sr. No. 3.

#### CHAPTER 5

#### ESSENTIAL SERVICES

### **61. Members of essential services not to resign, etc., without permission :-**

(1) No member of an essential service shall,-

(a) without the written permission of the Commissioner or any officer authorised by him in this behalf, resign his office, withdraw or absent himself from the duties thereof without atleast two months' notice given in writing to the Commissioner, except in the case of illness or accident disabling him for the discharge of his duties, or other reason accepted as sufficient by the Commissioner or such officer, or

(b) neglect or refuse to perform his duties or wilfully perform them in a manner which, in the opinion of the Commissioner or such officer, is inefficient.

(2) With reference to a member of an essential service who is appointed under Chapter XX, the provisions of this section shall apply as if for the word "Commissioner" the words "Transport Manager" had been substituted.

### **62. Power of State Government to declare emergency :-**

<sup>1</sup>If the <sup>1</sup>[State] Government is of the opinion that the stoppage or the cessation of the performance of any of the essential services will be prejudicial to the safety or health or the maintenance of services essential to the life of the community in the City, it may, by notification in the Official Gazette, declare that an emergency exists in the City and that in consequence thereof no member of such of the essential services and for such period as may be specified in the notification shall, notwithstanding any law for the

time being in force or any agreement,-

(a) withdraw or absent himself from his duties except in the case of illness or accident disabling him from the discharge of his duties, or

(b) neglect or refuse to perform his duties or wilfully perform them in a manner which in the opinion of such officer as the <sup>1</sup> [State] Government may specify in this behalf is inefficient.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

#### CHAPTER 6

#### DUTIES AND POWERS OF THE MUNICIPAL AUTHORITIES AND OFFICERS

### **63. Matters to be provided for by the Corporation :-**

<sup>1</sup>[(1)] It shall be incumbent on the Corporation to make reasonable and adequate provision, by any means or measures which it is lawfully competent to it to use or to take, for each of the following matters, namely :-

(1) erection of substantial boundary marks of such description and in such position as shall be approved by the <sup>2</sup>[State] Government defining the limits or any alteration in the limits of the City;

(2) the watering, scavenging and cleansing of all public streets and places in the city and the removal of all sweepings therefrom;

(3) the collection, removal, treatment and disposal of sewage, offensive matter and rubbish and, if so required by the <sup>2</sup>[State] Government, the preparation of compost manure from such sewage, offensive matter and rubbish; <sup>4</sup>[and solid waste management]

(4) the construction, maintenance and cleansing of drains and drainage works, and of public latrines, water-closets, urinals and similar conveniences;

(5) the entertainment of a fire-brigade equipped with suitable appliances for the extinction of fires and the protection of life and property against fire;

(6) the construction or acquisition and maintenance of public hospitals and dispensaries including hospitals for the isolation and treatment of persons suffering or suspected to be infected with a contagious or infectious disease and carrying out other measures necessary for public medical relief;

- (7) the lighting of public streets, municipal markets and public buildings vested in the Corporation;
- (8) the maintenance of a municipal office and of all public monuments and open spaces and other property vesting in the Corporation;
- (9) the naming or numbering of streets and of public places vesting in the Corporation and the numbering of premises;
- (10) the regulation and abatement of offensive and dangerous trades or practices;
- (11) the maintenance, change and regulation of places for the disposal of the dead and the provision of new places for the said purpose and disposing of unclaimed dead bodies;
- (12) the construction or acquisition and maintenance of public markets and slaughter houses <sup>5</sup>[and tanneries] and the regulation of all markets and slaughter houses; <sup>4</sup>[and tanneries]
- (13) the construction or acquisition and maintenance of cattle-pounds; <sup>7</sup>[and prevention of cruelty to animal]
- (14) public vaccination in accordance with the provisions of the Bombay District Vaccination Act, 1892; (Bombay 1 of 1892).
- (15) maintaining, aiding and suitably accommodating schools for primary education.
- (16) the reclamation of unhealthy localities, the removal of noxious vegetation and generally the abatement of all nuisances;
- (17) the registration of births and deaths;
- (18) the construction, maintenance, alteration and improvement of public streets, bridges, sub-ways, culverts, cause-ways and the like;
- (19) the removal of obstructions and projections in or upon streets, bridges and other public places;
- (20) the management and maintenance of all municipal water works and the construction or acquisition of new works necessary for a sufficient supply of water for public and private purposes;
- (21) preventing and checking the spread of dangerous diseases;

(22) the securing or removal of dangerous buildings and places;

(23) the construction and maintenance of residential quarters for the municipal conservancy staff;

**8** [(23A) The preparation of plans for economic development and social justice;

(23B) The performance of functions and the implementation of schemes that may be entrusted by the State Government]

(24) fulfilment of any obligation imposed by or under this Act or any other law for the time being in force;

(25) subject to adequate provision being made for the matters specified above, the provision of relief to destitute persons in the City in times of famine and scarcity and the establishment and maintenance of relief works in such times.

**9** [(2) It shall also be incumbent on the Corporation to make, in its budget for every official year, provision for making expenditure to the extent of such amount, not exceeding ten per cent, of its income for such year other than the income from the proceeds of the Transport Undertaking and any other specified items of income as the State Government may, from time to time, determine and notify in the Official Gazette, for the purpose of providing basic facilities, like water supply, drainage, sanitation, street lights, medical aid, slum clearance and such other matters in areas predominantly populated by members of Scheduled Castes, Scheduled Tribes and other socially and economically backward class of people, and if the expenditure so provided for is not fully incurred in the official year for which it is provided, the balance shall be carried forward in the budget of the next succeeding year.

Explanation,- In this sub-section, "specified items" means such items as the State Government may, in relation to any Corporation, by order, specify for the purpose of this sub-section.]

1. Section 63 was renumbered as sub-section (1) of that section by Gujarat 1 of 1979. Section 9.

2. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

4. This word added by Gujarat 16 of 1993 Section 14 (I).

5. This word was added by Gujarat 16 of 1993 Section 14 (2)

7. This words was added by Gujarat 16 of 1993 Section 14 (3)

8. Clauses (23A) (23B) inserted by Gujarat 16 of 1993 Section 14 (4).

9. Sub-section (2) was added by Gujarat 1 of 1979, Section 9.

**64. Corporation to provide for anti-rabic treatment :-**

The Corporation shall make payments at such rates and subject to such conditions as the <sup>1</sup>[State] Government from time to time by general or special order prescribes, for the maintenance and treatment in any institution which the <sup>2</sup> [State] Government declares by notification in the Official Gazette to be suitable for the purpose either within or without the City and for other necessary expenses of persons undergoing-rabic treatment as indigent persons according to the rules applicable to such institutions :

Provided that the Corporation shall not be liable under this section for the maintenance, treatment and other expenses of any person undergoing anti-rabic treatment as an indigent person in any such institution as aforesaid, unless such person immediately previous to his admission thereto has been resident in the City for at least one year and has proceeded to such institution from the City.

1. Sub-section (2) was added by Gujarat 1 of 1979, Section 9.

2. This word was substituted for the word "Provincial by the Adaptation of Laws Order, 1950.

**65. Corporation to provide for maintenance of lunatics and topers :-**

(1) The Corporation shall make payments at such rates for each person as the <sup>1</sup>[State] Government from time to time by general or special order prescribes for the maintenance and treatment at any asylum, hospital or house, within or without the City, which the <sup>1</sup>[State] Government declares by notification in the Official Gazette to be suitable for the purpose of pauper lunatics, not being persons for whose confinement an order under Chapter XXXIV of the Code of Criminal Procedure, 1898. [V of 1898] is in force and of lepers resident within, or under any enactment for the time being in force removed from the City :

Provided that the Corporation shall not be liable under this section for the <sup>3</sup> [State] Government under this section shall not exceed half the total cost of maintenance and treatment incurred for each person on account of the lunatics for whose maintenance and treatment the Corporation shall be liable under this section :

Section 88 of the Lunacy Act, 1912, (IV of 1912) no order for the payment of the cost of maintenance of the lunatic by the Corporation shall be made without an opportunity being given to

the Corporation to show that the lunatic is not pauper and has an estate applicable to his maintenance or that there is a person legally bound and having the means to maintain him.

(2) The Officer in charge of an asylum, hospital or house to which lunatics or lepers for whose maintenance and treatment the Corporation is liable under this section are admitted shall maintain a clear account of the cost of maintenance and treatment incurred on account of such persons detained in the asylum, hospital or house and shall furnish a copy thereof to the Corporation.

1. This word was substituted for the word "Provincial by the Adaptation of Laws Order, 1950.

3. This word was substituted for the word "provincial" by the Adaptation of laws order, 1950.

**66. Matters which may be provided for by Corporation at its discretion :-**

The Corporation may, in its discretion, provided from time to time, either wholly or partly, for all or any of the following matters, namely :-

(1) the organisation, maintenance or management of institutions within or without the City for the care of persons who are infirm, sick or incurable, or for the care and training of blind, deaf, mute or otherwise disabled persons or of handicapped children;

(2) the organisation, maintenance or management of maternity and infant welfare houses or centres;

(3) the provision of milk to expectant or nursing mothers or infants or school children;

(4) the organisation, maintenance or management of chemical or bacteriological laboratories for the examination or analysis of water, food or drugs, for the detection of diseases or for researches connected with public health;

(5) swimming pools, public wash houses, bathing places and other institutions designed for the improvement of public health;

(6) dairies or farms within or without the City for the supply, distribution and processing of milk or milk products for the benefit of the residents of the City;

(7) the construction and maintenance in public streets or places of drinking fountains for human beings and water-troughs for animals;

<sup>1</sup>[(8) urban forestry, protection of the environment and promotion of ecological aspects.

(8A) Promotion of cultural, education and esthetical aspects.

(8B) Urban Planning including town planning and regulation of land use]

(9) the provision of music for the people;

(10) the provision of public parks, gardens, play-grounds and recreation grounds;

(11) the holding of exhibitions, athletics or games;

(12) the regulation of lodging houses, camping grounds and rest houses in the City;

(13) the maintenance of an ambulance service;

(14) the construction, establishment and maintenance of theatres, resthouses and other public buildings;

(15) the organization or maintenance, in times of scarcity, of shops or stalls for the sale of necessaries of life;

(16) the building or purchase and maintenance of dwellings for municipal officers and servants;

(17) the grant of loans for building purposes to municipal servants <sup>2</sup>[\* \*] on such terms and subject to such conditions as may be prescribed by the Corporation;

(18) any other measures for the welfare of municipal servants or any class of them;

(19) the purchase of any undertaking for the supply of electric energy or gas or the starting or subsidizing of any such undertaking which may be in the general interests of the public:

(20) the construction, purchase, organization maintenance or management of light railways, tramways, trackless trams, or motor transport facilities for the conveyance of the public or goods within or without the City;

(21) the furtherance of educational objects other than those mentioned in clause (15) of Section 63 and making grants to educational institutions within or without the City;

(22) the establishment and maintenance or the aiding of libraries, museums and art galleries, botanical or zoological collections and the purchase of construction of buildings therefor;

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(23) the construction or maintenance of infirmaries or hospitals for animals;

(24) the destruction of birds or animals causing a nuisance, or of vermin, and the confinement or destruction of stray or ownerless dogs;

(25) contributions towards any public fund raised for the relief of human suffering within the City or for the public welfare;

(26). the preparation or presentation of addresses to persons of distinction;

(27) the registration of marriages;

(28) the granting of rewards for information which may tend to secure the correct registration of vital statistics;

(29) paying the salaries and allowances, rent and other charges incidental to the maintenance of the Court of any stipendiary magistrate or any portion of such charges;

(30) the acquisition and maintenance of grazing grounds and the establishment and maintenance of a breeding stud;

(31) establishing and maintaining a farm or factory for the disposal of sewage;

(32) supplying, constructing and maintaining, in accordance with the general system approved by the Corporation, receptacles, fittings, pipes and other appliances whatsoever on or for the use of premises for receiving and conducting the sewage thereof into drains under the control of the Corporation.

(33) granting rewards for information regarding the infringement of any provisions of this Act, or of the rules, by-laws, regulations or standing orders;

(34) laying out whether in areas previously built upon or not, new public streets, and acquiring land for that purpose and land required for the construction of buildings or courtliness thereof to abut on such street or streets;

(35) the building or purchase and maintenance of suitable dwellings for the poor and working classes, or the grant of loans or other facilities to any person, society or institution interested in the provision of such dwellings;

(36) the provision of shelter to destitute or homeless persons and any form of poor relief.

(37) the building or purchase and maintenance of sanitary stables, or byres for horses, ponies or cattle used in hackney carriages or carts or for milchkine;

(38) surveys of buildings or lands;

(39) measures to meet any calamity affecting the public in the City;

(40) making contributions to the funds of the Local self-government Institute, Bombay;

(41) with the previous sanction of the <sup>3</sup> [State] Government, the making of a contribution towards any public ceremony or entertainment in the City;

(42) any measure not hereinbefore specifically named, likely to promote public safety, health, convenience or instruction.

1. Clause (8), (8A), (8B) was substituted for the clause (8) by Gujarat 16 of 1993 Section 15

2. The: words "drawing a monthly salary of not more than four hundred rupees" were deleted by Gujarat 1 of 1979, Section 10.

3. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

## **67. Function of the several municipal authorities :-**

(1) The respective functions of the several municipal authorities shall be such as are specifically prescribed by or under this Act.

(2) Except as otherwise expressly provided in this Act, the municipal Government of the City vests in the Corporation.

(3) Subject, whenever it is in this Act expressly so directed, to the approval or sanction of the Corporation or the Standing Committee and subject also to all other restrictions, limitations and conditions imposed by this Act or by any other law for the time being in force, the entire executive power for the purpose of carrying out the provisions of this Act and of any other Act for the time being in

force which imposes any duty or confers any power on the Corporation vests in the Commissioner, who shall also-

(a) perform all the duties and exercise all the powers specifically imposed or conferred upon him by this Act or by any other law for the time being in force;

(b) prescribe the duties of, and exercise supervision and control over, the acts and proceedings of all municipal officers and servants, other than the Municipal Secretary and the Municipal Chief Auditor and the municipal officers and servants immediately subordinate to them, and subject to the regulations, dispose of all questions relating to the service of the said officers and servants and their pay, privileges and allowances;

(c) in any emergency take such immediate action for the service or safety of the public or the protection of the property of the Corporation as the emergency shall appear to him to justify or to require notwithstanding that such action cannot be taken under this Act without the sanction, approval or authority of some other municipal authority or of the <sup>1</sup> [State] Government :

Provided that the Commissioner shall report forthwith to the Standing Committee and to the Corporation the action he has taken and his reasons for taking the same and the amount of cost, if any, incurred or likely to be incurred in consequence of such action which is not covered by a current budget grant under the provisions of this Act;

(d) perform the duties and exercise the powers imposed or conferred upon the Transport Manager by this Act in his absence or on failure by him to perform or exercise the same.

(4) Subject, whenever expressly so directed in this Act, to the approval of the Corporation or the Transport Committee and subject also to all other restrictions, limitations and conditions imposed by this Act, the entire executive power for the purpose of carrying out the provisions of Chapter XX vests in the Transport Manager who shall also-

(a) perform all the duties and exercise all the powers specifically imposed or conferred upon him by this Act and perform such other duties in connection with the Transport Undertaking as may be required of him by the Transport Committee;

(b) prescribe the duties of, and exercise supervision and control over the acts and proceedings of, all municipal officers and servants appointed under Chapter XX and, subject to the regulations, dispose of all questions, relating to the service of the said officers and servants and their pay, privileges and allowances;

(c) in an emergency take such immediate action for the protection of human life or of the property of the Corporation or for the maintenance of the service provided to the public by the Transport Undertaking as the emergency shall appear to him to justify or require, reporting forthwith to the Transport Committee, when he has done so, the action he has taken and his reason for taking the same and the amount of cost, if any, incurred, or likely to be incurred in consequence of such action, which is not covered by a budget-grant under the provisions of this Act.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

**68. Commissioner to exercise powers and perform duties of Corporation under other laws :-**

(1) Any powers, duties and functions conferred or imposed upon or vested in the Corporation by any other law for the time being in force shall, subject to the provisions of such law and to such restrictions, limitations and conditions as the Corporation may impose, be exercised, performed or discharged by the Commissioner.

(2) The Commissioner may with the approval of the Standing Committee by order in writing empower any municipal officer to exercise, perform or discharge any such power, duty or function under the control of the Commissioner, and subject to his revision, and to such conditions and limitation, if any, as he shall think fit to prescribe.

**69. Municipal officers may be empowered to exercise certain of the powers, etc. of the Commissioner or the Transport Manager :-**

(1) Subject to the provisions of sub-sections (2) and (3) any of the powers, duties or functions <sup>1</sup>[including powers, duties or functions of a judicial or a Quasi judicial nature], conferred or imposed upon or vested in the Commissioner or the

<sup>2</sup> [Provided that nothing in this sub-section shall be deemed to

empower-

(i) the Commissioner or the Transport Manager to exercise control over, or

(ii) the State Government, the Corporation, the Commissioner or the Transport Manager to prescribe any conditions or limitations in regard to, the exercise, performance or discharge of powers, duties or functions of a judicial or Quasi-judicial nature, by a municipal officer under this sub-section.]

(2) The Commissioner shall not, except with the prior approval of the Standing Committee make an order under sub-section (1) affecting his powers, duties or functions under any of the following sections, sub-sections and clauses, namely :- 10(1) (h), 12 (1), 18(1), 26 (2), 43 (2), 43 (4), 43 (5), 51 (2), 67-(3)(b), 67 (3) (c), 67 (3) (d), 71 (2), 73, 77, 78 (1), 85, 86, 87, 90, 92 (2), 94, 95, 121, 122, 125. 126, 130 (1) (b), 131 (1), 134, 137, 144, 152, 154, 160, 174, 176, 177, 188, 195, 196, 197, 201, 205, 207, 208, 209, 210, 212, 213, 214, 216, 220, 224, 232, 243, 268. 269, 270, 272 (2), 273, 274, 275 (1), 277, 278, 281, 298, 300, 301, 303, 304. 305, 310, 317, 319, 321, 322, 323, 324. 325, 328, 329, 330, 331, 332, 363, 364, 371 (2), 373, 386 (2), 439 (3), 439 (4), 441, 442, 445, 466, 481 except clause (a) of sub-section (1).

(3) The Transport Manager shall not, except with the prior approval of the Transport Committee, make an order under sub-section (1) affecting his powers, duties or functions under any of the following provisions, namely :- 43 (5), 67 (4) (b), 67(4)(c), 71(2), 73, 97, 344, 346, 348, 354, 355, 356, 358, 362, 481 except clause (a) of sub-section (1).

1. These words were and were deemed always to have been inserted by Gujarat 5 of 1970. Section 5 (1).

2. This proviso was and was deemed always to have been added, *ibid.*, Section 5 2.

**70. Corporation may call for extracts from proceedings, etc. from the Standing Committee, etc :-**

The Corporation may at any time call for any extract from any proceedings of any committee or sub-committee constituted under this Act, and for any return, statement, account or report concerning or connected with any matter with which any such Committee or sub-committee is empowered by or under this Act to deal; and every such requisition shall be complied with by the

Committee or sub-committee, as the case may be, without unreasonable delay.

**71. Corporation may require Commissioner to produce documents and furnish returns, reports, etc :-**

(1) The Corporation may at any time require the Commissioner-

(a) to produce any record, correspondence, plan or other document which is in his possession or under his control as Commissioner, or which is recorded or filed in his office or in the office of any municipal officer or servant subordinate to him;

(b) to furnish any return, estimate, statement, account or statistics concerning or connected with any matter appertaining to the administration of this Act or the municipal Government of the City;

(c) to furnish a report by himself or to obtain from any officer subordinate to him and furnish, with his own remarks thereon, a report, upon any subject concerning or connected with the administration of this Act or the municipal Government of the City.

(2) Except as is hereinafter provided, every such requisition shall be complied with by the Commissioner without unreasonable delay; and it shall be incumbent on every municipal officer and servant to obey any order made by the Commissioner in pursuance of any such requisition :

Provided that if, on such requisition as aforesaid being made, the Commissioner shall declare that immediate compliance therewith would be prejudicial to the interests of the Corporation or of the public, it shall be lawful for him to defer such compliance until a time not later than the second ordinary meeting of the Corporation after he shall have declared as aforesaid.

(3) If at such meeting, or any meeting subsequent thereto, the Corporation shall repeat the requisition, and it shall then still appear to the Commissioner inexpedient to comply therewith, he shall make a declaration to that effect, whereon it shall be lawful for the Corporation to elect one councillor who with the Mayor and the Chairman of the Standing Committee or, if the Mayor is also Chairman of the Standing Committee, with the Mayor and one member of its own body elected by the Standing Committee shall form a committee who shall engage to keep secret, save as hereinafter provided, the existence and purport of such documents

and matters as may be disclosed to them; and to whom the Commissioner shall be bound to make known and to disclose all writings and matters within his knowledge, under his control, or available to him, and embraced within the requisition.

(4) The said committee having taken cognizance of the information, writings and matters so laid before them shall determine, by a majority in case of difference, whether or not the whole or any part, and which part, if any, of such matters ought to be disclosed to the Corporation or kept secret for a defined time. Such decision of the committee shall be conclusive and shall be reported to the Corporation at the next ordinary meeting thereof, where also the Commissioner shall be bound to produce documents and to make any report or statement requisite to give effect to the decision of the committee when called on to do so by the Corporation.

(5) In their application to matters relating to the Transport Undertaking the provisions of sub-section (1) to (4) shall have effect as if for the word "Commissioner" the words "Transport Manager" and for the words "Standing Committee" the words "Transport Committee" had been substituted.

## **72. Exercise of powers to be subject to sanction by Corporation of the necessary expenditure :-**

The exercise by any municipal authority of any power conferred or the performance of any duty imposed by or under this Act which will involve expenditure shall, except in any case specified in sub-section (2) of Section 86 or in sub-section (2) of Section 355 , be subject to the conditions that-

(a) such expenditure, so far as it is to be incurred in the official year in which such powers exercised or duty performed, is provided for under a current budget-grant; and

(b) if the exercise of such power or the performance of such duty involves or is likely to involve expenditure for any period or at any time after the close of the said official year, the sanction of the Corporation is taken before liability for such expenditure is incurred.

## CHAPTER 7 CONTRACTS

## **73. Power to Commissioner to execute contracts on behalf of Corporation :-**

With respect to the making of contracts under or for any purpose of

this Act, including contracts relating to the acquisition and disposal of immovable property or any interest therein the following provisions shall have effect, namely :-

(a) every such contract shall be made on behalf of the Corporation by the Commissioner;

(b) no such contract for any purpose which, in accordance with any provision of this Act, the Commissioner may not carry out without the approval or sanction of some other municipal authority, shall be made by him until or unless such approval or sanction has first been duly given;

(c) no contract which will involve an expenditure exceeding five thousand rupees or such higher amount as the Corporation may, with the approval of the <sup>1</sup> [State] Government, from time to time prescribe, shall be made by the Commissioner unless the same is previously approved by the Standing Committee;

(d) every contract made by the Commissioner involving an expenditure exceeding one thousand rupees and not exceeding five thousand rupees or such higher amount as may for the time being be prescribed under clause (c) shall be reported by him, within fifteen days after the same has been made, to the Standing Committee;

(e) the foregoing provisions of this section shall, as far as may be, apply to every contract which the Commissioner shall have occasion to make in the execution of this Act; and the same provisions of this section which apply to an original contract shall be deemed to apply also to any variation or discharge of such contract.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

#### **74. Mode of executing contracts :-**

(1) The mode of executing contracts under this Act shall be as prescribed by rules.

(2) No contract which is not made in accordance with the provisions of this Act and the rules shall be binding on the Corporation.

#### **75. Contracts relating to Transport Undertaking :-**

For the purpose of contracts relating exclusively to the Transport Undertaking the provisions of Section 73 and those of Chapter V of the Schedule shall apply as if for the word "Commissioner" wherever

it occurs the words "Transport Manager" and for the words "Standing Committee" wherever they occur the words "Transport Committee" had been substituted.

## CHAPTER 8

### MUNICIPAL PROPERTY

#### **76. Powers of Corporation as to acquisition of property :-**

(1) The Corporation shall, for the purposes of this Act, have power to acquire and hold movable and immovable property or any interest therein whether within or without the limits of the City.

.

(2) All immovable and other property, wherever situate, which on the date immediately preceding the appointed day vested-

(a) in any municipality or local authority which has been superseded by or under this Act in consequence of the inclusion in the City of the area for which it was constituted, or

(b) in <sup>1</sup>[the State Government] by reason of the supersession or dissolution of such municipality or local authority under any law relating to such municipality or local authority, shall upon and after the said day vest in and be held by the Corporation having jurisdiction in such City as trustees for the purposes of this Act but subject to all trusts, charges and liabilities affecting the same.

(3) All primary schools, with their lands, buildings, records and equipment, and all other properties, movable or immovable, which on the date immediately preceding the appointed day vested, under the provisions of section 12 of the Bombay Primary Education Act, 1947, (Bombay LXI of 1947) in the District School Board of the district in which such City is situate in respect of any area which is included in such City shall, upon and after the said day, vest in, and be held by, the Corporation as trustees for the purposes of this Act, but subject to all trusts, charges and liabilities- affecting the same :

Provided that in the event of any question, dispute or doubt arising as to whether any particular property shall so vest in and be held by the Corporation, the matter shall be referred to the <sup>2</sup>[State] Government whose decision thereon shall be final.

(4) The <sup>2</sup>[State] Government may, by order in writing, direct that any immovable or other property situate in, or pertaining to, an

area included within the limits of any City which, on the appointed day, was vested in a local authority whose jurisdiction extended beyond such area shall vest in and be held by the Corporation as trustees for the purposes of this Act, but subject to all trusts, charges and liabilities affecting the same.

(5) Any immovable property which may be transferred to the Corporation by the Government shall be held by it subject to such conditions, including resumption by the Government on the occurrence of a specified contingency, and shall be applied to such purposes as the Government may impose or specify when the transfer is made :

<sup>4</sup> [Provided that in the event of the resumption of any immovable property by the State Government otherwise than only for a breach of any condition on which the property was held by the Corporation, the Corporation shall be entitled to compensation

1. These words were substituted for the words "His Majesty" by the Adaptation of Laws Order, 1950

2. These words were substituted for the words "Provincial ' by the Adaptation of law order, 1950.

4. This proviso was added by Gujarat 19 of 1964, Section 3.

### **77. Acquisition of immovable property :-**

(1) Whenever it is provided by this Act that the Commissioner may acquire or whenever it is necessary or expedient for any purpose of this Act that the Commissioner shall acquire, any immovable property, such property may be acquired by the Commissioner on behalf of the Corporation by agreement on such terms and at such rates or prices or at rates or prices not exceeding such maxima as shall be approved by the Standing Committee either generally for any class, of cases or specially in any particular case.

(2) Whenever, under any provision of this Act, the Commissioner is authorised to agree to pay the whole or any portion of the expenses of acquiring any immovable property, he shall do so on such terms and at such rates or prices or at rates or prices not exceeding such maxima as shall be approved by the Standing Committee as aforesaid.

(3) The Commissioner may on behalf of the Corporation acquire by agreement any easement affecting any immovable property vested in the Corporation, and the provisions of sub-sections (1) and (2) shall apply to such acquisition.

**78. Procedure when immovable property cannot be acquired by agreement :-**

(1) Whenever the Commissioner is unable under Section 77 to acquire by agreement any immovable property or any easement affecting any immovable property vested in the Corporation or whenever any immovable property or any easement affecting any immovable property vested in the Corporation is required for the purposes of this Act, the <sup>1</sup> [State] Government may, in its discretion, upon the application of the Commissioner, made with the approval of the Standing Committee and subject to the other provisions of this Act, order proceedings to be taken for acquiring the same on behalf of the Corporation, as if such property or easement were land needed for a public purpose within the meaning of the Land Acquisition Act, 1894. (1 of 1894)

(2) Whenever an application is made under sub-section (1) for the acquisition of land for the purpose of providing a new street or for widening or improving an existing street it shall be lawful for the Commissioner to apply for the acquisition of such additional land immediately adjoining the land to be occupied by such new street or existing street as is required for the sites of buildings to be erected on either side of the street, and such additional land shall be deemed to be required for the purposes of this Act.

(3) The amount of compensation awarded and all other charges incurred in the acquisition of any such property shall, subject to all other provisions of this Act, be forthwith paid by the Commissioner and thereupon the said property shall vest in the Corporation.

1. This words was substituted for the words "Provincial ' by the Adaptation of Law order,

**79. Provision governing the disposal of municipal property :-**

With respect to the disposal of property belonging to the Corporation other than property vesting in the Corporation exclusively for the purposes of the Transport Undertaking the following provisions shall have effect, namely :-

(a) the Commissioner may, in his discretion, dispose of by sale, letting out on hire or otherwise, any movable property belonging to the Corporation not exceeding in value in each instance five hundred rupees or such higher amount as the Corporation may, with the approval of the <sup>1</sup>[State] Government from time to time

determine, or grant a lease of any immovable property belonging to the Corporation including any right of fishing or of gathering and taking fruit, and the like, for any period not exceeding twelve months at a time :

Providing that the Commissioner shall report to the Standing Committee every lease of immovable property within fifteen days of the grant thereof unless it is a contract for a monthly tenancy or the annual rent thereof at a rack rent does not exceed three thousand rupees;

(b) with the sanction of the Standing Committee the Commissioner may dispose of by sale, letting out on hire or otherwise any movable property belonging to the Corporation, of which the value does not exceed five thousand rupees; and may with the like sanction grant a lease of any immovable property belonging to the Corporation, including any such right as aforesaid, for any period exceeding one year or sell or grant a lease in perpetuity of any immovable property belonging to the Corporation the value or premium whereof does not exceed fifty thousand rupees or the annual rent whereof does not exceed three thousand rupees;

(c) with the sanction of the Corporation the Commissioner may lease, sell, let out on hire or otherwise convey any property, movable or immovable, belonging to the Corporation;

(d) the consideration for which any immovable property or any right belonging to the Corporation may be sold, leased or otherwise transferred shall not be less than the current market value of such premium, rent or other consideration :

<sup>2</sup> [Provided that any such sale, lease or transfer to a member of a Scheduled Caste, Scheduled Tribe or any other backward class specified as such class in an

(e) the sanction of the Standing Committee or of the Corporation under clause (b) or clause (c) may be given either generally for any class of cases or specially in any particular case;

(f) the aforesaid provisions of this section and the provisions of the rules shall apply, respectively, to every disposal of property belonging to the Corporation made under or for any purposes of this Act :

Provided that-

(a) no property vesting in the Corporation for the purpose of any specific trust shall be leased, sold or otherwise conveyed in such a manner that the purpose for which it is held will be prejudicially affected;

(b) no property transferred to the Corporation by the Government shall be leased, sold or otherwise conveyed in any manner contrary to the terms of the transfer except with the prior sanction of the appropriate Government.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

2. This proviso was added by Gujarat 1 of 1979, Section 11.

### **79A. Obligation annexed to property binding on transferee**

:-

**1** Where-

(1) the Commissioner has transferred by way of sale or exchange any immovable property belonging to the Corporation and the terms of such transfer direct that the property shall be applied or enjoyed in a particular manner or the use or enjoyment thereof shall be restricted in a particular manner, or

(2) the owner of any immovable property has entered into an agreement with the Corporation concerning the application, enjoyment or use of the property in a particular manner, such term, condition or obligation shall be held to be annexed to the property which is the subject-matter of the transfer or agreement and shall be enforced against the transferee or owner and all persons deriving title or interest under or through him, notwithstanding-

(a) any law for the time being in force, and

(b) that the Corporation are not in possession of or interested in any immovable property for the benefit of which, the term, condition or obligation was agreed to, entered into or imposed.]

1. Section 79A was inserted by Gujarat 19 of 1964 Section 4.

### **80. Decision of claims to property by or against the Corporation :-**

(1) Where any immovable property or any right in or over any such property is claimed by or on behalf of the Corporation or by any person as against the Corporation, it shall be lawful for the

Collector after formal inquiry, of which due notice has been given, to pass an order deciding the claim.

(2) The Corporation or any person aggrieved by an order passed by the Collector under sub-section (1) may, notwithstanding anything contained in any law for the time being in force, within one year from the date on which the Corporation or such person had due notice of such order, institute a suit in any competent civil court to set aside such order or to claim a relief inconsistent therewith.

If any such suit is instituted after the expiration of one year from the date on which the notice of such order has been given such suit shall be dismissed although limitation has not been set up as a defence.

(3) The Collector may, by general or special order, delegate the powers conferred on him under this section to an Assistant or Deputy Collector or a survey officer as defined in the Bombay Land Revenue Code, 1879 . (Bombay V of 1879)

(4) The formal inquiry referred to in this section shall be conducted in accordance with the provisions of the aforesaid Code.

(5) A person shall be deemed to have had due notice of an inquiry or order under this section if notice thereof has been given in accordance with rules made in this behalf by the <sup>1</sup> [State] Government.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

### **81. Power of Corporation to enforce covenants against owner for the time being of land :-**

A covenant concerning any immovable property for the purposes of this Act entered into with the Corporation by the owner of such property or by any person to whom such property of the Corporation has been transferred by sale or exchange shall be enforceable by the Corporation against any person deriving title under the covenant or notwithstanding that the Corporation is not in possession of, or interested in, any immovable property for the benefit of which the covenant was entered into, in like manner and to the like extent as if it had been possessed of or interested in such property.

#### CHAPTER 9

#### THE MUNICIPAL FUND AND OTHER FUNDS

## **82. Constitution of Municipal Fund :-**

Subject to the provisions of this Act and the rules and subject to the provisions of Section 44 of the Bombay Primary Education Act, 1947 , (Bombay LXI of 1947)

(a) all moneys received by or on behalf of the Corporation under the provisions of this Act or of any other law for the time being in force or under any contract,

(b) all proceeds of the disposal property by or on behalf of the Corporation,

(c) all rents accruing from any property of the Corporation,

(d) all moneys raised by any tax levied for the purposes of this Act,

(e) all fees and fines payable and levied under this Act or under any rule, bye-law, regulation or standing order other than fines imposed by a Court,

(f) all moneys received by way of compensation or for compounding offences under the provisions of this Act,

(g) all moneys received by or on behalf of the Corporation from the Government or public bodies, private bodies or private individuals by way of grant or gift, or deposit, subject, however, to the conditions, if any, attached to such grant, gift or deposit, and

(h) all interest and profits arising from any investment of or from any transaction in connection with, any money belonging to the Corporation. shall be credited to a fund which shall be called the Municipal Fund" and which shall be held by the Corporation in trust for the purposes of this Act, subject to the provisions herein contained.

## **83. Commissioner to receive payments on accounts of Municipal Fund and to lodge them in a bank :-**

All moneys payable to the credit of the Municipal Fund shall be received by the Commissioner and shall be forthwith paid into the Imperial Bank of India <sup>1</sup>[or any other scheduled bank] <sup>2</sup>[or an approved co-operative bank] to the credit of an account which shall be styled the account of the Municipal Fund of....." :

Provided that the Commissioner may, subject to any general or special directions issued by the Standing Committee, retain such balances in cash as may be necessary for current payments :

**3** [Provided further that the amount of money to be paid into an approved cooperative bank shall not exceed such amount as may be specified by the State Government generally or specially in respect of any approved co-operative bank.]

1. These words were substituted for the words "or such other bank or banks as the Corporation, with the previous sanction of the State Government, may select" by Bombay 10 of 1953, s, 3.

2. These words were inserted by Bombay 19 of 1954, Section 4 (1).

3. This proviso was inserted, by Bombay 19 of 1954. 4 (2).

**84. How the Fund shall be drawn against :-**

(1) Subject to the provisions of Section 449 no payment shall be made by any bank aforesaid out of the Municipal Fund except on a cheque signed by the Chief Accountant or the Deputy Accountant or, if there be no post of Deputy Accountant, by the officer immediately subordinate to the Chief Accountant and by the Commissioner or the Deputy Commissioner or the Assistant Commissioner.

(2) Payment of any sum due by the Corporation in excess of one hundred rupees or such higher amount as the Standing Committee from time to time fixes generally or for any specified class of payments shall be made by means of a cheque signed as aforesaid and not in any other way.

(3) Payments not covered by sub-section (2) may be made by the Commissioner in cash and cheques for sums not in excess of two thousand rupees each, signed as aforesaid, may be drawn from time to time to cover such payments if the amount of cash in hand is insufficient for the purpose.

**85. Deposit of portion of Municipal Fund may be made with bank or agency out of City when convenient :-**

Notwithstanding anything contained in Section 83 and Section 84 the Commissioner may, with the previous approval of the Standing Committee, from time to time, remit to and deposit with a bank or other agency at any place beyond the City any portion of the Municipal Fund, and any moneys payable to the credit of the Municipal Fund or chargeable there against which can, in the opinion of the Commissioner, be most conveniently paid into or out of the account of the Corporation at any such bank or agency, may be so paid.

## **86. Restrictions on expenditure from Municipal Fund :-**

(1) Except as hereinafter provided, no payment of any sum shall be made by the Commissioner out of the Municipal Fund, Unless the expenditure of the same is covered by a current budget-grant, and sufficient balance of such budget-grant is still available, notwithstanding any reduction or transfer thereof which may have been made under the rules.

(2) The following items shall be excepted from the prohibition in sub-section (1), namely :-

(a) sums of which the expenditure has been sanctioned by the Standing Committee under Section 102 ;

(b) temporary payments under Section 90 for works urgently required in the public service;

(c) refunds of taxes and other moneys which the Commissioner is by or under this Act authorised to make;

(d) repayments of moneys belonging to contractors or other persons held in deposit and of moneys collected or credited to the Municipal Fund by mistake;

(e) sums which under any provision of this Act or any other enactment are payable by way of compensation;

(f) sums payable in any of the circumstances mentioned in clause (h) of Section 88 ;

(g) expenses incurred by the Commissioner in the exercise of the powers conferred upon him by Section 319 ;

(h) costs incurred by the Commissioner under clause (c) of sub-section (3) of Section 67 .

## **87. Procedure when money must covered by budget-grant is expended under clause (e), (f), (g) or (h) of sub-section (2) of section 86 :-**

Whenever any sum is expended by the Commissioner under clause (e), (f). (g) or (h) of sub-section (2) of Section 86 he shall forthwith communicate the circumstances to the Standing Committee, who shall take such action under the rules or recommend the Corporation to take, under section 101 or under the rules, such action as shall in the circumstances, appear possible and expedient for covering the amount of the additional

expenditure.

**88. Purpose for which Municipal Fund is to be applied :-**

The moneys from time to time credited to the Municipal Fund shall be applied in payment of all sums, charges, and costs necessary for carrying this Act into effect, or of which the payment shall be duly directed or sanctioned under any of the provisions of this Act or of any other law for the time being in force inclusive of

- (a) the expenses of every ward election;
- (b) the salary, joining time allowances and other allowances of the Commissioner and of leave and pension contribution, if any, payable on his account to the <sup>1</sup>[State] Government;
- (c) the salaries and other allowances of all municipal officers and servants and all contributions to provident funds, pensions, gratuities and compassionate
- (d) all expenses and costs incurred by the Commissioner in the exercise of any power or the discharge of any duty conferred or imposed upon him by this Act, including moneys which he is required or empowered to pay by way of compensation;
- (e) the grant payable under section 44 of the Bombay Primary Education Act, 1947, (Bombay LXI of 1947.) to the Primary Education Fund maintained thereunder for the City;
- (f) the loans advanced under the rules for building purposes;
- (g) any sum chargeable under section 108;
- (h) every sum payable-
- (i) under section 422 or sub-section (1) of section 449 to the <sup>2</sup>[State] Government;
- (ii) under a decree or order of civil or criminal court passed against the Corporation or against the Commissioner, Deputy Commissioner or Assistant Commissioner ex-officio;
- (iii) under a compromise of any suit or other legal proceeding or claim effected under section 481;
- (i) contributions to public institutions;
- (j) expenses incurred on the provision of traffic signs.

1. This word was substituted for the word "Provincial" by the

Adaptation of laws Order, 1950

2. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

**89. Municipal Fund where to be expended :-**

Expenditure by the Corporation out of the Municipal fund shall, save as otherwise provided by this Act, be made within the City only, but may, by a resolution of the Corporation supported by not less than half the total number of councillors, be made outside the City for any of the purposes of this Act.

**90. Temporary payments from Municipal Fund for works urgently required for public service :-**

(1) On the written requisition of such officers as the <sup>1</sup>[State] Government may specially authorise in this behalf the Commissioner may at any time undertake the execution of any work certified by such officer to be urgently required in the public service, and for this purpose may temporarily make payments from the Municipal Fund, so far as the same can be made without unduly interfering with the regular working of the municipal administration.

(2) The cost of all work executed under sub-section (1) and of the establishment engaged in executing the same shall be paid by the <sup>2</sup> [State] Government and credited to the Municipal Fund.

(3) On receipt of a requisition under sub-section (1) the Commissioner shall forthwith forward a copy thereof to the Corporation, together with a report of the action taken by him thereon. Special Funds

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

2. \This words was substituted for the word" Provincial " by the Adaptation law order, 1950

**91. Constitution of Special Funds :-**

The Corporation may constitute such special funds as are prescribed by rules and such other funds as may be necessary for the purposes of this Act. The constitution and disposal of such funds shall be effected in the manner prescribed by rules. Disposal of Balances

**92. Investment of surplus moneys :-**

(1) Surplus moneys at the credit of the Municipal Fund which cannot immediately or at an early date be applied to the purposes

of this Act or of any loan raised thereunder may be, from time to time, deposited at interest in the Imperial Bank of India <sup>1</sup>[or any other scheduled bank] <sup>2</sup>[or an approved co-operative bank] or be invested in public securities :

<sup>2</sup> [Provided that the amount of money to be deposited in an approved cooperative bank shall not exceed such amount as may be specified by the State Government generally or specially in respect of any approved co-operative bank.]

(2) All such deposits and investments shall be made by the Commissioner on behalf of the Corporation with the sanction of the Standing Committee and, with the like sanction the Commissioner may at any time withdraw any deposit so made or dispose of any securities and redeposit or reinvest the money so withdrawn, or the proceeds of the disposal of such securities.

(3) The loss, if any, arising from any such deposit or investment shall be debited to the Municipal Fund. Accounts

1. \These words were substituted for the words and figures "or in any other bank selected \by the Corporation with the sanction of the State Government for the purposes of section \83" by Bombay 10 of 1953, Section 4.

2. These words were inserted by Bombay 19 of 1954. Section 5(1).

### **93. Accounts to be kept in forms prescribed by Standing Committee :-**

Subject to the provisions of section 361 and of the Bombay Primary Education Act, 1947, (Bombay LXI of 1947) and the rules made thereunder, accounts of the receipts and expenditure of the Corporation shall be kept in such manner and in such forms as the Standing Committee shall from time to time direct.

### **94. Preparation of annual administration report and statement of accounts :-**

(1) The Commissioner shall, as soon as may be after each first day of April, have prepared a detailed report of the municipal administration of the City, other than the administration of the Transport Undertaking during the previous official year, together with a statement showing the amounts of the receipts and disbursements credited and debited to the Municipal Fund during the said year and the balance at the credit of the Fund at the close of the said year and shall submit the same to the Standing Committee.

(2) The report shall be in such form and shall contain such information as the Standing Committee may from time to time direct.

(3) After examination and review of the report and statement by the Standing Committee a printed copy of such report and statement together with a copy of the Committee's review shall be forwarded to the usual or last known local place of abode of each councillor by such date as the Standing Committee may from time to time prescribe and copies thereof shall be placed on sale at the municipal office at such price as the Commissioner may fix. Annual Budget Estimate

**95. Estimates of income and expenditure to be prepared annually by commissioner :-**

The Commissioner shall each year on or before such date as the Corporation may from time to time prescribe have prepared and lay before the Standing Committee, in such form as the Committee shall from time to time approve

(a) an estimate, classified in accordance with the rules, of the expenditure which must or should, in his opinion, be incurred by the Corporation in the next official year from the Municipal Fund including the amount of grant payable by the Corporation to the Primary Education Fund, and of the amounts, if any, which should, in his opinion be credited to, or expended from, a special fund;

(b) an estimate of all balances, if any, which will be available for reappropriation or expenditure at the commencement of the next official year;

(c) an estimate of the Corporation's receipts and income for the next official year other than from taxation and from the Transport Undertaking;

(d) a statement of proposals as to the taxation which it will, in his opinion, be necessary or expedient to impose under the provisions of this Act in the next official year and an estimate of the receipts from taxation;

(e) an estimate of the amounts due to be transferred during the next official year from the Transport Fund.

Explanation.- The balance, if any, available in any special fund shall not be deemed to be available for reappropriation or expenditure at

the commencement of the next official year under clause (b) except in relation to expenditure which may be met from such fund under the rules, and the Commissioner shall determine whether the whole or any part of such balance shall be taken into account as available for such expenditure at the commencement of the next official year.

**96. Budget estimates to be prepared by Standing Committee :-**

(1) The Standing Committee shall consider the estimates and proposals of the Commissioner and after having obtained from the Commissioner such further detailed information, if any, as it shall think fit to require, and having regard to all the requirements of this Act, shall frame therefrom subject to such modifications and additions therein or thereto as it thinks fit a Budget Estimate to be called "budget estimate 'A' of the income and expenditure of the Corporation other than the income and expenditure in respect of the Transport Undertaking for the next official year.

(2) In budget estimate 'A' the Standing Committee shall-

(a) propose with reference to the provisions of Chapter XI such rates and extent of municipal taxes as it thinks fit;

(b) allow for the appropriation to any special fund of the sum estimated by the Commissioner, revised as it thinks proper;

(c) provide for payment, as they fall due, of all sums and of all instalments of principal and interest for which the Corporation may be liable under this Act other than sums and instalments of principal and interest for which the Corporation may be liable by reason of the acquisition, extension, administration, operation and maintenance of the Transport Undertaking;

(d) provide for such expenditure, if any, as it considers necessary to defray from the balance in any special fund;

(e) allow for a cash balance at the end of the said year exclusive of the balance, if any, of any special fund of not less than one lakh of rupees or such smaller amount as the <sup>1</sup> [State] Government may from time to time approve.

(3) The Commissioner shall cause the budget estimate framed by the Standing Committee to be printed and shall, by such date as the Corporation may from time to time prescribe, forward a printed

copy thereof to the usual or last known local place of abode of each councillor.

(4) The budget estimate framed by the Standing Committee shall be laid before the Corporation and it shall proceed to consider the same within fifteen days of the date referred to in sub-section (3).

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

**97. Estimates of expenditure and income of the Transport Undertaking to be prepared annually by Transport Manager**

:-

The Transport Manager shall each year, on or before such date as the Corporation may from time to time fix, have prepared and lay before the Transport Committee, in such form as the Committee shall from time to time approve,-

(a) an estimate, classified in accordance with the rules, of the expenditure which must or should, in his opinion, be incurred by the Corporation in the next ensuing official year on account of the Transport Undertaking and of the amounts, if any, which should in his opinion be credited to, or expended from, a special fund;

(b) an estimate of all balances, if any, which will be available for reappropriation or expenditure at the commencement of the next ensuing official year, and an estimate of the amounts to be transferred to the Municipal Fund during the next ensuing financial year under sections 359 and 360;

(c) an estimate of the Corporation's receipts and income from the Transport Undertaking in the next ensuing official year.

Explanation.- The balance, if any, available, in any special fund shall not be deemed to be available for reappropriation or expenditure at the commencement of the next official year under clause (b) except in relation to expenditure which may be met from such fund under the rules, and the Transport Manager shall determine whether the whole or any part of such balance shall be taken into account as available for expenditure at the commencement of the next official year.

**98. Budget Estimate B to be prepared by Transport Committee :-**

(1) The Transport Committee shall consider the estimates of the

Transport Manager and, after having obtained from the Transport Manager such further detailed information, if any, as it shall think fit to require, and having regard to all the requirements of this Act, shall frame therefrom, subject to such modifications and additions therein or thereto as it shall think fit, a budget estimate, to be called, "budget estimate 'B' of the income and expenditure for the next official year to be received and incurred in respect of the Transport Undertaking.

(2) In budget estimate 'B' the said Committee shall-

(a) provide for the payment, as they fall due, of all sums and of all instalments of principal and interest for which the corporation may be liable under this Act by reason of the acquisition, extension, administration, operation and maintenance of the Transport Undertaking;

(b) allow for the appropriation to any special fund of the sum estimated by the Transport Manager, revised as it thinks proper;

(c) allow for the amounts to be transferred during the next ensuing official year to the Municipal Fund as provided in sections 359 and 360;

(d) provide for such expenditure, if any, as it considers necessary to defray from the balance in any special fund;

(e) allow for a cash balance at the end of the said year exclusive of the balance, if any, of any special fund of not less than one lakh of rupees or such smaller amount as the Corporation may from time to time fix.

(3) The Transport Manager shall lay budget estimate "B' as framed by the Transport Committee before the Standing Committee on or before such date as the Corporation may from time to time fix in this behalf and the Standing Committee shall prepare a report to the Corporation thereon, incorporating the remarks and recommendations, if any, of the Standing Committee.

(4) The Municipal Secretary shall cause budget estimate 'B' and the report of the Standing Committee thereon to be printed and shall, not later than such date as the Corporation may from time to time fix in this behalf, forward a printed copy thereof to the usual or last known local place of abode of each councillor.

## **99. Fixing of rates of taxes :-**

The Corporation shall, on or before the twentieth day of February, after considering the Standing Committee's proposals in this behalf, determine, subject to the limitations and conditions prescribed in chapter XI, the rates at which municipal taxes referred to in sub-section (1) of section 127 shall be levied in the next ensuing official year and the rates at and the extent to which any of taxes referred to in sub-section (2) of the said section which the Corporation decides to impose shall be levied in the next ensuing official year.

**100. Final adoption of budget estimates :-**

Subject to the requirements of section 99, the Corporation may refer budget estimate 'A' back to the Standing Committee and budget estimate 'B' back to the Transport Committee for further consideration, or adopt the budget estimates or any revised budget estimates submitted to it, either as they stand or subject to such alterations as it deems expedient : Provided that the budget estimates finally adopted by the Corporation shall fully provide for each of the matters specified in clauses (c) and (e) of sub-section (2) of section 96 and for each of the matters specified in clauses (a), (c) and (e) of sub-section (2) of section 98, as the case may be :

Provided further that if the budget estimates are not finally adopted by the Corporation on or before the thirty-first day of March the estimates as recommended by the Standing Committee or the Transport Committee, as the case may be, shall be deemed to be budget estimates finally adopted by the Corporation until the estimates are so adopted.

**101. Corporation may increase amount of budget grants and make additional grants :-**

(1) On the recommendation of the Standing Committee in the case of expenditure from the Municipal Fund, and the Transport Committee in the case of expenditure from the Transport Fund, the Corporation may from time to time during an official year increase the amount of any budget grant, or make an additional budget grant for the purpose of meeting any special or unforeseen requirement arising during the said year, but not so that the estimated cash balance at the close of the year exclusive of the balance, if any, of any special fund shall be reduced below one lakh of rupees or such other amount as may have been fixed for the time being by the Corporation in the case of either the Municipal Fund or the Transport Fund.

(2) Such increased or additional budget grants shall be deemed to be included in the budget estimates adopted by the Corporation for the year in which they are made.

**102. Provision as to unexpended budget grants :-**

If the whole budget or any portion thereof remains unexpended at the close of the year in the budget estimates for which such grant was included, and if the amount thereof has not been taken into account in the opening balance of the Municipal Fund or the Transport Fund, as the case may be, entered in the budget estimates of any of the two following years, the Standing Committee or the Transport Committee, as the case may be, may sanction the expenditure of such budget grants or such unexpended portion thereof, as the case may be, during the next two following years for the completion, according to the original intention or sanction, of the purpose or object for which the budget grant was made, but not upon any other purpose or object.

**103. Reductions or transfers :-**

Reductions in and transfers from one budget head to another or within a budget head shall be made in accordance with the rules.

**104. Readjustment of income and expenditure to be made by the Corporation during course of official year whenever necessary :-**

(1) If it shall at any time during any official year appear to the Corporation upon the representation of the Standing Committee or the Transport Committee that, notwithstanding any reduction of budget grants that may have been made by the appropriate Committee under the rules, the income of the Municipal Fund or the Transport Fund, as the case may be, during the said year will not suffice to meet the expenditure sanctioned in the budget estimates of the said year as so reduced and to leave at the close of the year a cash balance exclusive of the balance, if any, of any special fund of not less than one lakh of rupees or such other amount as may have been fixed for the time being by the Corporation in the case of either the Municipal Fund or the Transport Fund, it shall be incumbent on the Corporation to sanction forthwith any measure which shall be necessary for proportioning the year's income to the expenditure.

(2) For this purpose the Corporation may diminish the sanctioned expenditure of the year, so far as it may be possible so to do with

due regard to the provisions of this Act or to the obligations pertaining to the Transport Undertaking, or have recourse to supplementary taxation or a revision of fares and charges levied in respect of the Transport Undertaking, as the case may be. Scrutiny and Audit of Accounts

**105. Weekly scrutiny of accounts by Municipal Chief Auditor and scrutiny of accounts by the Standing Committee :-**

(1) The Municipal Chief Auditor shall conduct a weekly examination and audit of the municipal accounts and shall report thereon to the Standing Committee who may also from time to time and for such period as it thinks fit conduct independently an examination and audit of the municipal accounts.

(2) For these purposes the Standing Committee and the Municipal Chief Auditor shall have access to all the municipal accounts and to all records and correspondence relating thereto, and the Commissioner shall forthwith furnish to the Standing Committee or the Municipal Chief Auditor any explanation concerning receipts and disbursements which they may call for.

**106. Report by the Chief Auditor :-**

(1) The Municipal Chief Auditor shall-

(a) report to the Standing Committee any material impropriety or irregularity which he may at any time observe in the expenditure or in the recovery of money due to the Corporation or in the municipal accounts :

(b) furnish to the Standing Committee such information as the said Committee shall from time to time require concerning the progress of the audit.

(2) The Standing Committee shall cause to be laid before the Corporation every report made by the Municipal Chief Auditor to the Standing Committee and every statement of the views of the Municipal Chief Auditor on any matter affecting the pursuance and exercise of the duties and powers assigned to him under this Act which the Municipal Chief Auditor may require the Standing Committee to place before the Corporation, together with a report stating what orders have been passed by the Standing Committee upon such report or statement and the Corporation may take such action in regard to the matters aforesaid as the Corporation may

deem necessary.

(3) As soon as may be after the commencement of each official year the Municipal Chief Auditor shall deliver to the Standing Committee a report upon the whole of the municipal accounts for the previous official year.

(4) The Commissioner shall cause the said report to be printed and forward a copy thereof to each councillor along with the printed copy of the Administration Report and Statement of Accounts referred to in section 94.

**107. Application of sections 105 and 106 to accounts of Transport Fund :-**

Sections 105 and 106 shall apply to the accounts of the Transport Fund as if-

(i) for the words "Standing Committee" wherever they occur the words "Transport Committee" and for the word "Commissioner" wherever it occurs the words "Transport Manager" had been substituted; and

(ii) for the figures "94" in sub-section (4) of section 106 the figures "362" had been substituted.

**108. A special audit may be directed by 1[State] Government :-**

(1) The <sup>1</sup>[State] Government may at any time appoint an auditor for the purpose of making a special audit of the municipal accounts including the accounts of the Transport Undertaking and of reporting thereon to the <sup>1</sup>[State] Government and the costs of any such audit as determined by the <sup>1</sup> [State] Government shall be chargeable to the Municipal Fund or the Transport Fund, as the case may be.

(2) An auditor so appointed may exercise any power which the Municipal Chief Auditor may exercise.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

CHAPTER 10

BORROWING POWERS

**109. Powers of Corporation to borrow money :-**

(1) The Corporation may, with the previous sanction of the <sup>1</sup>[State]

Government, from time to time, borrow or re-borrow and take up at interest by the issue of debentures or otherwise on the security of any immovable property vested in the Corporation on or proposed to be acquired by it under this Act or of all the taxes or of any tax which it is authorised to levy for the purposes of this Act or the Transport Undertaking, or of all or any of those securities any sum necessary for the purpose of-

(a) defraying any costs, charges or expenses, incurred or to be incurred by it in the execution of this Act :

(b) for discharging any loan contracted under this Act or any other loan or debt for the repayment of which the Corporation is liable;

(c) generally for carrying out the purposes of this Act, including the advance of loans authorised thereunder :

Provided that-

(1) no loan shall be raised for the execution of any work other than a permanent work, which expression shall include any work of which the cost should, in the opinion of the <sup>2</sup>[State] Government, be spread over a term of years;

(ii) no loan shall be raised unless the <sup>2</sup>[State] Government has approved the terms on and the method by which the loan is to be raised and repaid;

(iii) the period within which the loan is to be repaid shall in no case exceed sixty years, and, where a loan is raised for the repayment of a previous loan, the period within which the subsequent loan is to be repaid shall not extend beyond the unexpired portion of the period fixed for the repayment of the original loan, unless the <sup>2</sup>[State] Government so directs, and shall in no case extend beyond the period of sixty years from the date on which the original loan was raised.

(2) When any sum of money has been borrowed or re-borrowed under sub- section (1 )-

(a) no portion thereof shall, without the previous sanction of the <sup>2</sup> [State] Government, be applied to any purpose other than that for which it was borrowed; and

(b) no portion of any sum of money borrowed or re-borrowed for the execution of any work shall be applied to the payment of

salaries or allowances of any municipal officers or servants other than those who are exclusively employed upon the work for the construction of which the money was borrowed :

Provided that such share of the cost on account of the salaries and allowances of municipal officers or servants employed in part upon the preparation of plans and estimates or the construction or supervision of or upon the maintenance of the accounts of such work as the standing Committee may fix may be paid out of the sum so borrowed or re-borrowed.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
2. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

**110. Power of Corporation to borrow from banks against public securities :-**

Notwithstanding anything contained in section 109 the Corporation may borrow for the purposes of this Act from any bank or banks in which the surplus moneys at the credit of the Municipal Fund or the Transport Fund may be deposited, against any public securities in which for the time being the cash balances of the Corporation may be invested.

**110A. Corporation may take advances from banks and grant mortgages :-**

(1) Notwithstanding anything contained in sections 109 and 110, the Corporation may, with the previous sanction of the State Government and on such terms and conditions as the State Government may impose, take from any bank or banks, credit on cash account to be opened and kept with such bank or banks in the name of the Corporation for a sum as may be fixed by the State Government from time to time on the security of all or any of the taxes which the Corporation is authorised to levy for the purpose of this Act.

(2) The Corporation may also with the previous sanction of the State Government and on such terms and conditions as the State Government may lay down, mortgage any lands or property vesting in or belonging to the Corporation in security of the payment of the amount of such credit or of the sums advanced from time to time on such cash account with interest thereon.]

**111. When and how loan shall be repaid :-**

Every loan raised by the Corporation under section 109 shall be repaid within the time approved under proviso (ii) to sub-section (1) of the said section and by such of the Following methods as may be approved under the said proviso, namely-

(a) by payment from a sinking fund established under section 112 in respect of the loan;

(b) by equal payments of principal and interest;

(c) by equal payments of principal;

(d) in the case of a loan borrowed before the appointed day by annual drawings if such method was in operation for the repayment of such loan immediately before such day;

(e) from any sum borrowed for the purpose under section 109 (1) (b); or

(f) partly from a sinking fund established under section 112 in respect of the loan and partly from money borrowed for the purpose under section 109 (1) (b).

### **112. Maintenance and application of sinking fund :-**

(1) Whenever the repayment of a loan from a sinking fund has been sanctioned under proviso (ii) to sub-section (1) of section 109, the Corporation shall establish such a fund and shall pay into it, on such dates as may have been approved under

Provided that if at any time the sum standing to the credit of the sinking fund established for the repayment of any loan is of such amount that is allowed to accumulate at compound interest it will be sufficient to repay the loan within the period approved, then with the permission of the <sup>1</sup> [State] Government further payments into such fund may be discontinued.

(2) The Corporation may apply a sinking fund, or any part thereof, in or towards the discharge of the loan for which such funds was established and, until such loan or part is wholly discharged, shall not apply the same for any other purpose.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

### **113. Investment of sinking fund :-**

(1) All money paid into a sinking fund shall within one month of the

date on which the payment was due to be made under sub-section (1) of section 112 be invested in public securities.

(2) All interest and other sums received in respect of any such investment shall be paid into the sinking fund and shall, within one month of receipt, be invested in the manner prescribed by sub-section (1).

(3) Money standing to the credit of two or more sinking funds may, at the discretion of the Corporation, be invested in a common fund, and it shall not be necessary for the Corporation to allocate the securities held in such investments among the several sinking funds.

(4) When any part of a sinking fund is invested in debentures issued by the Corporation or is applied in paying off any part of a loan before the period fixed for repayment, the interest which would otherwise have been payable on such debentures or on such part of the loan shall be paid into the sinking fund and invested in the manner laid down in sub-section (1).

(5) Any investment made under sub-section (1) may be varied from time to time or may be transferred from one sinking fund to another : Provided that the fund from which the transfer is made shall be reimbursed the value of such investment as on the date on which the transfer is made.

(6) During the year in which the loan for the repayment of which a sinking fund is established is due for repayment, the sum to be set apart as portion of the principal of such sinking fund and the sum received on account of interest on moneys forming part of such sinking fund may be retained by the Corporation in such form as it thinks fit.

**114. Investment of sinking fund and surplus moneys in debentures issued by Corporation. :-**

(1) In respect of any sinking funds which by this Act the Corporation is directed or authorised to invest in public securities and in respect of any surplus moneys which by this Act the Commissioner or the Transport Manager on behalf of the Corporation is empowered to invest in like securities, it shall be lawful for the Corporation to reserve and set apart for the purpose of any such investment any debentures issued or to be issued on account of any loan for which the sanction of the <sup>1</sup>[State]

Government shall have been duly obtained : Provided that the intention so to reserve and set apart such debentures shall have been notified to the <sup>1</sup> [State] Government as a condition of the issue of the loan.

(2) The issue of any such debentures direct to and in the name of the Municipal Commissioner or the Transport Manager of the Transport Undertaking on behalf of the Corporation shall not operate to extinguish or cancel such debentures, but every debenture so issued shall be valid in all respects as if issued to and in the name of any other person.

(3) The purchase by, or the transfer, assignment or endorsement to, the Corporation or to the Commissioner or Transport Manager on behalf of the Corporation of any debenture issued by the Corporation shall not operate to extinguish or cancel any such debenture, but the same shall be valid and negotiable in the same manner and to the same extent as if held by, or transferred, assigned or endorsed to, any other person.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

### **115. Annual examination of sinking funds :-**

(1) All sinking funds established or maintained under this Act shall be subject to annual examination by the Accountant General, Bombay, who shall ascertain whether the cash and the value of the securities belonging thereto are actually equal to the amount which should be at the credit of such funds had investments been regularly made and had the rate of interest as originally estimated been obtained therefrom.

(2) The amount which should be at the credit of a sinking fund shall be calculated on the basis of the present value of all future payments required to be made to such fund under the provisions of this Act, on the assumption that all investments are regularly made and the rate of interest as originally estimated is obtained therefrom.

(3) The securities belonging to a sinking fund shall be valued for the purposes of this section at their current market value, except in the case of debentures issued

(4) The Corporation shall forthwith pay into any sinking fund any amount which the Accountant General, Bombay, may certify to be

deficient, unless the <sup>1</sup>[State] Government specially sanctions a gradual readjustment.

(5) If the cash and the value of the securities at the credit of any sinking fund are in excess of the amount which should be at its credit, the Accountant General, Bombay, shall certify the amount of such excess sum and the Corporation may thereupon transfer the excess sum to the Municipal Fund : Provided that the Corporation may transfer such excess sum or such portion thereof as it may determine to the Transport Fund if the sinking fund from which the transfer is made pertains to a loan which has been raised in whole or part for the purposes of the Transport Undertaking.

(6) If any dispute arises as to the accuracy of any certificate made by the Accountant General, Bombay, under sub-section (4) or (5) the Corporation may, after making the payment or transfer, refer the matter to the <sup>1</sup> [State] Government, whose decision shall be final.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

**116. Provisions for loans raised before the appointed day :-**

In the case of all loans raised before the appointed day for which the Corporation is liable the following provisions shall apply :-

(a) if when such loans were raised the loans were made repayable from sinking funds, the Corporation shall establish sinking funds for the repayment of such loans and shall pay into such funds such sums on such dates as may have been fixed when the loans were raised;

(b) all securities and cash held on the date immediately preceding the appointed day in sinking funds established for the repayment of such loans shall be held by the Corporation as part of the sinking funds established under clause (a);

(c) the provisions of section 112 shall apply to such sinking funds;

(d) if when any such loans were raised the loans were made repayable by equal payments of principal and interest or by equal payments of principal or by annual drawings, the Corporation shall make such payments or annual drawings on such dates and in such manner as may have been fixed when the loans were raised :

(e) the provisions of section 117 shall apply to such loans.

**117. Attachment of Municipal Fund or Transport Fund in default of repayment of loan :-**

(1) If any money borrowed by the Corporation or any interest or costs due in respect thereof is or are not repaid according to the conditions of the loan, the <sup>1</sup>[State] Government, if it has itself given the loan, may, and in other cases shall, on the application of the lender, attach the Municipal Fund or the Transport Fund or a portion of the Municipal Fund or the Transport Fund.

(2) After such attachment no person, except an officer appointed in this behalf by the <sup>1</sup> [State] Government, shall in any way deal with the attached Fund or portion thereof; but such officer may do all acts in respect thereof which any municipal authority, officer or servant might have done if such attachment had not taken place and may apply the proceeds in satisfaction of the arrears and of all interest and costs due in respect thereof and of all expenses caused by the attachment and subsequent proceedings:

Provided that no such attachment shall defeat or prejudice any debt for which the Fund or portion thereof attached was previously pledged in accordance with law, and all such prior charges shall be paid out of the proceeds of the Fund or portion thereof before any part of the proceeds is applied to the satisfaction of the liability in respect of which such attachment is made.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

**118. Form of debentures :-**

(1) Debentures issued under this Act shall be in such form as the Corporation may with the previous sanction of the <sup>1</sup> [State] Government from time to time determine .

(2) The holder of any debenture in any form duly authorised under sub-section (1) may obtain in exchange therefor, upon such terms as the Corporation shall from time to time determine, a debenture in any other form so authorised.

(3) Every debenture issued by the Corporation under this act shall be transferable by endorsement.

(4) The right to payment of the moneys secured by any of such debentures and to sue in respect thereof shall vest in the holder for the time being without any preference by reason of some of such

debentures being prior in date to others.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

**119. Coupons attached to debentures to bear signature of Chairman of Standing Committee and Commissioner :-**

All coupons attached to debentures issued under this Act shall be signed by the Chairman of the Standing Committee and the Commissioner on behalf of the Corporation and such signatures may be engraved, lithographed or impressed by any mechanical process.

**120. Debentures issued to two or more persons jointly :-**

Notwithstanding anything contained in section 45 of the Indian Contract Act, 1872 (X of 1872)-

(1) when any debenture or security issued under this Act is payable to two or more persons jointly, and either or any of them dies, the debenture or security shall be payable to the survivor or survivors of such persons : Provided that nothing in this sub-section shall affect any claim by the legal representative of a deceased person against such survivor or survivors;

(2) when two or more persons are joint holders of any debenture or security issued under this Act, any one of such persons may give an effectual receipt for any interest or dividend payable in respect of such debenture or security unless notice to the contrary has been given to the Corporation by any other of such persons.

**121. Issue of duplicate securities :-**

(1) When a debenture issued under this Act is alleged to have been lost, stolen or destroyed either wholly or in part and a person claims to be the person to whom but for the loss, theft or destruction it would be payable, he may, on application to the Commissioner, and on producing proof to his satisfaction of the loss, theft or destruction and of the justice of the claim, obtain from him an order-

(a) if the debenture alleged to have been lost, stolen or destroyed is payable more than six years after the date of publication of the notification referred to in sub-section (2),-

(i) for the payment of interest in respect of the debenture pending the issue of a duplicate debenture, and

(ii) for the issue of a duplicate debenture payable to the applicant, or

(b) if the debenture alleged to have been lost, stolen or destroyed is payable not more than six years after the date of publication of the notification referred to in sub-section (2), (i) for the payment of interest in respect of the debenture without the issue of a duplicate debenture, and (ii) for the payment to the applicant of the principal sum due in respect of the debenture on or after the date on which the payment becomes due.

(2) An order shall not be passed under sub-section (1) until after the issue of such notification of the loss, theft or destruction of the debenture as may be prescribed by the Corporation, and after the expiration of such period as may be prescribed by the Corporation, nor until the applicant has given such indemnity as may be required by the Corporation against the claims of all persons deriving title under the debenture lost, stolen or destroyed.

(3) A list of the debentures in respect of which an order is passed under sub-section (1) shall be published in the Official Gazette.

(4) If at any time before the Corporation becomes discharged under the provisions of section 124 from liability in respect of any debenture the whole of which is alleged to have been lost, stolen or destroyed, such debenture is found, any order passed in respect thereof under this section shall be cancelled.

## **122. Renewal of debentures :-**

(1) A person claiming to be entitled to a debenture issued under this Act may, on applying to the Commissioner and on satisfying him of the justice of his claim and delivering the debenture receipted in such manner and paying such fee as may be prescribed by the Commissioner, obtain a renewed debenture payable to the person applying.

(2) Where there is a dispute as to the title to a debenture issued under this Act in respect of which an application for renewal has been made, the Commissioner may-

(a) where any party to the dispute has obtained a final decision from a Court of competent jurisdiction declaring him to be entitled to such debenture, issue a renewed debenture in favour of such party,

(b) refuse to renew the debenture until such a decision has been obtained, or

(c) after such inquiry as is hereinafter provided and on consideration of the result thereof, declare by order in writing which of the parties is in his opinion entitled to such debenture and may, after the expiration of three months from the date of such declaration, issue a renewed debenture in favour of such party in accordance with the provisions of sub-section (1), unless within that period he has received notice that proceedings have been instituted by any person in a Court of competent jurisdiction for the purpose of establishing a title to such debenture.

Explanation.- For the purpose of this sub-section the expression "final decision" means a decision which is not appealable or a decision which is appealable but against which no appeal has been filed within the period of limitation allowed by law.

(3) For the purposes of the inquiry referred to in sub-section (2) the Commissioner may himself record, or may request <sup>1</sup> [the Presidency Magistrate specially empowered by the State Government, in Greater Bombay, and elsewhere, the District Magistrate] to record or to have recorded, the whole or any part of such evidence as the panics may produce. The Magistrate to whom such request has been made

(4) The Commissioner or any Magistrate acting under this section may, if he thinks fit, record evidence on oath.

1. These words were substituted for the words beginning with the words "the Chief Presidency Magistrate" and ending with the words "First class" by Bombay 8 of 1954, Section 2, Sch., Part III.

### **123. Liability in respect of debenture renewed :-**

(1) When a renewed debenture has been issued under section 122 in favour of any person, the debenture so issued shall be deemed to constitute a new contract between the Corporation and such person and all persons deriving title thereafter through him.

(2) No such renewal shall affect the rights as against the Corporation of any other person to the debenture so renewed.

### **124. Discharge in certain cases :-**

When a duplicate debenture has been issued under section 121 or when a renewed debenture has been issued under section 122 or

when the principal sum due on a debenture in respect of which an order has been made under section 121 for the payment of the principal sum without the issue of a duplicate debenture has been paid on or after the date on which such payment became due, the Corporation shall be discharged from all liability in respect of the debenture in place of which a duplicate or renewed debenture has been so issued or in respect of which such payment has been made, as the case may be-

(a) in the case of a duplicate debenture, after the lapse of six years from the date of the publication of the notification referred to in sub-section (3) of section 121 or from the date of the last payment of interest on the original debenture, whichever date is later;

(b) in the case of a renewed debenture, after the lapse of six years from the date of the issue thereof; and

(c) in the case of payment of the principal sum without the issue of a duplicate debenture, after the lapse of six years from the date of the publication of the notification referred to in sub-section (3) of section 121.

**125. Indemnity :-**

Notwithstanding anything in section 122, the Commissioner may in any case arising thereunder-

(1) issue a renewed debenture upon receiving such indemnity in favour of the Corporation and the Commissioner as he shall think fit against the claims of all persons claiming under the original debenture, or

(2) refuse to issue a renewed debenture unless such indemnity is given.

**126. Annual Statement to be prepared by Commissioner :-**

(1) The Commissioner shall, at the end of each year prepare a statement showing-

(a) the loans borrowed in previous years for which the Corporation is liable and which have not been completely repaid before the commencement of the year, with particulars of the amount outstanding at the commencement of the year, the date of borrowing and the annual loan charges;

(b) the loans borrowed by the Corporation in the year with

particulars as to the amount and the date of borrowing and the annual loan charges;

(c) in the case of every loan for which a sinking fund is maintained the amount of accumulation in the sinking fund at the close of the year showing separately the amount paid to the credit of the fund in the year :

(d) the loans repaid in the year and in the case of the loans repaid in instalments or by annual drawing, the amounts, repaid in the year, and the balance due at the close of the year;

(e) the particulars of securities in which the sinking funds have been invested or reserved thereof.

(2) Every such statement shall be laid before a meeting of the Corporation and shall be published in the Official Gazette and a copy of such statement shall be sent to the <sup>1</sup>[State] Government and to the Accountant General, <sup>2</sup> [Gujarat].

1. Chapters X-A and X-B were inserted by Gujarat 1 of 1979, Section 12.

2. Sub-section (1) and (2) were substituted by Gujarat 12 of 1979, Schedule, Sr. No. 1.

#### CHAPTER 10A

#### FINANCIAL ASSISTANCE TO CORPORATIONS

### **126A. Power of State Government to make grants :-**

<sup>1</sup>[(1) The State Government may, after considering recommendations of the <sup>2</sup>[Finance Commission or otherwise] determine whether for augmenting the finances of the Corporation for any of the purposes of this Act it is necessary to make any grant to the Corporation and if so, the amount thereof.

(2) The grant so determined shall be made to the Corporation every year but it may be revised after a period of every five years having regard to the recommendations of the <sup>2</sup> [Finance Commission or otherwise] in respect of the revision of grants to Corporation.]

(3) Every grant under this section shall be made after due appropriation made by the State Legislature by law in this behalf.

(4) The payment of a grant to a Corporation shall be subject to the condition that if there be any amount due from the Corporation to

the State Government, it shall be lawful for the State Government to recover the amount from the Corporation by making the deduction from the amount of the grant payable to the Corporation under sub-section (2).

1. Sub-section (1) and (2) were substituted by Gujarat 12 of 1979, Schedule, Sr. No. 1.

2. This word was substituted for the word "Gujarat Municipal Finance Board" by Gujarat 16 of 1993, Section 17.

#### CHAPTER 10AA

#### CHAPTER

### **126AA. Finance Commission. :-**

(1) The Finance Commission shall review the financial position of the Corporation and make recommendation as to-

(a) the principles which should govern

(i) the distribution between the State and the Corporation of the net proceeds of the taxes, duties tolls and fees leviable by the state which may be divided between them and the allocation between the Corporation at all levels of their respective shares and such proceeds;

(ii) the determination of the taxes, duties, toll and fees which may be assigned to, or appropriated by the Corporation;

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

2. This word was substituted for the word "Bombay" by the Gujarat, Adaptation of Laws

(iii) the grants-in-aid to the Corporation from the consolidated fund of the State;

(b) the measures needed to improve the financial position of the Corporation.

(c) any other matter referred to the Finance Commission in the interest of sound finance of the Corporation.

(2) Every recommendation made by the Commission together with an explanatory memorandum as to the action taken thereon shall be laid before the State Legislature]

#### CHAPTER 10B

#### TAXATION BY THE STATE GOVERNMENT

**126B. Levy of fifty paise cess on every rupee of land revenue. :-**

(1) On lands situated within the limits of a City, the State Government shall levy, on the conditions and in the manner hereinafter described, a cess at the rate of fifty paise on every rupee of -

(a) every sum payable to the State Government as ordinary land revenue except sums payable on account of any of the charges mentioned in sub- section (2) and except sums payable on account of any of the charges which may be notified by the State Government in this behalf;

(b) every sum which would have been payable as land revenue by a small holder as defined in the Explanation to Section 45 of the Bombay Land Revenue Code, 1879 in respect of the land held by him for the time being for the purpose of agriculture, had land revenue been payable in respect of such land under the said section by such small holder; and

(c) every sum which would have been assessable on any land as land revenue had there been no alienation of the land revenue :  
Provided that no cess shall be levied under this section on sums less than twenty-five paise.

(2) The following sums shall not be taken into account for the purpose of sub- section (1), namely,-

(i) penalties and fines, including any charge imposed under section 148 of the Bombay Land Revenue Code, 1879 (Bombay V of 1879) as penalty or interest in case of default:

(ii) fees for grazing when charged per head of cattle.

**126C. Levy of cess on water rate. :-**

The State Government may levy a cess not exceeding twenty paise on every rupee of water-rate leviable under the provisions of the Bombay Irrigation Act, 1879 (Bombay VII of 1879) in respect of lands situated within the limits of a City.

**126D. Manner of levying cess described in section 126B. :-**

The cess described in section 126B shall be levied, so far as may be, in the same manner, and under the same provisions of law, in or under which land revenue is levied :

Provided that in the case of any land in the possession of a tenant, if such tenant is liable to pay the land revenue in respect of such land under the provisions of the Bombay Tenancy and Agricultural Lands Act, 1948, (Bombay LXVII of 1948. Bombay XCIX of 1958) or the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958, such tenant shall be primarily liable for the payment of cess in respect of such land.

**126E. Manner of levying cess described in section 126C. :-**

The cess described in section 126C shall be levied, so far as may be, in the same manner, and under the same provisions of law, in or under which water-rates payable to the State Government under the Bombay Irrigation Act, 1879 (Bombay VII of 1879) are levied.

**126F. Collection and credit of local cess on land revenue and water rates. :-**

The local cess leviable on land revenue under section 126B and on water-rate under section 126C in respect of land shall be paid by the State Government to the Corporation within the jurisdiction of which the lands concerned are situated, after deducting such portion thereof as cost of collection as the State Government may prescribe by rules.

**126G. Suspension and remission of local cess. :-**

On the application made by the Corporation to which the cess under section 126A or section 126B is payable or suo motu, the State Government may, by notification in the Official Gazette, Suspend or remit the collection of cess or any portion thereof in any year in any area subject to the jurisdiction of such Corporation.

**126H. Validation of levy, assessment and collection of cess on land revenue and water-rate in Cities. :-**

Notwithstanding any judgment, decree or order of any Court or Tribunal, all cess on land revenue and water-rate levied, assessed or collected after the repeal of the Bombay Local Boards Act, 1923 (Bombay VI of 1923. Gujarat Ord. 2 of 1978) and before the date of the coming into force of the Bombay Provincial Municipal Corporations (Gujarat Amendment) Ordinance, 1978 (hereinafter in this section referred to as the Ordinance") in any area which at any time during the period after such repeal and before the said date formed part of a City under this Act shall be deemed to have been validly levied, assessed or collected in accordance with law as if-

(i) the provisions of this Act as amended by the Bombay Provincial

Municipal Corporation (Gujarat Amendment) Act, 1979 (Gujarat 1 of 1979) (hereinafter in this section referred to as the-said Act") relating to the levy, assessment and collection such cess formed part of this Act at any material time when such cess was levied, assessed or collected;

(ii) all notifications, rules and orders relating to the levy, assessment and collection of such cess had been issued or made under this Act and had been in force, at any such time;

(iii) the rate at which the cess levied, assessed or collected at any such time had been the rate specified in this Act,

and accordingly any such cess levied or assessed before the date of the coming into force of the Ordinance, but not collected before such date may be recovered (after assessment of the cess where necessary) in the manner provided in this Act as amended by the said Act:

Provided that nothing in this section shall render any person liable to be convicted of an offence in respect of an act committed by him before the date of the coming into force of the said Act if such act was not an offence under this Act before the said date :

Provided further that the amount of cess on land revenue and water-rate levied, assessed and collected or purporting to have been levied, assessed and collected after the repeal of the Bombay Local Boards Act, 1923 and before the date of the coming into force of the Ordinance and validated under this section, and the amount of such cess recovered under this section after the commencement of the ordinance shall be paid by the State Government to the Corporation, within the jurisdiction of which the lands, in respect of which the cess was collected or is recovered are situated, after deducting such portion thereof as the cost of collection as the State Government may determine.]

#### CHAPTER 11

#### MUNICIPAL TAXATION

### **127. Taxes to be imposed under this Act. :-**

(1) For the purposes of this Act, the Corporation shall impose the following taxes, namely :-

[(a) Property taxes either under section 129 or property tax under section 141 B]

(b) a tax on vehicles, boats and animals :

<sup>1</sup>[Provided that in the case of a local area constituted to be a City under sub-section (2) of section 3, until the expiry of a period of two years from the appointed

<sup>2</sup>[(1A) Notwithstanding anything contained in the proviso to sub-section (1), in the case of the Municipal Corporation of the City of Rajkot, for a period of two years commencing on the 19th November, 1975, the provisions of sub-section (1) shall have effect, and shall be deemed to have had effect, as if with effect on and from the 19th November, 1975 there had been substituted for the words "the Corporation shall impose" the words "the Corporation may impose" in the said sub-section (1).]

(2) In addition to the taxes specified in sub-section (1) the Corporation may for the purposes of this Act and subject to the provisions thereof impose any of the following taxes, namely :-

(a) octroi;

**3\* \*\*\*\*\***

(c) a tax on dogs;

(d) a theater tax;

(e) a toll on animals and vehicles,, **5\* \* \* \* \*** entering the City;  
**\*\*\*\*\***

(f) any other tax <sup>6</sup>[(not being a tax on professions, trades, callings and employment)] <sup>7</sup>[or a tax on payments for admission to any entertainment] which the <sup>8</sup>[State] Legislature has power under the <sup>9</sup>[Constitution] to impose in the <sup>11</sup>[State].

<sup>12</sup>[(2A) Notwithstanding anything contained in sub-section (1) or sub-section (2), no tax or toll shall be levied on motor vehicles save as provided in section 20 of the Bombay Motor Vehicles Tax Act, 1958.] (Bombay LXV of 1958)

(3) The municipal taxes shall be assessed and levied in accordance with the provisions of this Act and the rules.

(4) Noting in this section shall authorise the imposition of any tax which the <sup>2</sup>[State] Legislature has no power to impose in the <sup>3</sup>[State] under the <sup>4</sup> [Constitution],

1. This proviso was and was deemed always to have been added by

Gujarat 5 of 1967, Section 2. day or of such further period not exceeding two years as the State Government] at the request of the Corporation for such City may, be notification in the Official Gazette, specify, the provisions of this section shall have effect as if there had been substituted for the words "the Corporation shall impose" the words the Corporation may impose".]

2. Sub-section (1A) was inserted by Gujarat 1 of 1979, Section 13.

3. Clause (b) was deleted by Presi. Act No.11 of 1976, Schedule II, item I(a).

5. These brackets and words were inserted by Presi. Act No. 11 of 1976, Sch. II, item I(b). Laws (State and Concarrent Subjects) Order, 1956.

6. These words were inserted by Gujarat 16 of 1977, Sch., Sr. No. 1.6, Sch. II, item I(b).

7. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950. word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

8. This word was substituted for the portion "Government of India, Act, 1935", ibid.

9. This word was substituted for the word "Province", ibid.

11. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950. Concurrent Subjects) Order, 1956.

12. This word was substituted for the word "Province", ibid.he Adaptation of Laws Order, 1950.

3. This word was substituted for the word "Province", ibid.

+ Clause (a) and (b) of section 129 were substituted by Guj.15 of 1993 Section 3

### **128. Manner of recovering municipal taxes. :-**

A municipal tax may be recovered by the following processes in the manner prescribed by rules :-

(1) by presenting a bill,

(2) by serving a written notice of demand,

(3) by distraint and sale of a defaulter's movable property,

(4) by the attachment and sale of a defaulters, immovable property,

(5) in the case of octroi and toll, by the seizure and sale of goods and vehicles.

(6) in the case of property tax by the attachment of rent due in respect of the property,

(7) by a suit.

Property Taxes Property-taxes leviable

**129. Property taxes of what to consist and at what rate leviable. :-**

For the purposes of sub-section (1) of section 127 property taxes shall comprise the following taxes which shall, subject to the exceptions, limitations and conditions hereinafter provided, be levied on buildings and lands in the City :-

( a) a water tax at such percentage of their rateable value as the Corporation shall deem reasonable, for providing a water supply for the city.

Provided that the Corporation shall with the previous sanction of the state Government, fix the minimum amount of such tax to be levied and may fix different minima for different classes of properties:

Provided further that the minimum amount of such tax to be levied shall-

(i) in respect of any one separate holding of land or of any one building (not being premises used exclusively for residential purpose) or of any one portion of a building which is let as a separate holding, and which is not used exclusively for residential purpose, be not less than five rupees per mensem for the official year commencing on the first day of April, 1983;

(ii) in respect of any premises used exclusively for residential purpose, be not less than three rupees per mensem for any official year commencing on the first day April, 1993;

(b) a conservancy tax at such percentage of their rateable value as will in the opinion of the Corporation suffice to provide for the collection, removal and disposal, off all excrementitious and polluted matter from privies, urinals and cess-pools and for efficiently maintaining and repairing the municipal drains constructed or used for the reception or conveyance of such matter, subject however to the provisos that the minimum amount of such matters.

Provided that corporation shall, with the previous sanction of the State Government, fix the minimum amount of such tax to be levied and may fix different minima for different classes of properties.

Provided further that the .minimum amount of such tax to be levied in respect of any one portion of building or of any one portion of a

building which is let as a separate holding shall be not less than two rupees per mensem for any official year commencing on the first day of April, 1993 and that the amount of such tax to be levied in respect of any hotel, club industrial premises or other legal premises may be specially fixed under section 137

Provided also that while determining the rate of such tax under section 99 or 150, the corporation may determine different rates for different classes of properties;]

(c) a general tax of not less than twelve per cent, <sup>1</sup>[but not more than thirty per cent.] of their rateable value, which may be levied, if the Corporation so determines on a graduated scale;

<sup>2</sup>[\* \* \* \* \* ]

<sup>3</sup> [(d) betterment charges leviable under Chapter XVI.]  
Explanation.-Where any portion of a building or a land is liable to a higher rate of the general tax such portion shall be deemed to be a separate property for the purpose of municipal taxation.

1. These words were inserted by Gujarat 8 of 1968, Section 4 (2) (i).
2. This Proviso was deleted by Gujarat 8 of 1968, Section 4 (2) (ii).
3. Clause (d) was added by Gujarat 19 of 1964. Section 5.

**129A. Temporary reduction in minimum rate of general tax in respect of Corporation of Baroda and Surat and Validation of action taken. :-**

(1) Notwithstanding anything contained in clause (c) of section 129, in the case of the Municipal Corporation of the City of Baroda and the Municipal Corporation of the City of Surat, for a period of <sup>1</sup>[four years] from the 1st April, 1967, the rate of general tax leviable under the said clause (c) may not be less than seven per cent, of the <sup>2</sup>[rateable value] of the lands and buildings in the City.

<sup>3</sup>[(1A) Notwithstanding anything contained in clause (c) of section 129 and in sub-section (1), in the case of the Municipal Corporation of the City of Baroda, <sup>4</sup> [for a period of two years from the 1st April 1971] the rate of general tax leviable under the said clause (c) may not be less than seven per cent, of the rateable value of the lands and buildings in the City.]

(2) Any action taken before the commencement of the Bombay Provincial Municipal Corporations (Gujarat Amendment) Act, 1967,

(Gujarat 1 of 1967) (hereinafter referred to as "the Amendment Act") by a corporation to which sub-section (1) applies for the purpose of imposing the taxes specified in sub-section (1) of section 127 for the official year commencing on the 1st April 1967 shall be deemed to have been validly taken as if the Amendment Act had been in force when such action was taken.]

1. These words were and were deemed always to have been substituted for the words "two years" by Gujarat 2 of 1969, Section 2.

2. These words were and were deemed always to have been substituted for the word "value", *ibid.*, Section 2.

3. Sub-section (1A) was inserted by Gujarat S of 1971, Section 2.

4. These words, figures and letters were and were deemed always to have been substituted for the words, figures and letters "for a period of one year from the 1st April 1971" by Gujarat 6 of 1972, Section 3.

**129B. Temporary reduction in minimum rate of general tax in respect of Corporation of Rajkot and validation of action taken. :-**

(1) Notwithstanding anything contained in clause (c) of section 129, in the case of the Municipal Corporation of the City of Rajkot, for a period of four years commencing on the 19th November, 1973, the rate of general tax leviable under the said clause (c) may not be less than five per cent, of the rateable value of the lands and buildings in the said City and the provisions of the said clause (c) of section 129, shall have effect and shall be deemed to have had effect, as if during the said period of four years, the words "five per cent." had been substituted for the words "twelve per cent." in the said clause (c).

(2) Anything done or any action taken before the commencement of the Bombay Provincial Municipal Corporations (Gujarat Amendment) Gujarat 1 of 1979 Act, 1979 (hereinafter in this sub-section referred to as "the said Act") by the Municipal Corporation of the City of Rajkot for the purpose of levying the tax specified in sub-section (1) at any rate as is or may have been authorised under that sub-section during the period between the 19th November, 1973 and the date of the commencement of the said Act shall be deemed to have been validly done or taken as if this Act as amended by the said Act had been in force when such thing was done or such action was taken; and no such thing done or action taken shall be called in question in any court or before any

other authority solely on the ground that such rate of tax was not authorised under the law as in force at the time when such thing was done or such action was taken.]

**130. Water tax on what premises levied. :-**

Subject to the provisions of section 134, the water tax shall be levied only in respect of premises-

(a) to which private water supply is furnished from, or which are connected by means of communication pipes with, any municipal water works; or

(b) which are situated in a portion of the City in which the Commissioner has given public notice that the Corporation has arranged to supply water from municipal water works by means of private water connections or of public stand posts, fountains or by any other means.

**131. Conservancy tax on what premises to be levied. :-**

(1) The conservancy tax shall be levied only in respect of premises-

(a) situated in any portion of the City in which public notice has been given by the Commissioner that the collection, removal and disposal of all excrementitious and polluted matter from privies, urinals and cesspools, will be undertaken by municipal agency; or

(b) in which, wherever situate, there is a privy, water-closet, cess-pool, urinal, bathing place or cooking place connected by a drain with a municipal drain :

Provided that the said tax shall not be levied in respect of any premises situated in any portion of the City specified in clause (a), in or upon which, in the opinion of the Commissioner, no such matter as aforesaid accumulates or is deposited.

(2) Premises in respect of which the Commissioner has directed that a separate water-closet, privy or urinal need not be provided shall be deemed to be liable to the levy of conservancy tax if, but for such direction, the tax would be leviable in respect thereof.

**132. General tax on what premises to be levied :-**

(1) <sup>1</sup>[The general tax shall be levied in respect of all buildings and lands in the City, the rateable value of which exceeds <sup>2</sup>[six hundred rupee except]

(a) buildings and lands solely used for purposes connected with the disposal of the dead;

(b) buildings and lands or portions thereof solely occupied and used for public worship or for a public charitable purposes;

(c) buildings and lands vesting in the <sup>3</sup>[Government] used solely for public purposes and not used or intended to be used for purposes of trade or profit or vesting in the Corporation, in respect of which the said tax, if levied, would under the provisions hereinafter contained be primarily leviable from the <sup>3</sup>[Government] or the Corporation, respectively.

(2) The following buildings and lands or portions thereof shall not be deemed to be solely occupied and used for public worship or for a public charitable purpose within the meaning of clause (b) of subsection (1), namely :-

(a) buildings or lands or portions thereof in which any trade or business is carried on; and

(b) buildings or lands or portions thereof in respect of which rent is derived whether such rent is or is not applied solely to religious or charitable purposes.

(3) Where any portion of any building or land is exempt from the general tax by reason of its being solely occupied and used for public worship or for a public charitable purposes, such portion shall be deemed to be a separate property for the purpose of municipal taxation.

1. These words were substituted for the words "The general tax shall be levied in respect of all buildings and lands in the City except" by Gujarat 1 of 1978, Section 3.

2. These words were substituted for the words "three hundred rupees" by Gujarat 21 of 1989, s. 2.

3. This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

**133. Payments to be made to Corporation in lieu of general tax by <sup>4</sup>[State] Government. :-**

(1) The <sup>1</sup>[State] Government shall pay to the Corporation <sup>2</sup>[annually by the 31st day of March in every year] in lieu of the general tax from which buildings and lands dually in two half yearly instalments payable by the 30th day of September and the 31st day of March in every year" by Gujarat 8 of 1968, Section 5. [State

Government] are exempted by clause (c) of sub-section (1) of section 132, a sum ascertained in the manner provided in sub-section (2) and (3).

(2) The rateable value of the buildings and lands in the City vesting in the <sup>3</sup>[Government] and beneficially occupied, in respect of which, but for the said exemption, general tax would be leviable from the <sup>4</sup>[State] Government shall be fixed by a person from time to time appointed in this behalf by the <sup>4</sup>[State] Government with the concurrence of the Corporation. The said value shall be fixed by the said person, with a general regard to the provisions contained in this Act and the rules concerning the valuation of property assessable to property taxes, at such amount as he shall deem to be fair and reasonable. The decision of the person so appointed shall hold good for a term of five years, subject only to proportionate variation, if in the meantime the number or extent of the buildings and lands <sup>3</sup>[in the City vesting in the State Government] materially increases or decreases.

(3) The sum to be paid annually to the Corporation by the <sup>4</sup> [State] Government shall be eight-tenths of the amount which would be payable by an ordinary owner of buildings or lands in the City, on account of the general tax, on a rateable value of the same amount as that fixed under sub-section (2).

1. This word was substituted for the word "Provincial", *ibid*.
2. These words, figures and letters were substituted for the words, figures and letters "an
3. This portion was substituted for the portion "vesting in the Crown in the City for the purposes of the "Province" by the Adaptation of Laws Order, 1950.
4. This word was substituted for the word 'Provincial' *ibid*.

**134. Fixed charges and agreements for payments in lieu of taxes for water supplied. :-**

(1) The Commissioner may-

(a) in such cases as the Standing Committee shall generally approve, instead of levying the water tax in respect of any premises liable thereto, charge for the water supplied to such premises by measurement at such rate as shall from time to time be prescribed by the said Committee in this behalf or by the size of the water connection with the municipal main and the purpose for which the water is supplied at such rates as shall from time to time

be prescribed by the Corporation.

(b) in such cases as the Standing Committee shall generally approve, compound with any person for the supply of water to any premises for a renewable term of one or more years not exceeding five, on payment of a fixed periodical sum in lieu of the water tax or charge by measurement or by the size of the water connection which would otherwise be leviable from such person in respect of the said premises.

(2) The Standing Committee may, for the cases in which the Commissioner charges for water by measurement or by the size of the water connection under clause (a) of sub-section (1), from time to time prescribe such conditions as it shall think fit as to the use of the water and as to the charge to be paid for water-consumed whilst a meter is out of order or under repair, and for the cases in which a composition is made under clause (b) of the said sub-section the said Committee may prescribe such conditions as to the use of the water as it shall think fit :

Provided that no condition prescribed under this sub-section shall be inconsistent with the Act or rules or bye-laws.

(3) A person who is charged for water by measurement or by the size of the water connection or who has compounded for a fixed periodical sum shall not be liable for payment of the water tax but any sum payable by him on account of water shall, if not paid when it becomes due, be recoverable by the Commissioner as if it were an arrear of water tax.

**135. [Government] to be charged for water by measurement. :-**

If, in respect of premises used solely for public purposes and not used or intended to be used for purposes of profit or for residential, charitable or religious purposes, water tax would be leviable under this Act from the <sup>1</sup> [Government], the Commissioner, in lieu of levying such tax, shall charge for the water supplied to such premises, by measurement, at such rate as shall be prescribed by the Standing Committee in this behalf not exceeding the minimum rate at the time being charged under clause (a) of sub-section (1) of section 134 to any other person; and such charge shall be recoverable as provided in sub-section (3) of the said section.

1. This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

**136. Supply of water at public drinking fountain, etc. not to be taxed. :-**

No tax or charge of any kind shall be levied or demanded for the use of water in or from any drinking fountain, tank, reservoir, cistern, pump, well, duct, standpipe or other work used for the gratuitous supply of water to the inhabitants of the City and vesting in the Corporation :

Provided that the water in or from any such work shall be used only for personal or domestic purposes and not for the purpose of business or sale.

**137. Conservancy tax may be fixed at special rates in certain cases. :-**

(1) The Commissioner may, whenever he thinks fit, fix the conservancy tax to be paid in respect of any hotel, club, stable <sup>1</sup>[industrial premises or other large premises] at such special rate as shall be generally approved by the Standing committee

[Provided that if the Corporation shall have determined for any official year any different rate of a conservancy tax for any class of properties to which any of the properties referred to in this sub-section belongs, the Commissioner shall not, without the previous approval of the Corporation, fix, for such official year or part thereof, the conservancy tax to be paid in respect of any property belonging to such class for which such different rate may have been determined by the Corporation, at any other different rate under this sub-section.]

(2) In the case of premises used solely for public purposes and not used or intended to be used for purposes of profit or for residential or charitable or religious purposes in respect of which the conservancy tax is payable by <sup>2</sup> [Government] the Commissioner shall fix the said tax at a special rate approved as aforesaid.

(3) In any such case the amount of the conservancy tax shall be fixed with reference to the cost or probable cost of the collection, removal and disposal, by the agency of municipal conservancy staff, of excrementitious and polluted matter from the premises.

1. These words were substituted for the words "or other large premises" by Gujarat 8 of 1968,S.6

2. This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

**138. Water tax or conservancy tax paid by any person may be recovered by him from the occupier of the premises for which it is paid, :-**

(1) Any person who has paid to the Commissioner any water tax or conservancy tax in respect of any premises shall, if he was not himself in occupation of the said premises during the period for which he has made such payment and subject to any agreement or contract to the contrary, be entitled to receive the amount of the said payment from the person, if any, in actual occupation of the said premises for the said period.

(2) For the recovery of the said amount from the person aforesaid, the person who has paid the same shall have the same rights and remedies as if such amount were rent payable to him by the person from whom he is entitled to receive the same. Liability for Property Taxes

**139. Primary responsibility for property taxes on whom to rest. :-**

(1) Subject to the provisions of sub-section (2) property taxes assessed upon any premises shall be primarily leviable as follows, namely :-

(a) if the premises are held immediately from the <sup>1</sup>[Government] or from the Corporation, from the actual occupier thereof :

Provided that property taxes due in respect of buildings vesting in the <sup>1</sup>[Government] and occupied by servants of the <sup>1</sup>[Government] or other person on payment of rent shall be leviable primarily from the <sup>1</sup>[Government];

(b) if the premises are not so held-

(i) from the lessor if the premises are let;

(ii) from the superior lessor if the premises are sub-let;

(iii) from the person in whom the right to let the premises vests if they are unlet.

(2) If any land has been let for any term exceeding one year to a tenant, and such tenant has built upon the land, the property taxes assessed upon the said land and upon the building erected thereon shall be primarily leviable from the said tenant or any person

deriving title from the said tenant by the operation of law or by assignment or transfer but not by sub-lease or the legal representative of the said tenant or person whether the premises be in the occupation of the said tenant or person or legal representative or a sub-tenant :

**5** [Provided that where the building so erected on the land is of a temporary nature or is unauthorised the property taxes upon the land and building shall be primarily leviable from the person in whom the right to let the land vests.]

1. This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

5. This proviso was added by Gujarat 19. of 1964, Section 6.

**139A. Apportionment of responsibility for property tax when the premises assessed are let or sub let :-**

(1) If any building or land or premises assessed to any property tax are Let, and their rateable value exceeds the amount of rent payable in respect thereof the person from whom, under the provision of section 139, the said tax is leviable, the said person shall be entitled to receive from his tenant the difference between the amount of the property tax levied from him, and the amount which would be leviable from him if the said tax were calculated on the amount of rent payable to him.

(2) If the building or land or premises are sub-let and their rateable value exceeds the amount of rent payable in respect thereof to the tenant by his sub-tenant, or the amount of rent payable in respect thereof to a sub-tenant by the person holding under him, the said tenant shall be entitled to receive from his sub-tenant or the said sub-tenant shall be entitled to receive from the person holding under him, as the case may be, the difference between any sum recovered under this section from such tenant or sub-tenant and the amount of property tax which would be leviable in respect of the said building or land or premises If the rateable value thereof were equal to the difference between the amount of rent which such tenant or sub-tenant receives, and the amount of rent which he pays.

(3) The provision of this section shall apply only in relation to the property tax levied for any period prior to 1st April, 1970 referred to in sub-clause (i) of clause (1 A) of section 2.]

**140. When occupiers may be held liable for payment of property taxes. :-**

(1) If the sum due on account of any property tax remains unpaid after a bill for the same has been duly served under the rules upon the person primarily liable for the payment thereof and the said person be not the occupier for the time being of the premises in respect of which the tax is due, the Commissioner may serve a bill for the amount upon the occupier of the said premises, or, if there are two or more occupiers thereof, may serve a bill upon each of them for such portion of the sum due as bears to the whole amount due the same ratio which the rent paid by such occupier bears to the aggregate amount of rent paid by them both or all in respect of the said premises.

(2) If the occupier or any of the occupiers fails within thirty days from the service of any such bill to pay the amount therein claimed, the said amount may be recovered from him in accordance with the rules.

(3) No arrear of a property-tax shall be recovered from any occupier under this section which has remained due for more than one year, or which is due on account of any period for which the occupier was not in occupation of the premises on which the tax is assessed.

(4) If any sum is paid by, or recovered from, an occupier under this section, he shall be entitled to credit therefor in account with the person primarily liable for the payment of the same.

**141. Property taxes to be a first charge on premises on which they are assessed. :-**

(1) Property-taxes due under this Act in respect of any building or land shall, subject to the prier payment of the land revenue, if any, due to the <sup>1</sup>[State] Government thereupon, be a first charge, in the case of any building or land held immediately from the <sup>1</sup>[Government], upon the interest in such building or land of the person liable for such taxes and upon the movable property, if any, found within or upon such building or land and belonging to such person; and, in the case of any other building or land, upon the said building or land and upon the movable property, if any, found within or upon such building or land and belonging to the person liable for such taxes.

Explanation.-The term "property taxes" in this section shall be deemed to include charges payable under section 134 for water supplied to any premises and the costs of recovery of property-taxes as specified in the rules.

(2) In any decree passed in a suit for the enforcement of the charge created by sub-section (1), the Court may order the payment to the Corporation of interest on the sum found to be due at such rate as the Court deems reasonable from the date of the institution of the suit until realisation, and such interest and the cost of enforcing the said charge, including the costs of the suit and the cost of bringing the premises or moveable property in question to sale under the decree; shall, subject as aforesaid, be a fresh charge on such premises and moveable property alongwith the amount found to be due, and the Court may direct payment thereof be made to the Corporation out of the sale proceeds.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

**141A. Levy of interest on the sum due on account of property tax. :-**

(1) If any person liable to pay property tax under this Chapter does not pay the property tax within the time prescribed for its payment under the rules made therefor, there shall be paid by such person for the period commencing on the date of the expiry of the aforesaid prescribed time and ending on the date of the payment of the amount of property tax, simple interest at the rate of eighteen per cent, per annum on the amount of property tax not so paid or any less amount thereto remaining unpaid during such period :

Provided that where the property tax for an official year commencing on the first day of April, 1986 or for any official year thereafter in respect of premises used exclusively for residential purpose the rateable value of which does not exceed three hundred rupees is not paid before the end of the official year to which such tax relates but is paid thereafter, the interest shall be leviable for the period commencing on the date immediately after the expiry of the official year and ending on the date of the payment of the property tax.

(2) The interest levied under sub-section (1) may be recovered in the manner specified in section 128 for recovery of a municipal tax.]

**141B. Property tax at what rate leviable :-**

(1) For the purpose of sub-section (1) of section 127, property tax shall, subject to such exceptions and conditions hereinafter provided, be levied annually on building and lands in the city at such rate per square meter of the carpet area of

(2) For the purpose of levy of tax on buildings in the city under sub-section (1)

(a) the buildings be classified into residential buildings and buildings other than residential; and

(b) the corporation may determine one rate of tax for residential buildings and other rate of tax for building other than residential; Provided that it shall be lawful for the corporation to determine for residential buildings, the carpet area of which does not exceed forty square metres, such rate of tax as is lower than the rate of tax determined for residential buildings generally under this sub-section.

(3) The rate of tax determined under sub-section (1) read with sub-section (2) shall not-

(a) in respect of residential buildings, be less than ten rupees per square metre of carpet area and more than forty rupees per square metre, such rate of tax as is lower than the rate of tax determined for residential buildings generally under this sub-section.

(b) in respect of buildings other than residential, be not less than twenty rupees per square metre of carpet area and more than eighty rupees per square metre of carpet area.

(4) The Corporation may, subject to rules, increase or decrease or neither increase nor decrease the rate of tax determined under sub-section (1) read with sub-section (2) and (3),-

(a) in the case of residential buildings, having regard to the following factors, namely:-

(i) in market value of the land in the area of the city in which the buildings are situate

(ii) the length of the time of the existence of the buildings .

(iii) the type of the buildings, and

(iv) whether the buildings are occupied by owners or tenants,

(b) in the case of buildings other than residential, having regard to the following factors, namely:-

(i) The market value of the land in the area of the city in which the buildings are situate,

(ii) the length of the time of the existence of the buildings,

(iii) the purpose for which the buildings are used, and

(iv) whether the buildings are occupied by owners or tenants.

(5) In lieu of the property tax leviable under sub-section (1) read with sub-section (2) and (3), there shall be levied annually on,-

(a) residential huts, and

(b) residential tenements in a Chawl, each such tenement having carpet area not exceeding twenty five square metres,

Such amount of tax as the Corporation may determine:

Provided that the amount so determined shall not be less than such amount as the State Government may, by notification in the official Gazette, specify

Explanation: For the purpose of levy of tax under this section, where an addition is made to an existing building whereby the Carpet area of that building is increased, such addition shall be treated as a separate building and the length of the time of its existence shall be computed from the year in which the addition is made.

**141C. Property tax on what buildings and lands to be levied. :-**

The property tax shall be levied in respect of all buildings and lands in the city except the buildings and lands vesting in the Government and used solely for the public purpose and not used or intended to be used for purpose of trade or profit, or vesting in the Corporation, in respect of which the said tax, if levied, would under the provisions hereinafter be primarily leviable from the Government or the corporation, respectively.

**141D. Payment to be made to Corporation in lieu of property tax. :-**

The State Government shall pay to the Corporation annually by the 31st day of March in every year in lieu of property tax from which

buildings and lands vesting in the State Government are exempted by section 141C, "eight tenths" of the amount of tax which would be payable by an ordinary owner on account of property tax if such buildings and lands had vested in him.

**141E. Rebate in Certain Cases :-**

(1) There shall be given a rebate of fifteen per cent of the amount of property tax leviable on buildings-

(a) to which private water supply is not furnished from, or which are not connected by means of Communication pipes with, any municipal water works, or

(b) which are not situated in any portion of the city in which the commissioner has given Public notice that the Corporation has arranged to supply water from municipal water works by means of private water connections or public stand posts, fountains or by any other means.

(2) There shall be given a rebate of twenty per cent of the amount of the property tax leviable in respect of a cellar or any floor other than a ground floor, of a building other than residential.

**141F. Application of Certain Sections to levy of Property Tax :-**

This provisions of Sections 138,139, 140, 141 and 141A shall apply in relation to property tax levied under section 141B subject to modifications specified in Appendix-I.A]

**142. Tax on vehicles, boats and animals :-**

(1) Except as hereinafter provided, a tax at rates not exceeding those prescribed by order in writing by the <sup>1</sup>[State] Government in this behalf from time to time shall be levied on vehicles, boats and animals of the descriptions specified in the order, when kept for use in the City for the conveyance passengers or goods in the case of vehicles and boats and for riding, racing, draught or burden in the case of animals. <sup>2</sup> [Provided that no tax shall be levied on motor vehicles save as provided in section 20 of the Bombay Motor Vehicles Tax Act, 1958. (Bombay LXV of 1958.) Explanation. - A vehicle, boat, or animal kept outside the limits of the City

but regularly used within such limits shall be deemed to be kept for use in the City.

(2) The Corporation shall from year to year, in accordance with section 99, determine the rates at which the tax shall be levied.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

2. This proviso was inserted by Bombay 65 of 1958, Section 25, Third Schedule.

**143. Exemptions from the tax :-**

(1) The said tax shall not be leviable in respect of-

(a) vehicles, boats and animals belonging to the Corporation other than vehicles or animals used exclusively for the purposes of the Transport Undertaking;

(b) vehicles, boats and animals vesting in the <sup>1</sup>[Government], and used solely for public purposes and not used or intended to be used for purposes of profit, including vehicles, boats and animals belonging to the Defense Forces;

(c) vehicles and boats intended exclusively for the conveyance free of charge of the injured, sick or dead;

(d) children's perambulators and tricycles;

(e) vehicles belonging to municipal officers or servants who are required by the terms of their appointment to maintain a conveyance for the discharge of their duties :

Provided that the exemption granted by this clause will not be available in respect of more than one vehicle for each officer or in respect of a vehicle which does not belong to the class of conveyance which the officer is required to maintain;

(f) vehicles or boats kept by bonafide dealers in vehicles or boats for sale merely, and not used;

[(g) vehicles used exclusively for the conveyance of, disabled person:] Provided that a tax at such rate as the Corporation shall with the approval of the <sup>2</sup>[State] Government fix in this behalf shall be levied half yearly in advance from every dealer in motor vehicles for every seven motor vehicles in respect of which a Trade Certificate is issued to him under rules made under the Motor Vehicles Act, 1939. (IV of 1939.)

(2) If any question arises under clause (b) of sub-section. (1) whether any vehicle, boat or animal vesting in the <sup>1</sup>[Government]

is or is not used or intended to be used for purposes of profit, such question shall be determined by the <sup>2</sup> [State] Government whose decision shall be final.

1. This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

2. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

**144. Livery stable keepers and others may be compounded with. :-**

The Commissioner may, with the approval of the Standing Committee, compound with any livery stable keeper or other person keeping vehicles or horses or bullocks for hire, or with any dealer having stables in which horses are kept for sale on commission or otherwise, for the payment of a lump sum for any period not exceeding one year at a time, in lieu of the taxes leviable under section 142 which such livery stable keeper or other person or dealer would otherwise be liable to pay.

**145. Power to inspect stables and summon persons liable to the tax. :-**

(1) The Commissioner may make an inspection of any stable, garage or coach house or any place wherein he may have reason to believe that there is any vehicle, boat or animal liable to a tax under this Act.

(2) The Commissioner may by written summons, require the attendance before him of any person whom he has reason to believe to be liable to the payment\* of a tax in respect of a vehicle, boat or animal, or of any servant of any such person, and may, examine such person or servant as to the number and description of vehicles, boats and animals owned by or in the possession or under the control of such person; and every person so summoned shall be bound to attend before the Commissioner and to give true information to the best of his knowledge or belief, as to the said matters.

**146. Exemption of articles belonging to 1[Government] from octroi, and refund of octroi on articles becoming property of 1[Government]. :-**

(1) No octroi shall be leviable on any article which, at the time of its importation, is certified by an officer empowered by the

Government concerned in this behalf to be the property of the <sup>1</sup>[Government], to be used or intended to be used solely for public purposes and not to be used or intended to be used for purposes of profit.

(2) If any article on which octroi is paid is imported under a written declaration signed by the importer that such article is being imported for the purpose of fulfilling a specified contract with the Government or otherwise for the use of the <sup>1</sup>[Government], the full amount of the duty paid thereon shall be refunded on production, at any time within six months after importation, of a certificate signed by an officer empowered by the Government concerned in this behalf certifying that the article so imported has become the property of <sup>1</sup> [Government], is used or intended to be used solely for a public purpose and is not used or intended to be used for purposes of profit.

1. This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950. Exemptions from Theatre Tax

**147. Articles imported for immediate exportation. :-**

Until the contrary is proved any goods imported into the City shall be presumed to have been imported for the purposes of consumption, use or sale therein unless such goods are conveyed from the place of import to the place of export by such routes, within such time, under such supervision and on payment of such fees therefor as shall be determined by the standing orders.

**148. Exemptions from theatre tax. :-**

The theatre tax shall not be leviable in respect of -

- (a) any entertainment or amusement for admission to which no charge is made or only a nominal charges is made;
- (b) any entertainment or amusement which is not open to the general public on payment;
- (c) any entertainment or amusement the full proceeds of which, without the deduction of expenses, are intended to be utilised for a public charitable purpose.

Explantion.- For the purposes of this section a nominal charge shall be such charge as may be fixed by the rules.

**149. Procedure to be followed in levying other taxes. :-**

(1) In the event of the Corporation deciding to levy any of the taxes specified in sub-section (2) of section 127, it shall make detailed provision, in so far as such provision is not made by this Act, in the form of rules, modifying, amplifying or adding to the rules at the time in force for the following matters, namely :-

(a) the nature of the tax, the rates thereof, the class or classes of persons, articles or properties liable thereto and the exemptions therefrom, if any, to be granted;

(b) the system of assessment and method of recovery and the powers exercisable by the Commissioner or other officers in the collection of the tax;

(c) the information required to be given of liability to the tax;

(d) the penalties to which persons evading liability or furnishing incorrect or misleading information or failing to furnish information may be subjected;

(e) such other matters, not inconsistent with the provisions of this Act, as may be deemed expedient by the Corporation :

Provided that no rules shall be made by the Corporation in respect of any tax coming under clause (f) of sub-section (2) of section 127 unless the <sup>1</sup>[State] Government shall have first given provisional approval to the selection of the tax by the Corporation.

(2) The rules shall be submitted by the Corporation to the <sup>2</sup>[State] Government and the <sup>2</sup>[State] Government may either refuse to sanction them or refer them back to the Corporation for further consideration or sanction them either as they stand or with such modifications as it thinks fit, not, however, involving an increase in the rate or rates or the levy or the extent thereof.

(3) Any sanction given by the <sup>2</sup>[State] Government under sub-section (2) shall become operative on such date not earlier than one month from the date of the sanction as the <sup>2</sup>[State] Government shall specify in the order of sanction, and the Corporation shall be competent to levy the tax covered by the sanction as from the date so specified.

(4) The Corporation and the <sup>2</sup>[State] Government shall take such steps as may be practicable to ensure that the date specified in the order of sanction is the first day of April, unless the sanction is

given in pursuance of a proposal for supplementary taxation under section 150 :

Provided that nothing in sub-section (4) shall affect the power of the Corporation to levy a tax as from a date later than the first day of April if the sanction of the <sup>2</sup>[State] Government is not given by the first day of March immediately preceding and if the <sup>2</sup> [State] Government in the order of sanction specifies a date later than the first day of April for the commencement of the levy of the tax.

(5) The provisions of this section shall apply, as far as may be, to any alteration which the Corporation may from time to time decide to make in the rates fixed for any tax, or in the class or classes of persons, articles, or properties liable thereto or in the exemptions therefrom, if any, to be granted.

1. This word was substituted for the word 'Provincial' by the Adaptation of Laws Order, 1950.

2. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

**150. Any tax impossible under this Act may be increased or newly imposed by way of imposing supplementary taxation**

:-

Whenever the Corporation determines under section 104 to have recourse to supplementary taxation in any official year, it shall do so by increasing, for the unexpired portion of the said year, the rates at which any tax impossible under this Act is being levied, subject to the limit and conditions for such tax prescribed in this Act or in the orders or sanction of the <sup>1</sup> [State] Government or by levying, with due sanction, a tax impossible under this Act but not being levied at the time being.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

**151. Refunds of taxes how obtainable.** :-

Refunds of a municipal tax shall be claimable in the manner and subject to the conditions prescribed by rules.

**152. Writing off of irrecoverable taxes** :-

The Commissioner may, with the approval of the Standing Committee, from time to time write off any sum due on account of any tax or of the costs of recovering any tax, which shall, in his opinion, be irrecoverable.

**152A. Assessment, levy, etc. of property taxes in the city of Ahmedabad for past years in respect of certain properties.**

:-

(1) In the City of Ahmedabad if in respect of premises included in the assessment book relating to Special Property Section, the levy, assessment, collection or recovery of any of the property taxes for any official year preceding the official year commencing on the 1st April, 1968 is affected by a decree or order of a court on the ground that the determination of the rateable value of the premises on the basis of rental value per foot of the floor area was not according to law or that sub-rules (2) and (3) of rule 7 of the rules contained in Chapter VIII of Schedule A to this Act were invalid, then it shall be lawful for the Municipal Corporation of the City of Ahmedabad to assess or reassess in respect of such premises any such property tax for any such official year at the rates applicable for that year in accordance with the provisions of this Act and the rules as amended by the<sup>1</sup>[Bombay Provincial Municipal Corporation (Gujarat Amendment) Act, 1968 and the Bombay Provincial Municipal Corporations (Gujarat Amendment and Validating Provisions) Act, 1970, (Gujarat 8 of 1968.Gujarat 1 of 1970) as if the said Acts] had been in force during the year for which any such tax is to be assessed or reassessed; and accordingly the rateable value of lands and buildings in such premises may be fixed and any such tax when assessed or reassessed may be levied, collected and recovered by the said Corporation and the provisions of this Act, the rules shall so far as may be apply to such levy, collection and recovery and the fixation of rateable value and the assessment or reassessment, levy, collection and recovery of and such tax under this section shall be valid and shall not be called in question on the ground that the same were in any way inconsistent with the provisions of this Act and the rules as in force prior to the<sup>2</sup>[commencement of the aforesaid Acts:]

Provided that if in respect of any such premises the amount of tax assessed or reassessed for any year in accordance with the provisions of this section exceeds the amount of tax which but for the decree or order of the court as aforesaid could have been assessed for that year in respect of the premises, then the amount of tax to be levied for that year in respect of the premises in accordance with the provisions of this

(2) Where any such property tax in respect of any such premises is

assessed or reassessed under sub-section (1) for any official year and in respect of the same premises, the property tax for that year has already been collected or recovered then the amount of tax so collected or recovered shall be taken into account in determining the amount of tax to be levied and collected under sub-section (1) and if the amount already collected or recovered exceeds the amount to be so levied and collected, the excess shall be refunded in accordance with the rules.]

**3** [(3) Notwithstanding anything contained in any judgement, decree or order of any court, it shall be lawful and shall be deemed always to have been lawful, for the Municipal Corporation of the City of Ahmedabad to withhold refund of the amount already collected or recovered in respect of any of the property taxes to which sub-section (1) applies till assessment or reassessment of such property taxes is made, and the amount of tax to be levied and collected is determined under sub-section (1):

Provided that the Corporation shall pay simple interest at the rate of six per cent, per annum on the amount of excess liable to be refunded under sub-section (2), from the date of decree or order of the court referred to in sub-section (1) to the date on which such excess is refunded.]

1. These words, brackets and figures were substituted for the words, brackets and figures "Bombay Provincial Municipal Corporations (Gujarat Amendment) Act, 1968, as if the said Act" by Gujarat 5 of 1970, Section 9 (I) (i).
2. These words were substituted for the words "Commencement of the said Act", *ibid.*, Section 9 (1) (ii)
3. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

#### CHAPTER 12

#### DRAINS AND DRAINAGE

### **153. Drains to be constructed and kept in repair by the Commissioner. :-**

(1) The Commissioner shall maintain and keep in repair all municipal drains and shall with the approval of the Corporation construct such new drains as shall from time to time be necessary for effectually draining the City.

(2) The Commissioner shall also, in the case of any street in which there is a municipal drains, construct at the charge of the Municipal Fund such portion of the drain of any premises to be connected

with such municipal drain as it shall be necessary to lay under part of such street and the portion of any connecting drains so laid under the street shall vest in the Corporation and be maintained and kept in repair by the Commissioner as a municipal drain.

**154. Adoption by Corporation of drains and drainage or sewage disposal works. :-**

(1) The Commissioner may at any time with the approval of the Corporation declare that any drain or part thereof or any drainage or sewage disposal works situate within the City or serving the City or any part thereof shall, from such date as may be specified in the declaration, become vested in the Corporation. Provided that, when the Commissioner proposes to make a declaration under this sub-section, he shall give written notice of the proposal to the owner or owners of the drain or works in question and shall take no further action in the matter until either one month has elapsed without an objection against his proposal being lodged under sub-section (2), or, as the case may be, until any objections so lodged has been duly considered.

(2) An owner aggrieved by the proposal of the Commissioner to make a declaration under sub-section (1) may, within one month after notice of the proposal is served upon him, appeal to the <sup>1</sup>[State] Government or to such officer of the <sup>1</sup>[State] Government as the <sup>1</sup>[State] Government may designate by order in the Official Gazette in this behalf and shall, if he so appeals, give written intimation of the fact to the Commissioner.

(3) After consideration of an appeal under sub-section (2), and after making such inquiries as may be necessary, the <sup>1</sup>[State] Government or the said officer may with due regard to the provisions of sub-section (4) allow or disallow the proposal of the Commissioner and may, if it or he thinks fit, specify conditions, including conditions as to the payment of compensation by the Commissioner, subject to which it or he allows the proposals.

(4) The Commissioner in deciding whether a declaration should be made under sub-section (1) shall have regard to all the circumstances of the case and, in particular, to the following considerations :-

(a) whether the drain or works in question is or are adapted to, or required for, any general system of drainage or drainage disposal or

sewage disposal which the Commissioner has provided, or proposes to provide, for the City or any part thereof;

(b) whether the drain is constructed under a street or under land reserved by or under the provisions of this Act or any other law for the time being in force for a street;

(c) the number of buildings which the drain is intended to serve, and whether, regard being had to the proximity of other buildings or the prospect of future development, it is likely to be required to serve additional buildings;

(d) the method of construction and state of repair of the drain or works; and

(e) whether the making of the proposed declaration would be seriously detrimental to the owner of the drain or works in question.

(5) Any person who immediately before the making of a declaration under sub-section (1) was entitled to use the drain in question shall be entitled to use it, or any drain substituted thereof, to the same extent as if the declaration had not been made.

(6) When the Commissioner is about to take into consideration the question of making a declaration under sub-section (1) with respect to a drain or drainage or sewage disposal works situate within the jurisdiction of some local authority other than the Corporation or situate within the City but serving an area, or part of an area, within the jurisdiction of such local authority, he shall give notice to that authority and no declaration shall be made by him until either that authority has consented thereto or the <sup>5</sup> [State] Government, on an application made to it, has dispensed with the necessity of such consent, either unconditionally or subject to such conditions as it may think fit to impose.

(7) When the Commissioner has made a declaration under sub-section (1) with respect to a drain or drainage disposal or sewage disposal works situate within the jurisdiction of some local authority other than the Corporation he shall forthwith give notice of the fact to such authority.

(8) The Commissioner shall not make a declaration under sub-section (1) with respect to any drain or part of a drain or any works if that drain or part of a drain or those works is or are vested in

some local authority other than the Corporation or in the Central Government or a railway administration except on the request of the authority, Government of administration concerned.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

5. Section 164A was inserted by Gujarat 19 of 1964, Section 7

**155. Powers for making drains. :-**

(1) The Commissioner may carry any municipal drain through, across or under any street, or any place laid out as or intended for a street or under any cellar or vault which may be under any street, and, after giving reasonable notice in writing to the owner or occupier, into, through or under any land whatsoever within the City, or, for the purpose of outfall or distribution of sewage, without the City.

(2) The Commissioner may enter upon, and construct any new drain in the place of an existing drain in, any land wherein any municipal drain has been already lawfully constructed, or repair or alter any municipal drain so constructed.

**156. Alteration and discontinuance of drains. :-**

The Commissioner may enlarge, after the course of, lessen, arch over or otherwise improve any municipal drain, and may discontinue, close up or destroy any such drain which has, in his opinion, become useless or unnecessary or prohibit the use of any such drain either entirely or for the purpose of foul water drainage or for the purpose of surface drainage :

Provided that, if by reason of anything done under this section any person is deprived of the lawful use of any drain, the Commissioner shall, as soon as may be, provide for his use some other drain as effectual as the one which has been discontinued, closed up or destroyed or the use of which has been prohibited.

**157. Cleansing drains. :-**

(1) The municipal drains shall be so constructed, maintained and kept as to create the least practicable nuisance and shall be from time to time properly flushed, cleansed and emptied.

(2) For the purpose of flushing, cleansing, and emptying the said drains, the Commissioner may construct or set up such reservoirs, sluices, engines and other works, as he shall from time to time

deem necessary.

**158. Powers to connect drain of private street with municipal drain. :-**

The owner of a private street shall be entitled to connect the drain of such street with a municipal drain subject to the conditions laid down in the rules.

**159. Right of owners and occupiers of buildings and lands to drain into municipal drains. :-**

(1) Subject to the provisions of this section, the owner or occupier of any premises shall be entitled to cause his drain to empty into a municipal drain or other place legally set apart for the discharge of drainage : Provided that nothing in this sub-section shall entitle any person

(a) to discharge directly or indirectly into any municipal drain any trade effluent except in accordance with the provisions of section 166 or any liquid or other matter the discharge of which is prohibited by or under this Act or any other law for the time being in force;

(b) where separate municipal drains are provided for foul water and for surface water, to discharge directly or indirectly-

(i) foul water into a drain provided for surface water; or

(ii) except with the permission of the Commissioner surface water into a drain provided for foul water; or

(c) to have his drain made to communicate directly with a storm-water overflow drain.

(2) Every person desirous of availing himself of the provisions of sub-section (1) shall obtain the written permission of the Commissioner and shall comply with such conditions as the Commissioner may prescribe as to the mode in which and the superintendence under which connections with municipal drains or other places aforesaid are to be made.

(3) The Commissioner may, if he thinks fit, in lieu of giving permission under sub-section (2) to any person to have his drain or sewer connected with a municipal drain or other places as aforesaid himself connect after giving notice to the person concerned within fourteen days of the receipt of his application, and the reasonable

expenses of any work so done shall be paid by the person aforesaid.

**160. Powers of Commissioner to require drain or proposal drain to be so constructed as to form part of general system. :-**

(1) Where a person proposes to construct a drain, the Commissioner may, if he considers that the proposed drain is, or is likely to be, needed to form part of a general drainage system which the Corporation has provide or proposes to provide, require him to construct the drain in a manner differing, as regards material or size of pipes, depth, fall, direction or outfall, or otherwise, from the manner in which he proposes, or could otherwise be required by the Commissioner, to construct it, and it shall be his duty to comply with the requirements of the Commissioner.

(2) No person who under this section has been required by the Commissioner to construct a drain in a particular manner shall construct it or cause it to be constructed otherwise than in accordance with the requirements of the Commissioner.

(3) The Commissioner shall repay from the Municipal Fund to the person constructing a drain in accordance with a requirement under sub-section (1), the entire expenses reasonably incurred by him in complying with such requirement and, until the drain becomes a municipal drain, he shall also from time to time repay to him from the Municipal Fund so much of any expenses reasonably incurred by him in repairing or maintaining it as may be attributable to the requirement having been made and complied with.

**161. Connections with municipal drains not to be made except in conformity with section 158 or 159. :-**

No person shall, without complying with the provisions of section 158 or 159, as the case may be, and the rules, make or cause to be made any connection of a drain belonging to himself or to some other person with any municipal drain or other place legally set apart for the discharge of drainage; and the Commissioner may close, demolish, alter or remake any such connection made in contravention of this section, and the expenses incurred by the Commissioner in so doing shall be paid by the owner of the street, or the owner or occupier of the premises, for the benefit of which the connection was made, or by the person offending.

**162. Right of owners and occupiers of premises to carry drain through land belonging to other persons. :-**

(1) If it shall appear to the Commissioner that the only means or the most convenient means by which the owner or occupier of any premises can cause his drain to empty into a municipal drain or other place legally set apart for the discharge of drainage, is by carrying the same into, through or under any land belonging to some person other than the said owner or occupier, the Commissioner, after giving to the owner of the land a reasonable opportunity of stating any objection, may, if no objection is raised, or if any objection which is raised appears to him invalid or insufficient, by an order in writing, authorise the said owner or occupier to carry his drain into, through or under the said land in such manner as he shall think fit to allowance.

(2) Every such order, bearing the signature of the Commissioner, shall be a complete authority to the person in whose favour it is made, or to any agent or person employed by him for this purpose after giving or tendering to the owner of the land reasonable written notice of his intention so to do, to enter upon the said land with assistants and workmen, at any time between sunrise and sunset and to execute the necessary work.

(3) Subject to all other provisions of this Act, the owner or occupier of any premises, or any agent or person employed by him for this purpose, may, after giving or tendering to the owner of any land, wherein a drain has been already lawfully constructed for the drainage of his said premises, reasonable written notice of his intention so to do, enter upon the said land with assistants and workmen, at any time between sunrise and sunset and construct a new drain in the place of the existing drain or repair or alter any drain so constructed.

(4) In executing any work under this section as little damage as may be shall be done, and the owner or occupier of the premises for the benefit of which the work is done shall-

(a) cause the work to be executed with the least practicable delay;

(b) fill in, reinstate and make good, at his own cost and with the least practicable delay, the ground or portion of any building or other construction opened, broken up or removed for the purpose of executing the said work;

(c) pay compensation to any person who sustains damage by the execution of the said work.

(5) If the owner of any land, into, through or under which a drain has been carried under this section whilst such land was unbuilt upon, shall subsequently at any time desire to erect a building on such land, the Commissioner shall by written notice require the owner or occupier of the premises for the benefit of which such drain was constructed to close, remove or divert the same in such manner as shall be approved by the Commissioner and to fill in, reinstate and make good the land as if the drain had not been carried into, through or under the same :

Provided that no such requisition shall be made, unless, in the opinion of the Commissioner, it is necessary or expedient, in order to admit of the construction of the proposed building or the safe enjoyment thereof, that the drain be closed, removed or diverted.

**163. Owner of and to allow others to carry drains through the land. :-**

Every owner of land shall be bound to allow any person in whose favour an order has been made under sub-section (1) of section 162 to carry a drain into, through or under the land of such owner on such terms as may be prescribed in such order.

**164. Commissioner may enforce drainage of undrained premises situate within hundred feet of municipal drain. :-**

Where any premises are, in the opinion of the Commissioner, without sufficient means of effectual drainage and a municipal drain or some place legally set apart for the discharge of drainage is situated at a distance not exceeding one hundred feet from some part of the said premises, the Commissioner may, by written notice, require the owner or occupier of the said premises-

(a) to make a drain of such material, size and description and laid at such level and according to such alignment and with such fall and outlet as may appear to the Commissioner necessary, emptying into such municipal drain or place aforesaid at such point as the Commissioner may consider suitable :

Provided that, where any premises have already been drained under municipal requirements and have to be redrained, no such requisition shall be made without the previous sanction of the Standing Committee;

(b) to provide and set up all such appliances and fittings as may appear to the Commissioner necessary for the purposes of gathering and receiving the drainage from, and conveying the same off, the said premises and of effectually flushing such drain and every fixture connected therewith;

(c) to remove any existing drain, or other appliance or thing used or intended to be used for drainage, which in the opinion of the Commissioner is injurious to health;

(d) to provide a closed drain in substitution of an open drain or to provide such other appliance or thing either newly or in substitution or any existing appliance or thing or to provide both a closed drain and such other appliance or thing in substitution of the existing open drain-and other appliance or thing, which is, or which is likely to be, injurious to health;

(e) to provide and set up all such appliances and fittings as may appear to the Commissioner to be necessary for the purpose of gathering and receiving the waste water from floors and galleries of buildings when they are washed, and conveying the same through spouts, by down-take pipes, so as to prevent such waste water from discharging directly on streets or inside any lower portion of the premises.

**164A. Premises deemed to be without effectual drainage. :-**

For the purposes of this Chapter, premises shall be deemed to be without effectual drainage unless drainage therefrom is discharged or the drain attached hereto is emptied into a municipal drain or some place legally set apart for the discharge of drainage or a cesspool in accordance with the provisions of this Act.]

**165. Commissioner may enforce drainage of undrained premises not situate within hundred feet of municipal drain. :-**

(1) Where any premises are, in the opinion of the Commissioner, without sufficient means of effectual drainage, but not municipal drain or such place as aforesaid is situated at a distance not exceeding one hundred feet from some part of the said premises, the Commissioner may, by written notice, require the owner or occupier of the said premises-

(a) to construct a drain up to a point to be prescribed in such notice, but not distant more than one hundred feet from some part

of the said premises; or

(b) to construct a closed cesspool of such material, size and description in such position, at such level, and with allowance for such fall as the Commissioner thinks necessary and drain or drains emptying into such cesspool.

(2) Any requisition for the construction of any drain under subsection (1) may comprise any detail specified in section 164.

**166. Special provisions relating to trade effluent. :-**

Subject to the provisions of this Act, rules and by-laws, the occupier of any trade premises may, with the consent of the Commissioner, or so far as may be permitted by any such rules or by-laws without such consent, discharge into the municipal drains any trade effluent proceeding from those premises.

**166A. Special provisions regarding drainage of trade effluents. :-**

(1) Notwithstanding anything contained in this Act, or the rules or by-laws or any usage, custom or agreement, where in the opinion of the Commissioner any trade premises are without sufficient means of effectual drainage of trade effluent or the drains thereof, though otherwise unobjectionable are not adapted to the general drainage system of the City, the Commissioner may by written notice require the owner or occupier of such premises-

(a) to discharge the trade effluent from the premises in such manner, at such times, through such drains and subject to such conditions as may be specified in the notice and to cease to discharge the trade effluent otherwise than in accordance with the notice;

(b) to purify the trade effluent before its discharge into a municipal drain, and to set up for purifying the trade effluent such appliances, apparatus, fittings and plant as may be specified in the notice;

(c) to construct a drain of such material, size and description and laid at such level and according to such alignment and with such fall and outlet as may be specified in the notice;

**167. Power of Commissioner to drain premises in combination. :-**

(1) Where the Commissioner is of opinion that any group or block of premises, any part of which is situated within one hundred feet of a municipal drain, or other place legally set apart for the discharge of drainage, already existing or about to be constructed, may be drained more economically or advantageously in combination than separately, the commissioner may cause such group or block of premises to be drained by such method as appears to the Commissioner to be best suited therefor, and the expenses incurred by the Commissioner in so doing shall be paid by the owners of such premises in such proportions as the Commissioner thinks fit.

(2) Not less than fifteen days before any work under this section is commenced the Commissioner shall give written notice to the owners of all the premises to be drained, of -

(a) the nature of the intended work,

(b) the estimated expenses thereof, and

(c) the proportion of such expenses payable by each owner.

(3) The owners for the time being of the several premises constituting a group or block drained under sub-section (1) shall be the joint owners of every drain constructed, erected or fixed, or continued for the special use and benefit only of such premises, and shall in the proportions in which it is determined that the owners of such premises are to contribute to the expenses incurred by the Commissioner under sub-section (1), be responsible for the expense of maintaining every such drain in good repair and efficient condition :

Provided that every such drain shall from time to time be flushed, cleansed and emptied by the Commissioner at the charge of the Municipal Fund.

**168. Commissioner, may close or. limit the use of existing private drains. :-**

(1) Where a drain connecting any premises with a municipal drain or other place legally set apart for the discharge of drainage, though sufficient for the effectual drainage of the said premises and otherwise unobjectionable, is not, in the opinion of the Commissioner, adapted to the general drainage system of the City or of the part of the City in which such drain is situated, the

Commissioner may -

(a) subject to the provision of sub-section (2), close, discontinue, or destroy the said drain and cause any work necessary for that purpose to be done;

(b) direct that such drain shall, from such date as he may specify in this behalf, be used for sullage and sewage only, or for rainwater only or for unpolluted sub-soil water only, or for both rain-water and unpolluted sub-soil water only, and by written notice required the owner or occupier of the premises, to make an entirely distinct drain for rainwater or unpolluted sub-soil water or for both rain water and unpolluted sub-soil water, or for sullage and sewage.

(2) No drain may be closed, discontinued or destroyed by the Commissioner under item (a) in sub-section (1) except on condition of his providing another drain as effectual for the drainage of the premises and communicating with any municipal drain or other place aforesaid which the Commissioner thinks fit; and the expense of the construction of any drain so provided by the commissioner and of any work done under the said item shall be paid by the Commissioner.

(3) Any requisition made by the Commissioner under item (b) of sub-section (1) may embrace any detail specified in item (a) or (b) in section 164.

**169. Vesting and maintenance of drains for sole use of properties. :-**

Subject to the provisions of sub-section (2) of section 153, every drain which has been constructed, laid, erected or set up, whether at the expense of the Corporation or not, or which is continued for the sole use and benefit of any premises or group of premises shall-

(a) notwithstanding anything contained in section 170, vest in the owner of such premises or group of premises on and from the appointed day;

(b) be provided with all such further appliances and fittings as may appear to the Commissioner necessary for the more effectual working of the same, and also be maintained in good repair and efficient condition by the owner of such premises or group of premises, and be from time to time flushed, cleansed and emptied by the Commissioner at the charge of the Municipal Fund.

**170. Right of Corporation to drains, etc. constructed, etc., at charge of Municipal Fund on premises not belonging to Corporation. :-**

All drains, ventilation-shafts and pipes and all appliances and fittings connected with drainage works constructed, erected or set up at any time at the charge of the Municipal Fund or at the charge of the funds of any local authority having jurisdiction in any part of the City before the appointed day upon any premises not belonging to the Corporation and otherwise than for the sole use and benefit of the premises or group of premises shall, unless the Corporation has otherwise determined in the Corporation.

**171. Building not to be erected without drains. :-**

shall not be lawful newly erect any building, or to re-erect any building,

(1) By any building newly erected or re-erected unless and until-

(a) a drain be constructed of such size, material and description, at such level and with such fall as shall appear to the Commissioner to be necessary for the effectual drainage of such building;

(b) there have been provided for and set up in such building and in the premises appurtenant thereto, all such appliances and fittings as may appear to the Commissioner to be necessary for the purposes of gathering and receiving the drainage from, and conveying the same off, the said building and the said premises, and of effectually flushing the drain of the said building and every fixture connected therewith.

(2) The drain to be constructed as aforesaid shall empty into a municipal drain or into some place legally set apart for the discharge of drainage situated at a distance not exceeding one hundred feet from the premises in which such building is situated; but if no such drain or place is within that distance then such drain shall empty into such cesspool as the Commissioner directs.

**172. Obligation of owners of drains to allow use or joint ownership to others. :-**

Every Owner of a drain connected with a municipal drain or other place legally set apart for the discharge of drainage shall be bound to allow the use of it to others, or to admit other persons as joint owners thereof, on such terms as may be prescribed under section 173.

**173. HOW right of use of joint ownership of a drain may be obtained by a person other than the owner. :-**

(1) Any person desiring to drain his premises into a municipal drain through a drain of which he is not an owner, may make a private arrangement with the owner for permitting his use of the drain, or may apply to the Commissioner for authority to use such drain or to be declared joint owner thereof.

(2) Where the Commissioner is of opinion, whether on receipt of such application or otherwise, that the only, or the most convenient, means by which the owner or occupier of any premises can cause the drain of such premises to empty into a municipal drain or other place legally set apart for the discharge of drainage is through a drain communicating with such municipal drain or place aforesaid but belonging to some person other than the said owner or occupier, the Commissioner, after giving the owner of the drain a reasonable opportunity of stating any objection thereto, may, if no objection is raised or if any objection which is raised appears to him invalid or insufficient, by an order in writing, either authorize the said owner or occupier to use the drain or declare him to be a joint owner thereof, on such conditions as to the payment of rent or compensation and as to connecting the drain of the said premises with the communicating drain and as to the respective responsibilities of the parties for maintaining, repairing, flushing, cleansing and emptying the joint drain or otherwise, as may appear to him equitable.

(3) Every such order bearing the signature of the Commissioner shall be a complete authority to the person in whose favour it is made, or to any agent or person employed by him for this purpose, after giving or tendering to the owner of the drain the compensation or rent specified in the said order and otherwise fulfilling, as far as possible, the conditions of the said order, and after giving to the owner of the drain reasonable written notice of his intention so to do, to enter upon the land in which the said drain is situate with assistants and workmen, at any time between sunrise and sunset, and, subject to all provisions of this Act, to do all such things as may be necessary for -

(a) connecting the two drains; or

(b) renewing, repairing or altering the connection; or

(c) discharging any responsibility attaching to the person in whose

favour the Commissioner's order is made for maintaining, repairing, flushing, cleansing or emptying the joint drain or any part thereof.

(4) In respect of the execution of any work under sub-section (3) the person in whose favour the Commissioner's order is made shall be subject to the same restrictions and liabilities which are specified in sub-section (4) of section 162.

**174. Sewage and rain water drains to be distinct :-**

Whenever it is provided in this Chapter that steps shall or may be taken for the effectual drainage of any premises, the Commissioner may require that there shall be one drain for sullage excrementitious matter and polluted water and another and an entirely distinct drain for rain water and unpolluted sub-soil water or for both rainwater and unpolluted sub-soil water, each emptying into separate municipal drains or other places legally set apart for the discharge of drainage or other suitable places.

**175. Affixing of pipes for ventilation of drains, etc. :-**

(1) For the purpose of ventilating any drain or cesspool, whether belonging to the Corporation or to any other person, the Commissioner may erect upon any premises or affix to the outside of any building or to any tree any such shaft or pipe as shall appear to the Commissioner necessary and cut through any projection from any building including the eaves of any roof thereof in order to carry up such shaft or pipe through any such projection and lay in, through, or under any land such appliances as may in the opinion of the Commissioner be necessary for connecting such ventilating shaft or pipe with the drain or cesspool intended to be ventilated.

(2) Such shaft or pipe shall be erected or affixed or removed in the manner laid down in the rules.

(3) If the Commissioner declines to remove a shaft or pipe under the rules, the owner of the premises, building or tree, upon or to which the same has been erected or affixed, may apply to the Judge, within fifteen days of the receipt by him of the replay of the Commissioner.

(4) Where the owner of any building or land cut through, opened or otherwise dealt with under sub-section (1) is not the owner of the drain or cesspool intended to be ventilated, the Commissioner shall, so far as is practicable reinstate and make good such building, and fill in and make good such land, at the charge of the Municipal

Fund.

**176. Appointment of places for emptying of drains and disposal of sewage. :-**

The Commissioner may cause all or any municipal drains to empty into any place, whether within or without the City, and dispose of the sewage at any place whether within or without the City, and in any manner which he shall deem suitable for such purpose :

Provided that-

(a) the Commissioner shall not cause any municipal drain to empty into any place into which a municipal drain has not heretofore emptied, or dispose of sewage at any place or in any manner at or in which sewage has not heretofore been disposed of, without the sanction of the Corporation;

(b) no municipal drain shall be made to empty into any place, and no sewage shall be disposed of at any place or in any manner which the <sup>1</sup> [State] Government shall think fit to disallow.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

**177. Provision of means for disposal of sewage :-**

The Commissioner may, for the purpose of receiving, treating, storing, disinfecting, distributing or otherwise disposing of sewage, construct any work within or without the City or purchase or take on lease any land, building, engine, material or apparatus either within or without the City or enter into any arrangement with any person for any period not exceeding twenty years for the removal or disposal of sewage within or without the City. Water-closets, Privies, Urinals, etc.

**178. Construction of water closets and privies :-**

(1) It shall not be lawful to construct any water-closet or privy for any premises except with the written permission of the Commissioner and in accordance with such terms not being inconsistent with any rule or by-law for the time being in force as he may prescribe.

(2) In prescribing any such terms the Commissioner may determine in each case-

(a) whether the premises shall be served by the water-closet or by the privy system, or partly by one and partly by the other; and

(b) what shall be the site or position of each water-closet or privy.

(3) If any water-closet or privy is constructed on any premises in contravention of sub-section (1), the Commissioner may, after giving not less than ten days' notice to the owner or occupier of such premises, close such water-closet or privy, and alter or demolish the same, and the expenses incurred by the Commissioner in so doing shall be paid by such owner or occupier or by the person offending.

**178A. Power of Commissioner to require owner to provide water closet or privy accommodation. :-**

(1) Where any premises are, in the opinion of the Commissioner, without the adequate and suitable water-closet or privy accommodation in accordance with the rules made by the Corporation in that behalf, the Commissioner, may, by written notice, require the owner of such premises to provide such water-closet or privy accommodation in accordance with the rules made by the Corporation in that behalf, within such time as may be specified in such notice and if the owner fails to comply with such requirement, within the time so specified or within such time as may, on the application of the owner, be extended by the Commissioner for any reasonable cause, it shall be lawful for the Commissioner to make such provision from the fund of the Corporation. The expenses incurred by the Commissioner in making such provision shall, on demand by the Commissioner, be payable by the owner and if not paid by him on demand, such expenses shall be recoverable by the Commissioner in accordance with the provisions of section 439.

(2) Notwithstanding anything contained in sub-section (1), where the owner of any premises fails to comply with such requirement within the period specified under sub-section (1), the Commissioner may, in a case where the owner is not himself the occupier of such premises, permit the occupier of such premises to make provision for such water-closet or privy accommodation at the cost of the owner, if the occupier is willing to do so, instead of the Commissioner himself making such provision. Any such occupier who makes such provision shall, after obtaining the necessary certificate from the Commissioner about such provision having been made by him, the amount of expenses incurred by him in making such provision and the reasonableness of such expenses, be entitled to deduct, such amount of expenses as is certified by the

Commissioner to be reasonable, from the rent or any other sum payable by him to the owner or to recover such amount from the owner in any other lawful manner.

(3) For the purpose of making the provision specified in sub-section (1), the Commissioner shall have power to do all acts necessary for that purpose and the Corporation shall not be liable to pay any compensation to the owner of the premises for any reasonable damage done to the premises in making such provision.

(4) Where any water-closet or privy accommodation is provided or set up by the Commissioner under sub-section (1) and the expenses incurred by the Commissioner in doing so are paid by, or recovered from, the owner in full, such water-closet or privy accommodation shall belong to the owner of the premises and the owner shall be responsible for the expenses of maintaining it in good repairs and efficient condition.

(5) The provision as aforesaid made under sub-section (1) or sub-section (2) shall not be deemed to be a permanent structure for the purpose of clause (b) of sub-section (1) of section 13 of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947.] (Bombay LVII of 1947.)

**179. Water-closets and other accommodation in buildings newly erected or reerected. :-**

(1) It shall not be lawful to erect or to re-erect or convert within the meaning of section 253 any building for, or intended for, human habitat in, or at or in which labourers or workmen are to be employed, without such water-closet or privy accommodation and such urinal accommodation and accommodation for bathing or for the washing of clothes and domestic utensils of such building as the Commissioner may prescribe.

(2) In prescribing any such accommodation the Commissioner may determine in each case-

(a) whether such building or work shall be served by the water-closet or by the privy system, or partly by one and partly by the other;

(b) what shall be the site or position of each water-closet, privy, urinal or bathing or washing place and their number.

(3) In determining the accommodation to be required under sub-

section (2) the Commissioner shall have regard to the necessity of providing adequate and suitable water closets or privies and bathing places for domestic servants employed by the occupants of the building.

**180. Public necessities :-**

The Commissioner shall provide and maintain in proper and convenient situations water-closets, latrines, privies and urinals and other similar conveniences for public accommodation. Inspection

**181. Drains, etc., not belonging to Corporation to be subject to inspection and examination. :-**

(1) All drains, ventilation-shafts and pipes, cess-pools, house-gullies, water-closets, privies, latrines and urinals and bathing and washing places which do not belong to the Corporation, or which have been constructed, erected or set up at the charge of the Municipal Fund on premises not belonging to the Corporation, for the use or benefit of the owner or occupier of the said premises, shall be open to inspection and examination by the Commissioner.

(2) The Commissioner may, in the course of an inspection or examination under sub-section (1), obtain and take away a sample of any trade effluent which is passing from the premises inspected or examined into a municipal drain. The analysis of such sample shall be made in the manner prescribed by the rules.

(3) The results of any analysis of a sample taken under sub-section (2) shall be admissible as evidence in any legal proceedings under this Act.

**182. Power to open ground, etc., for purposes of inspection and examination. :-**

For the purpose of such inspection and examination, the Commissioner may cause the ground or any portion of any drain or other work exterior to a building, or any portion of a building, which he shall think fit, to be opened, broken up or removed.

**183. Expenses of inspection and examination. :-**

(1) If upon any such inspection and examination as aforesaid, it shall be found that the drain, ventilation-shaft or pipe, cess-pool, house-gully, water-closet, privy, latrine or urinal or bathing or washing place examined is in proper order and condition, and that none of the provisions of this Act or of the rules or by-laws or any

other enactment for the time being in force has been contravened in respect of the construction or maintenance thereof, and that no encroachment has been made thereupon, the ground or portion of any building, drain or other work, if any, opened, broken up or removed for the purpose of such inspection and examination shall be filled in, reinstated and made good by the Commissioner.

(2) If it shall be found that any drain, ventilation-shaft or pipe, cess-pool, house-gully, water-closet, privy, latrine or urinal or bathing or washing place so examined is not in good order or condition, or has been repaired, changed, altered or encroached upon, or, except when the same has been constructed by or under the order of the Commissioner, if it has been constructed in contravention of any of the provisions of this Act or the rules or by-laws or of any enactment for the time being in force the expenses of the inspection and examination, shall be paid by the owner of the premises, and the said owner shall fill in, reinstate and make good the ground, or portion of any building, drain or other work opened, broken up or removed for the purpose of such inspection and examination, at his own cost.

**184. Commissioner may require repair, etc., to be made. :-**

(1) When the result of such inspection and examination as aforesaid is as described in sub-section (2) of section 183 the Commissioner may -

(a) by written notice require the owner of the premises or the several owners of the respective premises in which the drain, ventilation-shaft or pipe, cesspool, house-gully, water-closet, privy, latrine, urinal or bathing or washing place is situated or for the benefit of which the same has been constructed, erected or set up,-

(i) to close or remove the same or any encroachment thereupon or, subject to the proviso to clause (c) of sub-section (1) of section 186, to remove any projection over the same, or

(ii) to renew, repair, cover, recover, trap, ventilate, flush Pare and pitch or take such other order to keep the same in working condition by effecting such other works as he shall think fit to direct and to fill in reinstate and make good the ground, building or thing opened, broken up or removed for the purpose of such inspection and examination; and

(b) without notice, close, fill up or demolish any drain by which

sullage or sewage is carried through, from, into or upon any premises in contravention of any of the provisions of this Act, or the rules or by-laws, and the expenses incurred by the Commissioner in so doing shall be paid by such owner or owners.

(2) Any requisition under clause (a) of sub-section (1) in respect of any drain which has been constructed, erected or set up, or which is continued for the sole use and benefit of a property or for exclusive use and benefit of two or more properties, may include any extension thereof beyond such property or properties if and so far as such extension has been constructed, erected or set up, or is continued, for the sole use and benefit of such property or properties.

**185. Cost of inspection and execution of works in certain cases. :-**

In the case of any drain which has been constructed, erected or fixed, or which is continued, for the exclusive use and benefit of two or more premises and which is not -

(a) a drain constructed under sub-section (1) of section 167, or

(b) a drain in respect of which conditions as to the respective responsibilities of the parties have been declared under sub-section (2) of section 173, the expenses of any inspection and examination made by the Commissioner under section 181 and of the execution of any work required under section 184, whether executed under section 188 or not, shall be paid by the owners of such premises, in such proportions, as shall be determined by the Commissioner.

**185A. Power of Commissioner to provide house drain, water connections, etc. in premises where owner is not willing to do so. :-**

(1) If in respect of any premises which consist of a building or a block or group of buildings having a number of residential tenements therein, with an area of land, open or enclosed, appurtenant, thereto, the Commissioner, whether on receipt of an application or otherwise, is of opinion that the tenants or other residents of such tenements are not provided with facilities for drainage, supply of water, electricity, common water closet or any such other essential supply or are provided with any of such facilities which are insufficient to meet with the reasonable requirements of such tenants or residents and that the tenants or residents who are desirous of obtaining any of such facilities are not

able to do so without incurring disproportionate cost on account of no housing drain, water connection or other necessary appliances, fittings or other things connected with the main public source for the supply of such facility having been provided or set up by the owner in the premises and on account of the owner not being willing to provide or set up such housing drain, water connections, or other necessary appliances, fitting or things in, or in the land appurtenant to, the premises, it shall be lawful for the Commissioner to provide or set up. in such premises or the land appurtenant thereto, with approval of the Corporation and after giving the owner a reasonable opportunity of being heard, such house drain, water connection or other necessary appliances, fittings or other things having connection with the main public source of the supply of any such facility which may be situated outside the premises and the expenses incurred by the Commissioner in doing so shall, on demand by the Commissioner, be payable by the owner of such premises and if he does not pay them on demand, such expenses shall be recoverable by the Commissioner in accordance with the provisions of section 439.

(2) For the purpose of exercising the powers under sub-section (1) the Commissioner shall have power to do all acts necessary for the purpose of an effectual exercise of such power in relation to any premises and the Corporation shall not be liable to pay any compensation to the owner of the premises for any reasonable damage done to the premises in the exercise of such power.

(3) Where any house drain, water connections or other appliances, fittings or things are provided or set up by the Commissioner in any premises under sub-section (1). then, on the payment of the expenses incurred by the Commissioner in doing so by the owner of the premises or on the every of such expenses from such owner, such house drain, water connection or other appliances, fitting or things shall belong to the owner of the premises and the owner shall be responsible for the expenses of maintaining them in good repair and efficient condition.]

**186. Prohibition of acts contravening the provisions of the Act, rules or by-laws or done without sanction. :-**

(1) No person shall -

(a) in contravention of any of the provisions of this Act or rules or by-laws or of any notice issued or direction given under this Act or

without the written permission of the Commissioner, in any way alter the fixing, disposition or position of, or construct, erect, set up, renew, rebuild, remove, obstruct, stop up, destroy or change, any drain, ventilation- shaft or pipe, cess-pool, water-closet, privy, latrine or urinal or bathing or washing place or any trap, covering or other fitting or appliance connected therewith;

(b) without the written permission of the Commissioner, renew, rebuild or unstop any drain, ventilation-shaft or pipe, cess-pool, water-closet, privy, latrine or urinal or bathing or washing place, or any fitting or appliance, which has been, or has been ordered to be, discontinued, demolished or stopped up under any of the provisions of this Act, or the rules or by-laws;

(c) without the written permission of the commissioner, make any projection over or encroachment upon, or in any way injure or cause or permit to be injured, any drain, cess-pool, house-gully, water-closet, privy, latrine or urinal or bathing or washing place :

Provided that nothing in this clause shall apply to any weather-shade in width not exceeding two feet over any window which does not front a wall or window of an adjoining house :

(d) drop, pass or place, or cause or permit to be dropped, passed or placed, into or in any drain, any brick, stone, earth, ashes, dung or any substance or matter which is likely to injure the drain or to interfere with the free flow of its contents, or to affect prejudicially the treatment and disposal of its contents;

(e) pass, or permit or cause to be passed, into drain provided for a particular purpose any matter or liquid for the conveyance of which such drain has not been provided;

(f) except as provided by or under this Act cause or suffer to be discharged into any drain any chemical refuse or waste steam or any liquid of a temperature higher than one hundred and twenty degrees Fahrenheit, being refuse or steam which when so treated is, either along or in combination with the contents of the drain, dangerous or the cause of a nuisance or prejudicial to health;

(g) cause or suffer to be discharged into any drain, carbide of calcium or any such crude petroleum, any such oil made from petroleum, coal, shale or bituminous substances, or such product of petroleum or mixture containing petroleum as gives off under test an inflammable vapour at a temperature of less than seventy three

degrees Fahrenheit.

(2) If the person carrying out any work or doing any act in contravention of any of the clauses of sub-section (1) is not at the time of the notice the owner of such building or work, then owner of such building or work shall be deemed to have been responsible for carrying out all such requisition in the same way as the person so carrying out would have been liable.

**187. Water-closets etc., not to be injured or improperly fouled. :-**

(1) No person shall injure or foul any water-closet, privy, urinal or bathing or washing place or any fitting or appliances in connection therewith which have been provided for the use in common of the inhabitants of one or more buildings.

(2) If any such water-closet, privy, urinal or bathing or washing place or any fitting or appliance in connection therewith or the approaches thereto or the walls floors or seats or anything used in connection therewith are in such a state as to be a nuisance or source of annoyance to any inhabitant of the said building or buildings or to any inhabitant of the locality or passer by for want of proper cleaning thereof, such of the persons having the use thereof as may be in default or, in the absence of evidence as to which of the persons having the use thereof in common is in default, every such person shall be deemed to have contravened the provisions of this section.

(3) The provisions of this section shall not exempt the owner of the building or buildings from any penalty to which he may otherwise have rendered himself liable.

**188. Commissioner may execute certain works under this Act without allowing option to persons concerned of executing the same. :-**

(1) The Commissioner may, if he thinks fit, cause any work described in this Chapter or in Chapter IX of the Schedule to be executed by municipal or other agency under his own orders, without first of all giving the person by whom the same would otherwise have to be executed the option of doing the same.

(2) The expenses of any work so done shall be paid by the person aforesaid, unless the Corporation shall by a general or special or

resolution sanction, as it is hereby empowered to sanction, the execution of such work at the charge of the municipal Fund.

#### CHAPTER 13

Construction and maintenance of municipal water-works

#### **189. Water supply. :-**

(1) When the Commissioner has given public notice under clause (b) of sub-section (1) of section 130 that the Corporation has arranged to supply water to any portion of the City from municipal water works by means of private water connections or of public stand-posts or by any other means, it shall be incumbent on him to take all such measures as may be practicable to ensure that a sufficient supply is available for meeting the reasonable requirements of the resident of such portion of the City.

(2) For the purposes of carrying out the obligation imposed by sub-section (1) and of providing the City with a supply of water proper and sufficient for public and private purposes, the Commissioner may with the approval of the Corporation.

(a) construct, maintain in good repair, alter, improve and extend water works either within or without the City, and do any other necessary acts;

(b) purchase or take on lease any water-work or any water or right to store or to take and convey water either within or without the City;

(c) enter into an arrangement with any person for a supply of water.

(3) All municipal water-works shall be managed by the Commissioner.

#### **190. Inspection of municipal water-works by persons appointed by 1[State] Government. :-**

Any person appointed by the <sup>1</sup> [State] Government in this behalf shall at all reasonable times have liberty to enter upon and inspect any municipal water-work.

1. This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

#### **191. Power of access to municipal water-works. :-**

The Commissioner and any person appointed by the <sup>1</sup> [State]

Government under section 190 in this behalf may, for the purpose of inspecting or repairing or executing any work in, upon or in connection with any municipal water-works, at all reasonable times-

(a) enter upon and pass through any land, within or without the City, adjacent to or in the vicinity of such water-works, in whomsoever such land may vest;

(b) cause to be conveyed into and through any such land all necessary men, materials, tools and implements.

1. This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

**192. Power of carrying water-mains, etc. :-**

(1) For the purpose of carrying, renewing and repairing water-mains, pipes and ducts within or without the City, the Commissioner shall have the same powers and be subject to the same restrictions as he has and is subject to under the provisions hereinbefore contained for carrying, renewing and repairing drains within the City.

(2) This section shall apply in respect of carrying, renewing and repairing private water-mains, pipes and ducts as it applies in respect of carrying, renewing and repairing municipal water-mains, pipes and ducts.

**193. Fire-hydrants to be provided. :-**

The Commissioner shall cause fire-hydrants and all necessary works, machinery and assistance for supplying water in case of fire to be provided and maintained and shall have painted or marked on the buildings and walls or in some other conspicuous manner, within the streets, words or marks near to such hydrants to denote the situation thereof, and shall cause a hydrantkey to be deposited at each place within the City where a municipal fireengine is kept, and do such other things for the purpose aforesaid as he shall deem expedient.

**194. Prohibition of certain acts affecting the municipal water-works. :-**

(1) Except with the permission of the Corporation, no person shall-

(a) erect any building for any purpose whatever on any part of such area as shall be demarcated by the Commissioner surrounding any lake, tank, well or reservoir from which a supply of water is derived

for a municipal waterworks

(b) remove, alter, injure, damage or in any way interfere with the demarcation works of the area aforesaid;

(c) extend, alter or apply to any purpose different to that to which the same has been heretofore applied, any building already existing within the area aforesaid; or

(d) carry on, within the area aforesaid, any operation of manufacture trade or agriculture in any manner, or do any act whatever, whereby injury may arise to any such lake, tank, well or reservoir or to any portion thereof or whereby the water of any such lake, tank, well or reservoir may be fouled or rendered less wholesome.

(2) Except as hereinafter provided, no person shall -

(a) cause or suffer to percolate or drain into or upon any municipal water-work or to be brought thereinto or thereupon anything, or to be done any act, whereby the water therein may be in any way fouled or polluted or its quality altered;

(b) alter the surface of any municipal land adjacent to or forming part of any such work by digging thereinto or depositing thereon any substance;

(c) cause or suffer to enter into the water in such work any animal;

(d) throw or put anything into or upon the water in such work;

(e) bathe in or near such work; or

(f) wash or cause to be washed in or near such work any animal or thing.

**195. Buildings, etc. not to be erected over municipal water-main without permission. :-**

(1) Without the written permission of the Commissioner, no building, wall or structure of any kind shall be newly erected or re-erected and no street or minor railway shall be constructed, over any municipal water-main.

(2) If any building, wall or structure be so erected or re-erected or any street or minor railway be so constructed, the Commissioner may, with the approval of the Standing Committee, cause the same to be removed or otherwise dealt with as to him shall appear fit,

and the expenses thereby incurred shall be paid by the person offending.

**196. Vesting of public drinking fountains, etc. in the Corporation. :-**

(1) All existing public drinking fountains, tanks, reservoirs, cisterns, pumps, wells, ducts and works for the supply of water for the gratuitous use of the inhabitants of the City shall vest in the Corporation and be under the control of the Commissioner.

(2) The Commissioner may maintain the said works and provided them with water, and when authorised by the Corporation in this behalf may construct any other such works for supplying water for the gratuitous use of the inhabitants of the City :

Provided that water carried away by any of the inhabitants from any such work shall be taken only for personal or domestic purposes and not for the purpose of business or sale and shall not, except with the written permission of the Commissioner, be carried away in a cask, cart, pakhal or masak.

(3) The Commissioner may temporarily, and with the approval of the Corporation permanently close any of the said works either entirely or partially.

(4) If any such work is permanently closed either entirely or partially by the Commissioner the site thereof, or of the portion thereof which is so closed, and the materials of the same may be disposed of as the property of the Corporation :

Provided that if any such work which is permanently closed, either entirely or partially, was a gift to the public by some private person, the said site and materials or the proceeds of the sale thereof shall, unless by reason of their value being insignificant or for other sufficient reason the Corporation thinks fit to direct otherwise, be applied to or towards some local work of public utility bearing the name of such person, or to or towards any such local work which shall be approved by the Corporation and by the heirs or other representatives, if any, of the said person.

**197. Public drinking fountains, etc. may be set apart for particular purposes. :-**

(1) The Commissioner may assign and set apart each of the said works and the water therein for use by public for such purpose only

as he shall think fit, and shall cause to be indicated, by a notice affixed on a conspicuous spot on or near each such work, the purpose for which the same is so assigned and set apart.

(2) No person shall make use of any such work or of any water therein for any purpose other than the purpose for which the same has been so assigned or set apart.

**198. Conditions as to use of water not to be contravened. :-**

No person to whom water is supplied by measurement or according to the size of the connection or on payment of a fixed periodical sum shall contravene any condition prescribed under sub-section (2) of section 134 for the use of such water, or permit any such condition to be contravened.

**199. Water pipes etc. not to be placed where water will be polluted. :-**

No water-pipes shall be laid in a drain or on the surface of an open channel or house-gully or within twenty feet of a cesspool, or in any position where the pipe is likely to be injured or the water therein polluted and no well or tank and, except with the consent of the Commissioner, no cistern shall be constructed within twenty feet of a privy, water-closet or cesspool.

**200. Prohibition of fraudulently and unauthorised use of water. :-**

(1) No person shall fraudulently dispose of any water supplied to him by the Corporation.

(2) No person to whom a private supply of water is furnished by the Corporation shall, except when the water supplied is charged for by measurement, permit any person who does not reside on premises in respect of which water-tax is paid to carry away water from the premises to which it is supplied.

(3) No person who does not reside on premises in respect of which water-tax is paid shall carry away water from any premises to which a private supply is furnished by the Corporation, unless, in any case in which such supply is charged for by measurement, he does so with the permission of the person to whom such supply is furnished.

**201. Power to supply water without the City. :-**

The Commissioner may supply water from a municipal water work

to any local authority or person without the City on such terms as to payment and as to the period and conditions of supply as shall be, either generally or specially, approved by the Corporation.

CHAPTER 14  
STREETS

**202. Vesting of public streets in Corporation :-**

All streets within the City being, or which at any time become, public streets, except streets which on the appointed day vested in the <sup>1</sup> [Government] or which after the said day may be constructed and maintained by an authority other than the Corporation, and the payments, stones and other materials thereof shall vest in the Corporation and be under the control of the Commissioner.

1. This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

**203. Power of Commissioner in respect of public streets :-**

(1) The Commissioner shall from time to time cause all public streets vested in the Corporation to be levelled, metalled or paved, channelled, altered and repaired, as occasion shall require, and may also from time to time widen, extend or otherwise improve any such street or cause the soil thereof to be raised, lowered or altered and may place and keep in repair fences and posts for the safety of pedestrians : Provided that no widening, extension or other improvement of a public street, the aggregate cost of which will exceed five thousand rupees or such higher amount as the Corporation may from time to time fix, shall be undertaken by the Commissioner unless or until such undertaking has been authorised by the Corporation.

(2) With the sanction of the Corporation the Commissioner may permanently close the whole or any part of a public street vested in the Corporation : Provided that such sanction of the Corporation shall not be given unless, one month at least before the meeting at which the matter is decided, a notice signed by the Commissioner has been put up in the street or part of a street which it is proposed to close, informing the residents of the said proposal, nor until the objections to the said proposal, if any, made in writing at any time before the day of the said meeting have been received and considered by the Corporation.

**204. Disposal of and forming site of closed streets :-**

Whenever any public street, or part of a public street, is

permanently closed under section 203, the site of such street, or of the portion thereof which has been closed, may be disposed of as land vesting in the Corporation, subject to the previous sanction of the <sup>1</sup> [State] Government.

1. This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

**205. Power to make new public streets :-**

The Commissioner, when authorised by the Corporation in this behalf, may at any time-

(a) lay out and make a new public street;

(b) agree with any person for the making of a street for public through the land of such person, either entirely at the expense of such person or partly at the expense of such person and partly at the expenses of the Corporation, and that such street shall become, on completion, public street, which shall vest in the Corporation;

(c) construct bridges and sub-ways;

(d) divert or turn an existing public street vested in the Corporation or a portion thereof.

**206. Minimum width of new public streets :-**

(1) The Corporation shall from time to time with the sanction of the <sup>1</sup> [State] Government specify the minimum width for different classes of public streets according to the nature of the traffic likely to be carried thereon, the localities in which they are situated, the heights up to which buildings abutting thereon may be erected and other similar considerations.

(2) The width of a new public street made under section 205 shall not be less than that prescribed under sub-section (1) for the class to which it belongs, and no steps and, except with the written permission of the Commissioner under section 227, no other projections shall extend on to any such street.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

**207. Power to adopt, construct or alter any sub-way, bridge, etc :-**

The Commissioner when authorised by the Corporation in this behalf, may agree with any person-

(a) to adopt and maintain any existing or projected sub-way, bridge, viaduct or arch, and the approaches thereto, and may accordingly adopt and maintain such sub-way, bridge, viaduct or arch and approaches as parts of public streets, or as property vesting in the Corporation, or

(b) for the construction or alteration of any such sub-way, bridge, viaduct or arch or for the purchase or acquisition of any adjoining land required, for the foundations and support thereof or for the approaches thereto, either entirely at the expense of such person or partly at the expense of such person and partly at the expense of the Corporation.

**208. Power to prohibit use of public streets for certain kinds of traffic :-**

(1) It shall be lawful for the Commissioner with the sanction of the Corporation to-

(a) prohibit vehicular traffic in any particular public street vesting in the Corporation so as to prevent danger, obstruction or inconvenience to the public by fixing up posts at both ends of such street or portion of such street;

(b) prohibit in respect of all public streets, or particular public streets, the transit of any vehicle of such form, construction, weight or size or laden with such heavy or unwieldy objects as may be deemed likely to cause injury to the roadways or any construction thereon, or risk or obstruction to other vehicles or to pedestrians along or over such street or streets, except under such conditions as to time, mode of traction or locomotion, use of appliances for protection of the roadway, number of lights and assistants, and other general precautions and the payment of special charges as may be specified by the Commissioner generally or specially in each case.

(2) Notices of such prohibitions as are imposed under sub-section (1) shall be posted up in conspicuous places at or near both ends of the public streets or portions thereof to which they relate, unless such prohibitions apply generally to all public streets.

**209. Power to acquire premises for improvement of public streets :-**

(1) The Commissioner may, subject to the provisions of sections

77, 78 and 79-

(a) acquire any land required for the purpose of opening, widening, extending, diverting or otherwise improving any public street, bridge or sub- way or of making any new public street, bridge or sub-way and the buildings, if any, standing upon such land;

(b) acquire in addition to the said land and the buildings, if any, standing thereupon, all such land with the buildings, if any, standing thereupon, as it shall seem expedient for the Corporation to acquire outside of the regular line, or of the intended regular line, of such street;

(c) lease, sell or otherwise dispose of any land or building purchased under clause (b).

(2) The acquisition of land for providing, extending or improving a place for the parking of vehicles shall be deemed to be acquisition of land for the purpose of providing, extending or improving a public street.

(3) Any conveyance of land or of a building under clause (c) of subsection (1) may comprise such conditions as the Commissioner thinks fit, as to the removal of the existing building, the description of new building to be erected, the period within which such new building shall be completed and other such matters.

**210. Power to prescribe street lines :-**

(1) The Commissioner may,

(a) prescribe a line on one or both sides of any public street :  
Provided that every regular line of a public street operative under any law for the time being in force in any part of the City on the day immediately preceding the appointed day shall be deemed to be a street line for the purposes of this Act until a street line is prescribed by the Commissioner under this clause;

(b) from time to time, but subject in each case to the previous approval of the Standing Committee, prescribe a fresh line in substitution for any line so prescribed or for any part thereof :  
Provided that such approval shall not be accorded unless, at least one month before the meeting of the Standing Committee at which the matter is decided, public notice of the proposal has been given by the Commissioner by advertisement in the local newspapers and special notice thereof, signed by the Commissioner, has also been

put up in the street or part of the street for which such fresh line is proposed to be prescribed and until the Standing Committee has considered all objections to the said proposal made in writing and delivered at the office of the Municipal Secretary not less than three clear days before the day of such meeting.

(2) The line for the time being prescribed shall be called the regular line of the street".

(3) A register with plans attached shall be kept by the Commissioner showing all public streets in respect of which a regular line of the street has been prescribed and such register shall contain such particulars as to the Commissioner 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 prescribed by the Standing Committee.

(4)

(a) Subject to the provisions of sub-section (5) no person shall construct or reconstruct any portion of any building on land within the regular line of the street except with the written permission of the Commissioner and in accordance with the conditions imposed therein and the Commissioner shall in every case in which he gives such permission, at the same time, report his reasons in writing to the Standing Committee.

(b) No person shall construct or reconstruct any boundary wall or a portion of a boundary wall within the regular line of the street except with the written permission of the Commissioner : Provided that if, within sixty days after the receipt of an application from any person for permission to construct or reconstruct a boundary wall or a portion thereof, the Commissioner fails to acquire the land within the regular line of the street under section 213 the said person may, subject to any other provisions of this Act or the rules or by-laws, proceed with the work of construction or reconstruction of such boundary wall or a portion thereof, as the case may be.

(5)

(a) When the Commissioner grants permission under clause (a) of sub-section (4) for the construction or reconstruction of any building on land within the regular line of the street he may require the owner of the building to execute an agreement binding himself and his successors in title not to claim compensation in the event of

the Commissioner at any time thereafter calling upon him or any of his successors by written notice to remove any work carried out in pursuance of such permission or any portion thereof and to pay the expenses of such removal if, in default, such removal is carried out by the Commissioner.

(b) The Commissioner may before granting such permission require the owner to deposit in the municipal office an amount sufficient in his opinion to cover the cost of removal and such compensation, if any, as may be payable to any successor in title or transferee of such building.

**211. Setting back buildings to the regular line of the street**  
:-

(1) If any building or any part of a building abutting on a public street is within the regular line of the street, the Commissioner may, whenever it is proposed

(a) to rebuild such building or to take down such building to an extent exceeding one-half thereof above the ground level, such half to be measured in cubic feet; or

(b) to remove, reconstruct or make any addition to or structural alteration in any portion of such building which is within the regular line of the street, in any order which he issues concerning the rebuilding, alteration or repair of such building, require such building to be set back to the regular line of the street.

(2) When any building or any part thereof within the regular line of the street falls down or is burnt down or is taken down, whether under the provisions of this Act or otherwise, the Commissioner may at once take possession on behalf of the Corporation of the portion of land within the regular line of the street theretofore occupied by the said building and, if necessary, clear the same.

(3) Land acquired under this section shall thenceforward be deemed a part of the public street and shall vest, as such in the Corporation.

**212. Additional power of Commissioner to order setting back of buildings to regular line of street**  
:-

(1) If any building or any part thereof is within the regular line of a public street and if, in the opinion of the Commissioner, it is necessary to set back the building to the regular line of street he

may, if the provisions of section 211 do not apply, by written notice-

(a) require the owner of such building to show cause within such period as is specified in such notice by a statement in writing subscribed by him or by an agent duly authorised by him in that behalf and addressed to the Commissioner, why such building or any part thereof which is within the regular line of the street shall not be pulled down and the land within the said line acquired by the Commissioner; or

(b) require the said owner on such day and at such time and place as shall be specified in such notice to attend personally or by an agent duly authorised by him in that behalf and show cause why such building or any part thereof which is within the regular line of the street shall not be pulled down and the land within the said line acquired by the Commissioner.

(2) If such owner fails to show sufficient cause to the satisfaction of the Commissioner why such building or any part thereof, which is within the regular line of the street shall not be pulled down and the land within the said line acquired as aforesaid the Commissioner may, with the approval of Standing Committee, require the owner by a written notice to pull down the building or the part thereof which is within the regular line of the street <sup>1</sup>[and where a part of building is required to be pulled down, to also enclose the remaining part by putting up a protecting frontage wall] within such period as is prescribed in the notice.

(3) If within such period the owner of such building fails to pull down such building or any part thereof coming within the said line, the Commissioner may pull down the same <sup>2</sup>[and where a part of a building is pulled down may also enclose, the remaining part by putting up a protecting frontage wall] and all the expenses incurred in so doing shall be paid by the owner.

(4) The Commissioner shall at once take possession on behalf of the Corporation of the portion of the land within the said line theretofore occupied by the said building, and such land shall thenceforward be deemed a part of the public street and shall vest as such in the Corporation.

(5) Nothing in this section shall be deemed to apply to buildings vesting in the <sup>3</sup> [Government].

1. These words were inserted by Gujarat 19 of 1964, Section (i).
2. These words were inserted by Gujarat 19 of 1964, Section 9 (u).
3. This word was substituted for the word "Crown" by the Adaptation of Laws order, 1950.

**213. Acquisition of open land or of land occupied by platforms, etc. within regular line of street :-**

If any land not vesting in the Corporation, whether open or enclosed, lies within the regular line of a public street and is not occupied by a building, or if a platform, verandah, step, compound wall, hedge or fence or some other structure external to a building, abutting on a public street or a portion of a platform, verandah, step, compound wall, hedge or fence or other such structure, is within the regular line of such street, Commissioner may, after giving to the owner of the land or building not less than seven clear days' written notice of his intention to do so, take possession on behalf of the Corporation of the said land with its enclosing wall, hedge or fence, if any, or of the said platform, verandah, step or other such structure as aforesaid or of the portion of the said platform, verandah, step or other such structure aforesaid, which is within the regular line of the street and, if necessary clear the same and the land so acquired, shall thenceforward be deemed a part of the public street :

Provided that when the land or building is vested in the <sup>1</sup>[Government] possession shall not be taken as aforesaid, without the previous sanction of the Government concerned and, when the land or building is vested in any Corporation constituted by any law for the time being in force, possession shall not be taken as aforesaid, without the previous sanction of the <sup>1</sup> [State] Government.

1. This word was substituted for the word "Crown" by the Adaptation of Laws order, 1950.

**214. Acquisition of the remaining part of building and land after their portions within a regular line of the street are acquired :-**

(1) If a building or land is partly within the regular line of a public street and if the Commissioner is satisfied that the land remaining after the excision of the portion within the said line will not be suitable or fit for any beneficial use, he may, at the request of the owner, acquire such land in addition to the land within the said line and such surplus land shall be deemed to be a part of the public

street vesting in the Corporation.

(2) Such surplus land may thereafter be utilised for the purpose of setting forward of buildings under section 215.

**215. Setting forward of buildings to the line of the street :-**

(1) If any building which abuts on a public street is in rear of the regular line of such street, the Commissioner, may whenever it is proposed-

(a) to rebuild such building, or

(b) to alter or repair such building in any manner that will involve the removal or re-erection of such building, or of the portion thereof which abuts on the said street to an extent exceeding one-half of such building or portion thereof above the ground level, such half to be measured in cubic feet, in any order which he issues concerning the rebuilding, alteration or repair of such building, permit or, with the approval of the Standing Committee, require such building to be set forward to the regular line of the street.

(2) For the purpose of this section, a wall separating any premises from a public street shall be deemed to be a building; and it shall be deemed to be a sufficient compliance with a permission or requisition to set forward a building to the regular line of a street if a wall of such materials and dimensions as are approved by the Commissioner, is erected along the said line.

**216. Compensation to be paid and betterment charges to be levied :-**

(1) Compensation shall be paid by the Commissioner to the owner of any building or land required for a public street under section 211, 212, 213 or 214 for any loss which such owner may sustain in consequence of his building or land being so acquired and for any expense incurred by such owner in consequence of the order made by the Commissioner :

Provided that-

(i) any increase or decrease in the value of the remainder of the property of which the building or land so acquired formed part likely to accrue from the set-back to the regular line of the street shall be taken into consideration and allowed for in determining the amount of such compensation;

(ii) if any such increase in value exceeds the amount of loss sustained or expenses incurred by the said owner, the Commissioner may recover from such owner half the amount of such excess as a batterment charge.

(2) If, in consequence of an order to set forward a building made by the Commissioner under section 215, the owner of such building sustains any loss or damage, compensation shall be paid to him by the Commissioner for such loss or damage after taking into account any increase in value likely to accrue from the set forward.

(3) If the additional land which will be included in the premises of any person required or permitted under section 215 to set forward a building belongs to the Corporation, the order or permission of the Commissioner to set forward the building shall be sufficient conveyance to the said owner of the said land; and the price to be paid to the Corporation by the said owner for such additional land and the other terms and conditions of the conveyance shall be set forth in the said order or permission.

(4) If, when the Commissioner requires a building to be set forward, the owner of the building is dissatisfied with the price fixed to be paid to the Corporation or any of the other terms or conditions of the conveyance, the Commissioner shall, upon the application of the said owner at any time within fifteen days after the said terms and conditions are communicated to him, refer the case for the determination of the Judge.

**217. Notice to be given to Commissioner of intention to lay out lands for building and for private streets :-**

Every person who intends-

(a) to sell or let on lease any land subject to a covenant or agreement on the part of a purchaser or lessee to erect buildings thereon,

(b) to divide land (whether unbuilt or partly built) into building plots,

(c) to use any land or a portion thereof or permit the same to be used for building purposes, or

(d) to make or lay out a private street, whether it is intended to allow the public a right of passage or access over such street or not, shall give written notice of his intention to the Commissioner

and shall, alongwith such notice, submit plans and sections, showing the situation and boundaries of such building land and the site of the private street (if any) and also the situation and boundaries of all other lands of such person of which such building land or site forms a part and the intended development, laying out and plotting of such building land including the dimensions and area of each building plot and also the intended level, direction, width, means of drainage, paving, metalling and lighting of such private street, the provisions for planting and repairing of trees besides such private street, and the height and means of drainage and ventilation of the building or buildings proposed to be erected on the land, and if any building when erected will not about on a street then already existing or then intended to be made as aforesaid, the means of access from and to such building and the manner of paving, metalling, draining and lighting of such means of access.

**218. Commissioner may call for further particulars :-**

If any notice under section 217 does not supply all the information which the Commissioner deems necessary to enable him to deal satisfactorily with the case or if any such notice given for any of, or all the purposes mentioned in clause (a), (b) or (c) of the said section does not contain any proposal or intention to make or lay out a private street, he may, at any time within thirty days after receipt of the said notice, by written notice require the person who gave the said notice

(a) to furnish the required information together with all or any of the documents specified in the rules, or

(b) to revise any or all the schemes submitted under the said clause (a), (b) or (c) so as to provide for the making or laying out of a private street or private streets of such width or widths as he may specify in, addition to or in substitution of any means of access proposed to be provided in such scheme or schemes and to furnish such further information and documents relating to the revised scheme or schemes as he may specify.

**219. Commissioner may require plans to be prepared by licensed surveyor :-**

The Commissioner may decline to accept any plan, section or description as sufficient for the purposes of section 217 or 218 which does not bear the signature of a licensed surveyor in token of its having been prepared by such surveyor or under his supervision.

**220. Laying out of land, dimensions and area of each building plot laying out of private streets and buildings and heights of buildings to be determined by Commissioner :-**

(1) The laying out of land for building, the dimensions and area of each building plot, the level, direction, width and means of drainage of every private street, the kind and number of streets to be planted and reared beside such streets and the height and means of drainage and ventilation of and access to all buildings to be erected on such land or on either side of such street shall be fixed and determined by the Commissioner subject to such street shall be fixed and determined by the Commissioner subject to such general directions as the Standing Committee may give in this behalf from time to time with the general object of securing sanitary conditions, amenity and convenience in connection with the laying out and use of the land and of any neighbouring lands, and also with the object that the proposed private street may not conflict with any arrangements which have been made or which are, in the opinion of the Commissioner, likely to be made for carrying out any general scheme of new streets or of improvements of existing streets in the locality : Provided that if, within sixty days after the receipt by the Commissioner of any notice under section 217 or of the plans, sections, descriptions, scheme or further information, if any, called for under section 218, the disapproval by the Commissioner with regard to any of the matters aforesaid specified in such notice has not been communicated to the person who gave the same, the proposals of the said person shall be deemed to have been approved by the Commissioner.

(2) When the Commissioner signifies in writing to the said person his approval of the said work under certain conditions or without any conditions, or when the said work is deemed to have been approved by the Commissioner as aforesaid, the said person may at any time within one year from the date of the delivery of the notice under section 217 to the Commissioner, proceed with the said work in accordance with the intention as described in the notice or in any of the documents aforesaid and in accordance with the conditions, if any, prescribed by the Commissioner, but not so as to contravene any of the provisions of this Act or any rule or by-law.

**221. Land not to be appropriated for building and private street not to be laid out until expiration of notice nor otherwise than in accordance with Commissioners**

**directions :-**

(1) No person shall sell, let, use or permit the use of any land whether undeveloped or partly developed for building or divide any such land into building plots, or make or lay out any private street -

(a) unless such person, has given previous written notice of his intention as provided in section 217 nor until the expiration of sixty days from delivery of such notice, nor otherwise than in accordance with such directions (if any) as may have been fixed and determined under sub- section (1) of section 220;

(b) after the expiry of the period of one year specified in sub-section (2) of section 220;

(c) unless such person gives written notice to the City Engineer of the date on which he proposes to proceed with any work which he is entitled to carry out and commences such work within seven days of the date mentioned in the notice.

(2) If any act be done or permitted in contravention of this section, the Commissioner may by written notice require any person doing or permitting such act

(a) to show cause on or before such day as shall be specified in such notice by statement in writing subscribed by him in that behalf and addressed to the Commissioner, why the laying out, plotting, street or building contravening this section should not be altered to the satisfaction of the Commissioner, or, if that be in his opinion impracticable, why such street or building should not be demolished or removed or why the land should not be restored to the condition in which it was prior to the execution of the unauthorised work, or

(b) to attend personally or by an agent duly authorised by him in that behalf on such day and at such time and place as shall be specified in such notice and show cause as aforesaid.

(3) If such person shall fail to show cause to the satisfaction of the Commissioner why such street or building should not be so altered, demolished or removed or why such land should not be so restored, the Commissioner may cause the work of alteration, demolition, removal or restoration to be carried out and the expenses thereof shall be paid by the said person.

**222. Renewal of notice of intention to carry out works not**

## **executed in pursuance of approval given under section 220**

:-

If a person who is entitled to proceed with any work under section 220 fails so to do within the period of one year specified therein he may at any time give fresh notice of his intention to execute such work and such notice shall be treated as a new notice under section 217.

### **223. Levelling and draining of private streets and means of access :-**

If any private street or any other means of access to a building be not levelled, metalled, flagged or paved, sewered, drained, channelled, lighted or provided with trees for shade to the satisfaction of the Commissioner, he may, with the sanction of the Standing Committee, by written notice, require the owner or owners of the several premises fronting or adjoining the said street or other means of access or abutting thereon or to which access is obtained through such street or other means of access or which will benefit by works executed under this section to carry out any one or more of the aforesaid requirements in such manner as he shall direct.

### **224. Power to declare private streets when sewered, etc. public streets :-**

When any private street has been levelled, metalled, flagged or paved, sewered, drained, channelled and made good to the satisfaction of the Commissioner, he may and, upon the request of the owners or of any of the owners, of such street, shall, if lamps, lamp-posts and other apparatus necessary for lighting such street have been provided to his satisfaction and if all land revenue payable to the <sup>1</sup> [State] Government in respect of the land comprised in such street has been paid, declare the same to be a public street by notice in writing put up in any part of such street, and thereupon the same shall become a public street and vest in the Commissioner as such : Provided that no such street shall become a public street if, within one month after such notice has been put up, the owner of such street or the greater part thereof shall, by notice in writing to the Commissioner, object thereto.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

### **225. Applicability of sections 223 and 224 when a street is in part public and in part private :-**

If a portion only of any street is a public street, the other portion of such street may for all purposes of sections 223 and 224 be deemed to be a private street.

**226. Prohibition of projections upon streets, etc :-**

(1) Except as provided in section 227, no person shall erect, set up, add to, or place against or in front of any premises any structure or fixture, which will

(a) overhang, jut or project into, or in any way encroach upon, obstruct in any way the safe or convenient passage of the public along, any street, or

(b) jut or project or encroach upon any drain or open channel in any street, so as in any way to interfere with the use or proper working of such drain or channel or to impede the inspection or cleansing thereof.

(2) The Commissioner may, by written notice, require the owner or occupier of any premises to remove or to take such other order as he may direct with any structure or fixture which has been erected, set up, added to or placed against, or in front of, the said premises in contravention of this section or of any law in force in the City on the day immediately preceding the appointed day.

(3) If the occupier of the said premises removes or alters any structure or fixture in accordance with such notice, he shall be entitled, unless the structure or fixture was erected, set up or placed by himself, to credit in account with the owner of the premises for all reasonable expenses incurred by him in complying with the said notice.

(4) If any such structure or fixture as is described in sub-section (1) has been erected, set up, added to, or placed against or in front of any premises at any time before the first day of April 1901, the Commissioner may give notice as aforesaid to the owner or occupier of the said premises :

Provided that if in any such case the structure or fixture was lawfully erected, set up, added to or placed, compensation shall be paid by the Commissioner to every person who sustains loss or damage by the removal or alteration thereof.

**227. Projections over streets may be permitted in certain cases :-**

(1) The Commissioner may give a written permission, on such terms as he shall in each case think fit, to the owner or occupier of any building abutting on any street-

(a) to erect an arcade over such street or any portion thereof, or

(b) to put up a verandah, balcony, arch, connecting passage, sunshade, weather-frame, canopy, awning, or other such structure or thing projecting from any storey over or across any street or portion thereof. Provided that no permission shall be given by the Commissioner for the erection of an arcade in any public street in which the construction of arcades has not been generally sanctioned by the Corporation.

(2) The provisions of section 226 shall not be deemed to apply to any arcade, verandah, balcony, arch, connecting passage, sunshade, weather-frame, canopy, awning or other structure or thing erected or put up under and in accordance with the terms of a permission granted under this section.

(3) The Commissioner may at any time by written notice require the owner or occupier of any building to remove a Verandah, balcony, sun-shade, weather-frame or the like put up in accordance with the provisions of sub-section (1) and such owner or occupier shall be bound to take action accordingly but shall be entitled to compensation for the loss caused to him by such removal and the cost incurred thereon.

**228. Ground floor doors, etc. not to open outwards on streets :-**

The Commissioner may at any time, by written notice require the owner of any premises on the ground-floor of which any door, gate, bar or window opens outwards upon a street, or upon any land required for the improvement of a street, in such manner as, in the opinion of the Commissioner, to obstruct the safe or convenient passage of the public along such street, to have the said door, gate, bar or window altered so as not to open outwards.

**229. Prohibition of structure or fixtures which cause obstruction in streets :-**

(1) No person shall, except with the permission of the Commissioner under section 227 or 234, erect or set up any wall, fence, rail, post, step, booth or other structure whether fixed or moveable and whether of a permanent or a temporary nature, or

any fixture in or upon any street or upon or over any open channel, drain, well or tank in any street so as to form an obstruction to, or an encroachment upon, or a projection over, or to occupy, any portion of such street, channel, drain, well or tank.

(2) Nothing in this section shall be deemed to apply to any erection or thing to which clause (c) of sub-section (1) of section 239 applies.

**230. Prohibition of deposit, etc. of things in streets :-**

(1) No person shall, except with the written permission of the Commissioner

(a) place or deposit upon any street, or upon any open channel, drain or well in any street or in any public place any stall, chair, bench, box, ladder, bale, or other thing whatever so as to form an obstruction thereto or encroachment thereon;

(b) project, at a height of less than twelve feet from the surface of the street, any board or chair, beyond the line of the plinth of any building over any street, or over any open channel, drain, well or tank in any street;

(c) attach to, or suspend from, any wall or portion of a building abutting on a street, at a lower height than aforesaid anything whatever.

(2) Nothing in clause (a) of sub-section (1) applies to building materials

**231. Commissioner may, without notice, remove anything erected, deposited or hawked or exposed for sale in contravention of Act :-**

(a) any wall, fence, rail, post, step, booth or other structure whether fixed or moveable and whether of a permanent or a temporary nature, or any fixture which shall be erected or set up in or upon or over any street or upon or over any open channel, drain, well or tank contrary to the provisions of this Act after the appointed day;

(b) any stall, chair, bench, box, ladder, bale, board or shelf, or any other thing whatever placed, deposited, projected, attached or suspended in, upon, from or to any place in contravention of this Act;

(c) any article whatsoever hawked or exposed for sale in a public place or in any public street in contravention of the provisions of this Act and any vehicle, package, box or any other thing in or on which such article is placed.

**232. Power to require removal of any structure or erected fixture erected or set up before the appointed day :-**

The Commissioner may, by written notice, require the owner or occupier of any premises contiguous to, or in front of, or in connection with which any wall, fence, rail, post, step, booth or other structure or fixture, which it would be unlawful to erect or set up under this Act, has been erected or set up before the appointed day, to remove the said wall, fence, rail, post, step, stall or other structure or thing :

Provided that, if in any such case the structure or fixture shall have been lawfully erected or set up, compensation shall be paid by the Commissioner to every person who sustains loss or damage by the removal or alteration thereof.

**233. Prohibition of tethering of animals in public streets :-**

(1) No person shall tether any animal or cause or permit the same to be tethered by any member of his family or household, in any public street.

(2) Any animal tethered as aforesaid may be removed by the Commissioner, or by any municipal officer or servant, and made over to a police officer, or may be removed by a police officer, who shall deal therewith as with an animal found straying.

**234. Commissioner may permit booths, etc. to be erected on streets on festivals :-**

<sup>1</sup> [With the concurrence, in any area for which a Commissioner of Police has been appointed, of the Commissioner of Police or any officer nominated by him and elsewhere, of the District Magistrate or any officer nominated by him,] the Commissioner may grant a written permission for the temporary erection of a booth and any other such structure any street on occasions of ceremonies and festivals. Provisions concerning Execution of works in or near to Streets.

1. This portion was substituted for the original portion by Bombay 56 of 1959, Section 3, Sch.

**235. Streets when broken up for any municipal purposes to**

**be restored without delay :-**

Whenever the soil or pavement of any street is opened or broken up by or under the order of the Commissioner, or of any municipal officer or servant, for the execution of any work on behalf of the Corporation, the work on account of which the same shall have been opened or broken up shall be completed and the soil or pavement filled in, reinstated and made good with all convenient speed; and on completion of the work, the surplus of earth and materials, if any, excavated and all rubbish occasioned thereby shall be removed without delay.

**236. Commissioner may close street in which work is in progress :-**

(1) The Commissioner may, whilst any such work as aforesaid or any work which may lawfully be executed in any street is in progress, direct that the said street shall be wholly or partially closed for traffic or for traffic of such description as he shall think fit; and shall set up in a conspicuous position an order prohibiting traffic to the extent so directed, and fix such bars, chains or posts across or in the street as he shall think proper for preventing or restricting traffic therein.

(2) No person shall, without the permission of the Commissioner or without other lawful authority, remove any bar, chain or post so fixed or infringe any order prohibiting traffic so set up.

**237. Commissioner to provide for traffic, etc. pending execution of municipal work in any street :-**

Whilst the execution of any work on behalf of the Corporation is in progress in any street, the Commissioner shall, so far as may be reasonably practicable, make adequate provision for the passage or diversion of traffic, for securing access to all premises approached from such street, and for any drainage, water supply, or means of lighting which may be interrupted by reason of the execution of the said work.

**238. Precautions to be taken for public safety whilst municipal works are in progress in any street :-**

(1) Whilst the execution of any work on behalf of the Corporation is in progress in any street, the Commissioner shall-

(a) take proper precaution for guarding against accident by shoring up and protecting the adjoining buildings;

(b) have any place where the soil or pavement has been opened or broken up, fenced and guarded;

(c) have a light sufficient for the warning of passengers set up and kept every night against any such place and against any bars, chains or posts set up under section 236 for so long as such place shall be continued open or broken up, or such bars, chains or posts shall remain set up.

(2) No person shall, without the written permission of the Commissioner or without other lawful authority, remove any shoring timber or fence, or remove or extinguish any light employed or set up for any of the purposes of this section.

**239. Streets not to be opened or broken up and building materials not to be deposited thereon without permission :-**

(1) No person other than the Commissioner, or a municipal officer or servant shall, without the written permission of the Commissioner or without other lawful authority,-

(a) open, break up, displace, take up or make any alteration in, or cause any injury to, the soil or pavement, or any wall, fence, post, chain or other material or thing forming part of any street;

(b) deposit any building materials in any street; or

(c) set up in any street any scaffold or any temporary erection for the purpose of any work whatever or any posts, bars, rails, boards or other things by way of enclosure, for the purpose of making mortar or depositing bricks, lime, rubbish or other materials.

(2) Any permission granted under clause (b) or (c) of sub-section (1) shall be terminable at the discretion of the Commissioner, on his giving not less than twenty- four hours' written notice of the termination thereof to the person to whom such permission was granted.

(3) Except in cases in which permission has been applied for under clause (b) of sub-section (1) for the deposit of building materials in any street and no reply has been sent to the applicant within seven days from the date of the application, the Commissioner may, without notice, cause to be removed any building materials, or any scaffold, or any temporary erection, or any posts, bars, rails, boards or other things by way of enclosure, which have been deposited or set up in any street without the permission or authority specified in

sub-section (1), or which, having been deposited or set up with such permission or authority, have not been removed within the period specified in the notice issued under sub-section (2).

**240. Precautions for public safety to be taken by persons to whom permission is granted under section 239 :-**

Every person to whom any permission is granted under section 239 shall, at his own expense, cause the place where the soil or pavement has been opened or broken up or where he has deposited building materials, or set up any scaffold, erection or other thing, to be properly fenced and guarded, and, in all cases in which the same is necessary to prevent accidents, shall cause such place to be well lighted during the night.

**241. Persons to whom permission is granted under section 239 must reinstate streets, etc :-**

(1) Every person to whom permission is granted under section 239 to open or break up the soil or pavement of any street, or who, under other lawful, authority, opens or breaks up the soil or pavement of any street shall with all convenient speed complete the work for which the same shall be opened or broken up, and fill in the ground and reinstate and make good the street or pavement so opened or broken up without delay to the satisfaction of the Commissioner.

(2) If the said person shall fail to reinstate and make good the street or pavement as aforesaid, the Commissioner may restore such street or pavement, and the expenses incurred by the Commissioner in so doing shall be paid by the said person.

**242. Provisions to be made by persons granted permissions under section 239 for traffic, etc :-**

The Commissioner may, by written notice, require any person to whom permission is granted under section 239 to open or break up the soil or pavement of any street, or who, under any other lawful authority, opens or breaks up the soil or pavement of any street for the purpose of executing any work, to make provision to his satisfaction for the passage or diversion of traffic for securing access to the premises approached from such street and for any drainage, water supply or means of lighting which may be interrupted by reason of the execution of the said work.

**243. Buildings at corners of streets :-**

(1) The Commissioner may, with the approval of the Standing Committee, require by written order the corner of any building which has already been erected, or which is to be newly erected or which is to be reconstructed or repaired and which is situated at the junction of two or more streets to be rounded or splayed off to such height and in such manner as he may determine and may also in such order impose such conditions as he deems necessary as to the construction of a compound wall or fence or hedge or any other structure whatsoever or the planting or retention of any tree on the premises appurtenant to such building.

(2) Compensation shall be paid by the Commissioner for any loss or damage caused by the issue of an order under sub-section (1). Sky-signs and Advertisements.

#### **244. Regulations as to sky-signs :-**

(1) No person shall, without the written permission of the Commissioner, erect, fix or retain any sky-sign of the kind prescribed by rules whether existing on the appointed day or not. Such written permission <sup>1</sup> [may be granted or renewed for a period not exceeding two years] from the date of each such permission or renewal, subject to the condition that such permission shall be deemed to be void if-

(a) any addition is made to the sky-sign except for the purpose of making it secure under the direction of the City Engineer;

(c) the sky-sign or any part thereof fall either through accident, decay or any other cause;

(d) any addition or alteration is made to, or in, the building or structure upon or over which the sky-sign is erected, fixed or retained, involving the disturbance of the sky-sign or any part thereof;

(e) the building or structure upon or over which the sky-sign is erected, fixed or retained becomes unoccupied or is demolished or destroyed.

(2) Where any sky-sign shall be erected, fixed or retained after the appointed day upon or over any land, building or structure, save and except as permitted as hereinbefore provided, the owner or person in occupation of such land, building or structure shall be deemed to be the person who has erected, fixed or retained such

sky-sign in contravention of the provisions of this section, unless he proves that such contravention was committed by a person not in his employment or under his control, or was committed without his connivance.

(3) If any sky-sign be erected, fixed or retained contrary to the provisions of

1. These words were substituted for the words "shall be granted, or renewed, for any period exceeding two years" by Bombay 18 of 1953, Section 3 and Second Schedule.

#### **245. Regulation and control of advertisements :-**

**1** [

(1) No person shall, without the written permission of the Commissioner, erect, exhibit, fix or retain any advertisement upon any land, building, wall, hoarding or structure;

Provided always that such permission shall not be necessary in respect of any advertisement which is not illuminated advertisement or a sky-sign and which-

(a) is exhibited within the window of any building, or

(b) relates to the trade or business carried on within the land or building upon 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 upon or in the same, or to the trade or business carried on by the owner of any omnibus or other vehicle upon which such advertisement is exhibited, or

(c) relates to the business of any railway company, or

(d) is exhibited within any railway station or upon any wall or property or a Railway administration not fronting any streets.

(2) Where any advertisement shall be erected, exhibited, fixed or retained after three months from the enactment of this section upon any land, building, wall, hoarding or structure in contravention of the provisions of sub-section (1) the owner or person in occupation of such land, building wall, hoarding or structure shall be deemed to be the person who has erected, exhibited, fixed or retained such advertisement in contravention of the provisions of this section, unless he proves that such contravention was committed by a person not in his employment or under his control or was committed without his connivance.

(3) If any advertisement be erected, exhibited, fixed or retained contrary to the provisions of this section or after the expiry of the permission granted under sub-section (1) the Commissioner may, by notice in writing, require the owner or occupier of the land, building, wall, hoarding or structure upon which the advertisement has been erected, exhibited, fixed or retained, to take down or remove the advertisement.

(4) (a)

The word "structure" in this section shall include an omnibus and any vehicle or moveable board used primarily as an advertisement or an advertising medium; and

(b) the expression "illuminated advertisement" in this section shall

(i) be of goods merely bearing labels showing the name of the article or of its manufacturer or of both, and

(ii) be made by lighting which is not, in the opinion of the Commissioner, more than is necessary to make the goods and labels visible at night.]

1. Section 245 was substituted for the original by Gujarat 19 of 1964, Section 10.

**246. Hoards to be set up during work on any building adjacent to street :-**

(1) No person who proposes to build, take down or rebuild any building or wall, or to alter or repair any part of any building or wall, shall, in any case in which the footway in any adjacent street will be thereby obstructed or rendered less convenient, commence doing so without first having caused to be put up a proper and sufficient hoard or fence, with a convenient platform and hand-rail if there be room enough for the same and the Commissioner shall think the same desirable, to serve as a footway for passengers outside of such hoard or fence.

(2) No hoard or fence shall be so put up without the previous written permission of the Commissioner, and every such hoard or fence, put up with such permission, with such platform and hand-rail as aforesaid, shall be continued standing and maintained in good condition to the satisfaction of the Commissioner, by the person who carries on the work, during such time as may be necessary for the public safety and convenience; and, in all cases in

which the same is necessary to prevent accidents, the said person shall cause such hoard or fence to be well lighted during the night.

(3) The Commissioner may, by written notice, require the person aforesaid to remove any hoard or fence so put up.

**247. Commissioner to take proceeding for repairing or enclosing dangerous places or-places where some work affecting safety or convenience is carried on :-**

(1) If any place is, in the opinion of the Commissioner, for want of sufficient repair, protection or enclosure or owing to some work being carried on thereupon, dangerous to passengers along a street, or to persons who have lawful access thereto or to the neighbourhood thereof or if any such work, in the opinion of the Commissioner, affects the safety or convenience of such persons, he may, by notice in writing, require the owner or occupier thereof to repair, protect or enclose the said place or take such other step as shall appear to the Commissioner necessary, in order to prevent danger therefrom or to ensure safety or convenience of such persons.

(2) The Commissioner may, before giving any such notice or before the period of any such notice has expired, take such temporary measures as he thinks fit to prevent danger from the said place or to ensure safety or convenience at such work, and any expense incurred by the Commissioner in taking such temporary measure shall be paid by the owner or occupier of the place to which the said notice refers.

**248. Protective measures during demolition work :-**

(1) No person who proposes to take down a building or a part thereof, shall commence doing so without providing, in addition to such hoard or fence which he may be required to provide under section 246, screens extending to the full height of such building on all sides thereof so as to prevent pollution of the surrounding air with dust or injury or damage caused by the falling of any debris, bricks, wood and other material.

(2) If any such work is commenced in contravention of sub-section (1) the Commissioner may cause it to be stopped forthwith and any person carrying it out to be removed from the premises by a police officer. Lighting of Streets

**249. Public streets to be lighted :-**

(1) The Commissioner shall-

(a) take measures for lighting in a suitable manner the public streets, municipal gardens and open spaces and municipal markets and all building vesting in the Corporation;

(b) procure, erect and maintain such number of lamps, lamp-posts and other appurtenances as may be necessary for the said purpose; and

(c) cause such lamps to be lighted by means of oil, gas, electricity or such other light as the Corporation shall from time to time determine.

(2) The Commissioner may place and maintain electric wires for the purpose of lighting such lamps under, over, along or across, and posts, poles, standards, stays, struts, brackets, and other contrivances for carrying, suspending or supporting lamps or electric wires in or upon, any immovable property without being liable to any claim for compensation thereanent :

Provided that such wires, posts, poles, standards, stays, struts, brackets and other contrivances shall be so placed as to occasion the least practicable inconvenience or nuisance to any person.  
Watering of Streets

**250. Measures for watering streets :-**

The Commissioner may-

(a) take measures for having the public streets watered at such time and seasons and in such manner as he shall think fit;

(b) procure and maintain such vehicles, animals and apparatus as he shall think fit for the said purpose.

**251. Prohibition of removal, etc. of lamps or any other municipal property on streets :-**

No person shall, without lawful authority, take away or willfully break, throw down or damage-

(a) any lamp-post or lamps-iron set up in any public street or in any municipal garden, open space or market or building vesting in the Corporation;

(b) any electric wire for lighting any such lamp;

(c) any post, pole, standard, stay, strut, bracket or other contrivance for carrying, suspending or supporting any such electric wire or lamp;

(d) any property of the Corporation on any street; and no person shall willfully extinguish the light or damage any appurtenance of any such lamp.

**252. Persons accidentally breaking lamp, etc. to repair the damage :-**

If any person shall, through negligence or accident, break any lamp set up in any public street or municipal market, garden or public place or building vesting in the Corporation or shall break or damage any property of the Corporation on any street, he shall pay the expenses of repairing the damage so done by him.

CHAPTER 15

BUILDING REGULATIONS

**253. Notice to be given to Commissioner of intention to erect building :-**

(1) Every person who shall intend to erect a building shall give to the Commissioner notice of his said intention in the form prescribed in the by-laws and containing all such information as may be required to be furnished under the by-laws.

(2) Every such notice shall be signed in the manner prescribed in the by-laws and shall be accompanied by such documents and plans as may be so prescribed.

(3) In this Chapter the expression to erect a building" means-

(a) newly to erect a building on any site whether previously built upon or not,

(b) to re-erect -

(i) any building of which more than one-half of the cubical contents of the building above the level of the plinth have been pulled down, burnt, or destroyed,

(ii) any masonry building of which more than three-fourths of the superficial area of the external walls above the level of the plinth has been pulled down, or

(iii) any frame building of which more than three quarters of the number of the posts or beams in the external walls have been

pulled down,

(c) to convert into a dwelling house any building or part of a building not originally constructed for human habitation or, if originally so constructed, appropriated for any other purpose.

(d) to convert into more than one dwelling house a building originally constructed as one dwelling house only,

(e) to convert by any structural alteration into a place of religious worship or into a sacred building any place or building not originally meant or constructed for such purpose,

(f) to roof or cover an open space between walls or buildings as regards the structure which is formed by roofing or covering such space,

(g) to convert by a structural alteration two or more tenements in a building into a greater or lesser number,

(h) to make any structural alteration in a building so as to affect its drainage or sanitary arrangements or its stability,

(i) to convert into a stall, shop, warehouse or godown any building not originally constructed for use as such, or

(j) to construct in a wall adjoining any street or land not vested in the owner of the wall, a door opening on such street or land, and each of the above operations shall be deemed to be the erection of new building for the purposes of this Chapter.

**254. Notice to be given to Commissioner of intention to make additions, etc. to building :-**

(1) Every person who shall intend-

(a) to make any addition to a building,

(b) to make any alteration or repairs to a building, not being a frame building, involving the removal or re-erection of any external or party-wall thereof or of any wall which supports the roof thereof, to an extent exceeding one-half of such wall above the plinth level, such half to be measured in superficial feet,

(c) to make any alteration or repairs to a frame-building, involving the removal or re-erection of more than one-half of the posts or beams in any such wall thereof as aforesaid, or involving the removal or reerection of any such wall thereof as aforesaid to an

extent exceeding one-half of such wall above plinth level, such half to be measured in superficial feet,

(d) to make any alteration in a building involving-

(i) the sub-division of any room in such building so as to convert the same into two or more separate rooms, or

(ii) the conversion of any passage or space in such building into a room or rooms,

(e) to repair, remove, construct, re-construct or add to any portion of a building abutting on a street which stands within the regular line of such street,

(f) to carry out any work in a building involving-

(i) the construction or reconstruction of a roof,

(ii) the conversion of a roof into a terrace,

(iii) the conversion of a terrace into a roof, or

(iv) the construction of a lift shaft.

(g) to carry out any repairs to a building involving the construction of a floor of a room (excluding the ground floor),

(h) to permanently close any door or window in an external wall, or

(1) to remove or reconstruct the principal staircase or to alter its position, shall give notice to the Commissioner, in the form prescribed" in the by- laws and containing all such information as may be required to be furnished under the by-laws.

(2) Every such notice shall be signed in the manner prescribed in the by-laws and shall be accompanied by such documents and plans as may be so prescribed.

**255. Plans, etc., submitted, to be rejected if not drawn etc. in prescribed manner :-**

The Commissioner shall decline to accept any plan, section, description, structural drawings or structural calculations as sufficient for the purposes of this Act which are not drawn, given, prepared or signed in the manner prescribed in the by- laws.

**256. Effect of no compliance with requisition made by Commissioner :-**

If any requisition made by the Commissioner in accordance with the

rules requiring the production of further particulars and details is not complied with, the notice given under section 253 or 254 shall be deemed not to have been given. Commencement of works

**257. Supervision of buildings and works :-**

Every person who intends to erect a new building or execute any such work as is described in section 254, shall erect the building or execute the work in such manner, under such supervision, through such qualified agency, and subject to such conditions and restrictions as may be prescribed by the by-laws.

**258. Power to Commissioner to cancel permission on the ground of material misrepresentation by applicant :-**

If at any time after permission to proceed with any building or work has been given under the rules, the Commissioner is satisfied that such permission was granted in consequence of any material misrepresentation or fraudulent statement contained in the notice given or information furnished under section 253 or 254, or of further information, if any, furnished, he may cancel such permission, and any work done thereunder shall be deemed to have been done without his permission.

**259. Inspection of buildings in course of erection, alteration, etc :-**

The Commissioner may at any time during the erection of a building or the execution of any such work as is described in section 254 make an inspection thereof, without giving previous notice of his intention so to do.

**260. Proceedings to be taken in respect of building or work commenced contrary to rules or by-laws :-**

(1) If the erection of any building or the execution of any such work as is described in section 254 is commenced or carried out contrary to the provisions of the rules or by-laws, the Commissioner, unless he deems it necessary to take proceedings in respect of such building or work under section 264, shall -

(a) by written notice, require the person who is erecting such building or executing such work or has erected such building or executed such work on or before such day as shall be specified in such notice, by a statement in writing subscribed by him or by an agent duly authorised by him in that behalf and addressed to the Commissioner, to show sufficient cause why such building or work shall not be removed, altered or pulled down, or

(b) shall require the said person on such day and at such time and place as shall be specified in such notice to attend personally or by an agent duly authorised by him in that behalf, and show sufficient cause why such building or work shall not be removed, altered or pulled down.

(2) If such person shall fail to show sufficient cause, to the satisfaction of the Commissioner, why such building or work shall not be removed, altered or pulled down, the Commissioner may remove, alter or pull down the building or work and the expenses thereof shall be paid by the said person.

**261. Buildings or works commenced contrary to Act may be cut into and laid open for purpose of inspection :-**

(1) If there shall be reasonable ground for suspecting that in the erection of any such building or in the execution of any such work as is referred to in section 260 anything has been done contrary to any provision of this Act or of any rule or by-law, or that anything required by any such provision, rule or by-law to be done has been omitted to be done; and if, on inspecting such building or work, it is found thdt the same has been completed or is too far advanced to permit of any such fact being ascertained; the Commissioner may, with the approval of the Standing Committee, by a written notice, require the person who has erected such building or executed such work or is erecting such building or executing such work to cause so much of the building as prevents any such fact being ascertained to be cut into, laid open or pulled down to a sufficient extent to permit of the same being ascertained.

(2) If it shall thereupon be found that in the erection of such building or the execution of such work nothing has been done contrary to any provision of this Act or of any rule or by-law, and that nothing required by any such provision, rule or by-law to be done has been omitted to be done, compensation shall be paid by the Commissioner to the person aforesaid for the damage and loss incurred by cutting into, laying open or pulling down the building or work.

**262. Enforcement of provisions concerning buildings and works :-**

The Commissioner may, at any time during the erection of a building or the execution of any such work as aforesaid, or at any

time within three months after the completion thereof, by written notice specify any matter in respect of which the erection of such building or the execution of such work may be in contravention of any provision of this Act or of any rule or by-law, and require the person erecting or executing or who has erected or executed such building or work, or, if the person who has erected or executed such building or work is not at the time of the notice the owner thereof, then the owner of such building or work, to cause anything done contrary to any such provision, rule or by-law to be amended or to do anything which by any such provision, rule or by-law may be required to be done but which has been omitted to be done.

**263. Completion certificates, permission to occupy or use :-**

(1) Every person shall, within one month after the completion of the erection of a building or the execution of any such work as is described in section 254, deliver or send or cause to be delivered or sent to the Commissioner at his office, notice in writing of such completion, accompanied by a certificate in the form prescribed in the by-laws signed and subscribed in the manner so prescribed, and shall give to the Commissioner all necessary facilities for the inspection of such building or of such work and shall apply for permission to occupy the building.

(2) No person shall occupy or permit to be occupied any such building, or use or permit to be used the building or part thereof affected by any work, until-

(a) permission has been received from the Commissioner in this behalf, or

(b) the Commissioner has failed for twenty-one days after receipt of the notice of completion to intimate his refusal of the said permission.

**263A. Power to require demolition or alteration of lawfully constructed huts or sheds infringing rules of by-laws :-**

(1) If any hut or shed erected or constructed before the appointed day is contrary to the provisions of any rules or by-laws relating to the erection or construction of huts or sheds, and it appears to the commissioner that it is necessary in the public interest that such hut or shed or any part thereof be demolished or altered, the Commissioner may by written notice require the owner thereof to demolish or alter such hut or shed or any part thereof, or on or

before such date, as may be specified in such notice, by writing subscribed by the owner or an agent duly authorised in that behalf and addressed to the Commissioner, show sufficient cause why such hut or shed should be demolished or so altered.

(2) If such person fails to show sufficient cause to the satisfaction of the Commissioner why such hut or shed or any part thereof should not be demolished or so altered, he shall demolish or alter the hut or shed within such time as he is required so to do by the Commissioner; and if he fails to do so, the Commissioner may demolish or alter the hut or shed.

(3) The Commissioner shall pay compensation to every person who sustains loss or damage by the demolition or alteration as aforesaid of any hut or shed, (including any cost of demolition or alteration.)]

**264. Removal of structures, etc. which are in ruins or likely to fall :-**

(1) If it shall at any time appear to the Commissioner that any structure (including under this expression any building wall, parapet, pavement, floor, steps, railings, door or window frames or shutters or roof, or other structure and anything affixed to or projecting from or resting on any building, wall, parapet or other <sup>1</sup> [Provided that when the notice as aforesaid is given to the owners of a structure, who is not himself the occupier thereof, a copy of such notice shall be given also to the occupier thereof if any.]

(2) The Commissioner may also, if he thinks fit, require the said owner or occupier by the said notice, either forthwith or before proceeding to pull down, secure, remove or repair the said structure or thing, to set up a proper and sufficient hoard or fence for the protection of passers-by and other persons, with a convenient platform and hand-rail if there be room enough for the same and the Commissioner shall think the same desirable to serve as a footway for passengers outside of such hoard or fence.

(3) If it appears to the Commissioner that the danger from a structure which is ruinous or about to fall is imminent, he may, before giving notice as aforesaid or before the period of notice expires, fence off, take down, secure or repair the said structure or take such steps or cause such work to be executed as may be required to arrest the danger.

(4) Any expenses incurred by the Commissioner under sub-section

(3) shall be paid by the owner or occupier of the structure.

(5)

(a) Where the Commissioner is of opinion whether on receipt of an application or otherwise that the only or the most convenient means by which the owner or occupier of a structure such as is referred to in sub-section (1) can pull down, secure, remove or repair such structure, is by entering any of the adjoining premises belonging to some other person the Commissioner after giving such person a reasonable opportunity of stating any objection may, if no such objection is raised or if any objection which is raised appears to him invalid or insufficient, by an order in writing, authorise the said owner or occupier to enter such adjoining premises.

(b) Every such order bearing the signature of the Commissioner shall be a sufficient authority to the person in whose favour it is made, or to any agent or person employed by him for this purposes, after giving to the owner of the premises reasonable written notice of

(e) In executing any work under this section as little damage as can be, shall be done to the adjoining owner's property, and the owner or occupier of premises for the benefit of which the work is done, shall-

(i) cause the work to be executed with the least practicable delay;

(ii) pay compensation to any person who sustains damage by the execution of the said work.

1. Proviso to sub-section (I) was added by Gujarat 2 of 1969, Section 3.

### **265. Periodic inspection of buildings :-**

(1) It shall be incumbent on the owner of every building to maintain every part thereof and every thing appurtenant thereto in such repair as to prevent is becoming dangerous.

(2) The Commissioner may by written notice require the owner of any building to get the building inspected at such intervals and in such manner as may be prescribed in the by-laws.

(3) The owner shall within two months of the inspection under sub-section (2) under take such repairs as the inspection shall show to be necessary for the purpose of securing the stability of the

structure within the meaning of section 264 after complying with all the provisions of this Act and the rules and by-laws in regard to such repairs and shall, on completion of such repairs, submit to the Commissioner a certificate signed by the person who made the inspection of, his having carried out the repairs satisfactorily.

(4) A report of every inspection made under sub-section (2) shall forthwith be submitted to the Commissioner by the person by whom carried it out and the Commissioner may take such action in respect of such building as he deems fit under this section or under any other provision of this Act if the owner fails to comply with the requirements of sub-section (3).

(5) The expenses incurred by the Commissioner under sub-section (4) shall be paid by the owner.

**266. Dangerous openings in buildings :-**

If it shall at any time appear to the Commissioner that any opening in any part of a building is so situated as to constitute a danger to human life, he may by written notice require that such opening shall be enclosed or protected by bars, grills or such other device to his satisfaction. Works unlawfully carried on

**267. Powers of Commissioner to direct removal of person directing unlawful work :-**

(1) If the Commissioner is satisfied that the erection of any building or the execution of any such work as is described in section 254 has been unlawfully commenced or is being unlawfully carried on upon any premises he may, by written notice, require the person directing or carrying on such erection or execution to stop the same forthwith.

(2) If such erection or execution is not stopped forthwith, the Commissioner may direct that any person directing or carrying on such erection or execution shall be removed from such premises by any police officer and may cause such steps to be taken as he may consider necessary to prevent the reentry of such person on the premises without his permission.

(3) The cost of any measures taken under sub-section (2) shall be paid by the said person.

**268. Power of Commissioner to vacate any building in certain circumstances :-**

(1) Notwithstanding the provisions of any other law to the contrary the Commissioner may, by written notice, order any building or any portion thereof to be vacated forthwith or within the time specified in such notice

(a) if such building or portion thereof has been unlawfully occupied in contravention of section 263;

(b) if a notice has been issued in respect of such building or part thereof requiring the alteration or reconstruction of any existing staircase, lobby, passage or landing and the works specified in such notice have not been commenced or completed;

(c) if the building or part thereof is in a ruinous or dangerous condition within the meaning of section 264.

(2) In every such notice the Commissioner shall clearly specify the reasons for requiring such building or portion thereof to be vacated.

(3) The affixing of such written notice on any part of such premises shall be deemed a sufficient intimation to the occupiers of such building or portion thereof.

(4) On the issue of a notice under sub-section (1) every person in occupation of the building or portion thereof to which the notice relates shall vacate such building or portion as directed in the notice and no person shall so long as the notice is not withdrawn enter the building or portion thereof except for the purpose of carrying out any work which he may lawfully carry out.

(5) The Commissioner may direct that any person who acts in contravention of sub-section (4) shall be removed from such building or part thereof by any police officer.

(6) The Commissioner shall, on the application of any person who has vacated any premises in pursuance of a notice under sub-section (1), reinstate such person in the premises on the withdrawal of such notice, unless it is in his opinion impracticable to restore substantially the same terms of occupation by reason of any structural alteration or demolition.

(7) The Commissioner may direct the removal from the said premises by any police officer of any person who obstructs him in any action taken under sub-section (6) and may also use such force as is reasonably necessary to effect entry in the said premises.

**269. Power to regulate future construction of certain classes of buildings in particular streets or localities :-**

(1) The Commissioner may give public notice of his intention to declare, subject to any valid objection that may be preferred within a period of three months,-

(a) that in any streets or portions of streets specified in such notice the elevation and construction of the frontage of all buildings or any classes of buildings thereafter erected or re-erected shall in respect of their architectural features be such as the Corporation may consider suitable to the locality;

(b) that in any localities specified in the notice there shall be allowed the construction of only detached or semidetached buildings or both and that the land appurtenant to each such building shall be of an area not less than that specified in such notice;

(c) that the minimum size of building plots in particular localities shall be of a specified area;

(d) that in any localities specified in the notice the construction of more than a specified number of buildings on each acre of land shall not be allowed; or

(e) that in any streets, portions of streets or localities specified in such notice the construction of shops, warehouses, factories, huts or buildings designed for particular uses shall not be allowed without the special permission of the Commissioner granted in accordance with general regulations framed by the Standing Committee in this behalf and subject to the terms of such permission only.

(2) The Standing Committee shall consider all objections received within a period of three months from the publication of such notice, and shall then submit the notice with a statement of objections received and of its opinion thereon to the Corporation.

(3) No objection received after the said period of three months shall be considered.

(4) Within a period of two months after the receipt of the same, the Corporation shall submit all the documents referred to in sub-section (2) with a statement of its opinion thereon to the <sup>1</sup>[State] Government.

(5) The <sup>1</sup>[State] Government may pass such orders with respect to such declaration as it may think fit :

Provided that such declaration shall not thereby be made applicable to any street, portion of a street or locality not specified in the notice issued under sub- section (1).

(6) The declaration as confirmed or modified by the <sup>1</sup> [State] Government shall be published in the Official Gazette and shall take effect from the date of such publication.

(7) No person shall erect or re-erect any building in contravention of any such declaration.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

#### CHAPTER 16

#### IMPROVEMENT SCHEMES

### **270. Commissioner to make draft improvement schemes :-**

(1) Subject to the provisions of sub-section (4), if it shall appear to the Commissioner-

(A) that within certain limits in any part of the City.

(a) any buildings used, or intended or likely to be used, for habitation, are unfit for human habitation.

(b) the narrowness, closeness and bad arrangement or the bad condition of the streets and buildings, or groups of buildings, within such limits or the want of light, air, ventilation or proper convenience, or any other sanitary defects, or one or more of such causes, are dangerous or injurious to the health of the inhabitants either of the buildings within the area of such limits, or of the neighboring buildings, and that the evils connected with such buildings and the sanitary defects in such area cannot be effectually remedied otherwise than by an improvement scheme for the rearrangement and reconstruction of the streets and buildings within such area or of some of such streets or buildings, or

(c) it is necessary to provided for the construction of buildings for the accommodation of the poorer sections of the community; or

(B) that for the purpose of providing new building sites or of remedying the defective ventilation of any part of the City, or of creating new or increasing the existing means of communication

and facilities for traffic between various parts of the City it is expedient to form new or to alter existing streets or to construct or reconstruct any bridges, causeways, sub-ways or other works appurtenant thereto in any part of the City, the Commissioner may -

(i) with the previous approval of the Corporation, which shall not be given unless the Corporation is satisfied of the sufficiency of its resources, draw up a notification stating that the Commissioner proposes to make an improvement scheme, specifying the area to which the resolution relates and the works proposed to be included in such scheme and naming a place where a map of the said area may be seen at all reasonable hours;

(ii) during three consecutive weeks publish simultaneously in the Official Gazette and in the local newspapers a copy of the said notification; and

(iii) proceed to make a draft improvement scheme and submit the scheme to the Standing Committee for approval.

(2) In making an improvement scheme more than one area may be included in one improvement scheme.

(3) With the previous approval of the Corporation the Commissioner may, for the purpose of making an improvement scheme, cause surveys to be made in areas either inside or outside the limits of the area comprised in the scheme to be made.

(4) No improvement scheme shall, notwithstanding anything contained in this Chapter, be made for any area for which a housing scheme has been sanctioned under the provisions of the Bombay Housing Board Act, 1948. (Bombay LXIX of 1948)

**271. Particulars to be provided for in an improvement scheme :-**

(1) The improvement scheme, which may exclude any part of the area included in the notification referred to in section 270, or include any neighbouring land, if the Commissioner is of opinion that such exclusion or inclusion is necessary for the proper carrying out of the scheme, -

(a) shall, within the limits of the area comprised in the scheme, provide for

(i) the acquisition of any land which will, in the opinion of the Commissioner, be necessary for or, subject to the provisions of sub-section (2), be affected by the execution of the scheme;

(ii) relaying out all or any land including the construction and reconstruction of buildings and the formation and alteration of streets;

(iii) the laying of such storm-water drains and sewers as may be required for the efficient draining and severing of streets so formed or altered;

(iv) the lighting of streets so formed or latered;

(b) may, within the limits aforesaid, provide for -

(i) the construction or reconstruction of bridges, causeways or subways or any other works appurtenant thereto;

(ii) raising any land which the Commissioner may deem expedient to raise for the better drainage of the locality;

(iii) forming open spaces for the better ventilation of the area comprised in the scheme or any adjoining area;

(iv) whole or any part of the sanitary arrangements required; and

(c) may, within and without the limits aforesaid, provide for the construction of buildings for the accommodation of the poorer sections of the community including the whole or part of such section to be displaced in the execution of the scheme :

Provided that no neighboring land shall be included in an improvement scheme unless previous notice of such inclusion has been given in the manner provided in item (ii) in sub-section (1) of section 270.

(2) If, in the opinion of the Commissioner, any land within the limits aforesaid which is not required for the execution of the scheme will, as the result of such execution, be increased in value the scheme may, in lieu of providing for the acquisition of such land, provided for the levy of a betterment charge <sup>1</sup>[\*\*\*] in respect of the increase in value thereof. <sup>2</sup> [The betterment charge shall be levied at such rate, at such time and in such manner as is hereinafter provided.]

(3) In making an improvement scheme for any area regard shall be

had to the conditions and nature of neighbouring parts of the City and of the City as a whole, and to the likelihood of improvement schemes being required for the neighboring and other parts of the City.

1. The words "as hereinafter provided" were deleted by Gujarat 19 of 1964, Section 11 (a).

2. These words were added, *ibid.* Section 11 (b).

### **272. Procedure on completion of schemes :-**

(1) On the submission by the Commissioner of a draft improvement scheme, the Standing Committee shall take such scheme into its consideration and may approve the same with or without such alteration as it thinks fit.

(2) Upon the approval of an improvement scheme by the Standing Committee the Commissioner shall forthwith draw up a notification stating the fact of a scheme, having been made, the limits of the area comprised therein, and naming a place where particulars of the scheme, a map of the same and a statement of the land which it is proposed to acquire or in respect of which it is proposed to levy a betterment charge may be seen at all reasonable hours, and shall-

(a) communicate a copy of such notification, particulars, map and statement to the Corporation ;

(b) publish the notification in the manner prescribed for the publication of a notification under section 270.

(3) During the thirty days next following the first day on which such notification is published, the Commissioner shall serve a notice upon every person whose name appears in the Commissioner's Assessment-Book as primarily liable for the payment of the property taxes leviable under this Act on any land or building or part of a building which it is proposed to acquire, or in respect of which it is proposed to levy a betterment charge.

(4) Such notice shall-

(a) state that the Commissioner on behalf of the Corporation proposes to acquire such land or building or part of a building or to levy a betterment charge in respect thereof for the purpose of or in connection with an improvement scheme, and

(b) require the person so served, if the objects to such acquisition

or levy, to state his reasons in writing within thirty days from the date of the service of the notice.

**273. Right of owner to demand acquisition on issue of notification when building operations are in progress :-**

(1) If any land is included in any statement specifying the land proposed to be acquired made in accordance with any notification drawn up under section 272, and if the owner of such land shall prove to the satisfaction of the Collector that at the date of the said notification building operations were in progress on such land or any part thereof and the buildings were structurally complete up to the first floor level, the Collector shall call upon the Commissioner to acquire such land.

(2) On receipt of such notice the Commissioner shall forthwith report the matter to the Standing Committee and the said Committee shall then resolve whether in its opinion it is desirable to acquire the land set out in the notice or to withdraw from the proposal to acquire and shall communicate its resolution within two months to the Corporation which shall within one month after receipt thereof communicate to the Commissioner the decision of the Corporation in the matter, and thereupon the Commissioner shall forthwith in accordance with such decision either proceed to acquire such land or shall give written notice to the owner that the proposal to acquire has been withdrawn.

(3) If the Corporation decides to acquire the land, the Commissioner shall give notice of such decision to the Collector and the owner, and the Collector shall proceed as if a declaration had been made in respect of the land in question under section 6 of the Land Acquisition Act, 1894. (1 of 1894)

(4) If the Corporation withdraws from the proposal to acquire any land under sub-section (2), such land shall not be included in any statement of the land proposed to be acquired, made in accordance with any notification drawn up under section 272, until the expiry of two years from the date of the issue of written notice of withdrawal to the owner.

(5) Notwithstanding anything contained in this section, if the Corporation withdraws from the proposal to acquire any land under sub-section (2), such land may be included in, or added to, any statement of the land in respect of which it is proposed to levy a betterment charge made in accordance with any notification drawn

up under section 272 :

Provided that the provisions of sub-sections (3) and (4) of section-272 shall apply in respect of such land as if the period of thirty days referred to in the said sub-section (3) commenced on the date on which notice was given to the owner that the proposal to acquire has been withdrawn.

**274. Right of owner to demand acquisition or withdrawal by Corporation after lapse of two years from date of notification :-**

(1) The owner of any land included in any statement of the land proposed to be acquired made in accordance with any notification drawn up under section 272 may at any time before the publication of a declaration under section 278 and after the expiry of one year from the date of such notification by written notice to the Commissioner setting out the particulars of such land call upon the Commissioner to acquire such land on behalf of the Corporation.

(2) On receipt of such notice the Commissioner shall forthwith report the matter to the Standing Committee and the said Committee shall resolve whether in its opinion it is desirable to acquire the land set out in the notice and shall communicate its resolution within two months to the Corporation which shall within two months after the receipt thereof communicate to the Committee and Commissioner the decision of the Corporation in the matter and thereupon the Commissioner shall in accordance with such decision either decide to acquire such land or shall give notice to the owner that he has withdrawn the proposal to acquire.

(3) If the Corporation decides to acquire the land it shall instruct the" Commissioner to give notice of such decision to the Collector and to the owner, and the Collector shall proceed as if a declaration had been made in respect of the land in question under section 6 of the Land Acquisition Act, 1894. (1 of 1894)

(4) If the Corporation withdraws from the proposal to acquire any land under sub-section (2) such land shall not be included in any statement of the land proposed to be acquired made in accordance with any notification drawn up under section 272 until the expiry of two years from the date of the issue of written notice of withdrawal to the owner.

(5) Notwithstanding anything contained in this section, if the

Corporation withdraws from the proposal to acquire any land under sub-section (2), such land may be included in, or added to, any statement of the land in respect of which it is proposed to levy a betterment charge made in accordance with any notification drawn up under section 272 :

Provided that the provision of sub-sections (3) and (4) of section 272 shall apply in respect of such land as if the period of thirty days referred to in the said sub-section (3) commenced on the date on which notice was given to the owner that the proposal to acquire has been withdrawn.

**275. Standing committee after publication and service of notices to forward scheme to Corporation for approval :-**

(1) Upon compliance with the foregoing provisions with respect to the publication of notices of the scheme the Commissioner shall submit to the Standing Committee any objection or representation received under section 272 together with any suggestion he may wish to make in respect of the modification of the scheme.

(2) The Standing Committee shall, after consideration of any such objection, representation or suggestion and after inserting in the scheme such modification as it thinks fit, submit the scheme together with any objection, representation or suggestion to the Corporation for its approval.

**276. Corporation to consider improvement scheme and to approve or disapprove :-**

The Corporation shall, on receipt of a scheme from the Standing Committee, proceed to take such scheme into consideration together with any objection, representation, or suggestion received or made under section 272 or 275 and shall, after having approved the scheme with or without modification or declined to approve the scheme, pass a resolution to that effect.

**277. Commissioner to apply to [State] Government for sanction to the scheme :-**

**1**

(1) As soon as the Corporation has approved the scheme the Commissioner shall apply to the <sup>1</sup>[State] Government on behalf of the Corporation for sanction to the scheme.

(2) If the Corporation declines to approve the scheme the Commissioner shall forthwith draw up and publish in the manner

provided in section 270 a notification stating that the Corporation has resolved not to proceed with the making of the scheme, and on such publication the notifications relating to the scheme published under section 270 and 272 shall be deemed to be cancelled.

(3) An application to the <sup>3</sup> [State] Government under sub-section (1) for sanction shall be accompanied by -

(a) a copy of the resolution passed by the Standing Committee under section 272;

(b) a copy of the resolution passed by the Corporation under section 270;

(c) a description with full particulars of the scheme including the reasons for any modifications inserted therein;

(d) complete plans and estimates of the cost of executing the scheme;

(e) a statement specifying the land which it is proposed to acquire or in respect of which it is proposed to levy a betterment charge;

(f) a list of the names of the persons, if any, who in answer to the notices mentioned in sub-section (3) of section 272 objected, with the reasons (if any) stated by such persons for objection, in respect of the acquisition of their land or the levy of a betterment charge ;

(g) a schedule showing the rateable value, as entered in the Commissioner's Assessment-book, at the date of the publication of a notification relating to the land under section 272, of all land specified in the statement under clause (e) and of any other land wholly or partially situated within eighty feet from either side of any street to be formed or altered in executing the scheme.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

3. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

**278. On receipt of sanction declaration to be published giving particulars of land to be acquired and on publication of such declaration Commissioner to be authorised to execute scheme :-**

(1)

(a) On receipt of the sanction of the <sup>1</sup>[State] Government the

Commissioner shall forward to the <sup>1</sup>[State] Government a declaration for notification stating the fact of such sanction and that the land proposed to be acquired by the Corporation for the purposes of the schemes is required for a public purpose.

(b) The declaration shall be published in the Official Gazette, in the same manner as an order of the <sup>1</sup>[State] Government and shall state the limits within which the land proposed to be acquired is

(c) The said declaration shall be conclusive evidence that the land is needed for a public purpose, and the Commissioner shall, upon the publication of the said declaration proceed to execute the scheme.

(2)

(a) If at any time it appears to the Commissioner, the Standing Committee of the Corporation, as the case may be, that in improvement can be made in any part of the scheme, the Corporation may alter the scheme for the purpose of making such improvement and thereupon the Commissioner shall, subject to the provisions contained in the next two clauses of this subsection, forthwith proceed to execute the scheme as altered.

(b) If the estimated net cost of executing the scheme as altered exceeds by ten per cent the estimated net cost of executing the scheme as sanctioned, the Commissioner shall not, without the previous sanction of the Corporation and of the <sup>4</sup> [State] Government, proceed to execute the scheme as altered.

(c) If the scheme as altered involves the acquisition, otherwise than by agreement, of or the levy of a betterment charge in respect of any land other than that specified in the schedule accompanying the scheme under sub-section (3) of section 277 the provisions of section 272 and 277 and of sub-section (1) shall apply to the part of the scheme so altered, in the same manner as if such altered part were the scheme.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

4. The heading and section 280 to 284 T were substituted for original section 280 to 284 by Gujarat 19 of 1964, Section 12.

**279. If Corporation fails to acquire the land, owner may call upon Corporation to acquire it or to withdraw from proposal**

:-

If, within three years from the declaration aforesaid, the Corporation fails to acquire any land included in such declaration or any part of such land, the owner of such land may, by written notice setting out the particulars of such land, call upon the Corporation to acquire such land or to withdraw from the proposal to acquire it and thereafter the procedure prescribed in sub-section (2) to (5) of section 274 shall be followed. <sup>1</sup> [Clearance areas

1. The heading and section 280 to 284 T were substituted for original section 280 to 284 by Gujarat 19 of 1964, Section 12.

**280. Power to declare an area to be a clearance area :-**

(1) If it shall appear to the Commissioner in respect of any area in any part of the City, -

(a) that the residential buildings in that area are, by reason of disrepair or sanitary defects unfit for human habitation or are, by reason of their bad arrangement or the narrowness or bad arrangement of the streets dangerous or injurious to the health of the inhabitants of the area and that the other buildings, if any, in the area are for a like reason dangerous or injurious to the health of the said inhabitants; and

(b) that the conditions in the area can be effectually remedied by the demolition of all the buildings in the area without making an improvement scheme; the Commissioner may cause that area to be defined on a plan in such manner as to exclude from the area any building which is not unfit for human habitation or dangerous or injurious to health, and submit a draft clearance scheme for the approval of the Corporation. On the submission by the Commissioner of a draft clearance scheme, the Corporation shall take such scheme into consideration and may approve the same with or without such alteration as it thinks fit. It shall thereupon pass a resolution declaring the area so defined and approved by it to be a clearance area, that is to say, an area to be cleared of all buildings in accordance with the subsequent provisions of this Act. The area shall hereinafter be referred to as the clearance area and the scheme as the clearance scheme.

(2) Before any area is declared to be a clearance area, it shall be the duty of Corporation to satisfy itself as to the sufficiency of its resources and to ascertain the number of persons who are likely to be dishoused in such area and thereafter to take such measures as are practicable whether by the arrangement of their programme or

otherwise so as to ensure that as little hardship as possible is inflicted on those dishoused.

(3) The Commissioner on behalf of the Corporation shall forthwith transmit to the State Government a copy of the resolution passed by it under this section.

(4) As soon as may be after the Corporation has declared any area to be a clearance area, the Commissioner shall, in accordance with the appropriate provisions hereafter contained in this Act, proceed to secure the clearance of the area in one or more of the following ways, that is to say - (a) by ordering the demolition of the buildings in the area; or (b) by acquiring on behalf of the Corporation land comprised in the area and undertaking or otherwise securing, the demolition of the buildings thereon.

### **281. Clearance orders :-**

(1) Where in respect of any clearance area, the Commissioner determines to order any buildings in the clearance area to be demolished, he shall, with the approval of the Corporation make and submit to the State Government for confirmation of an order (in this Act referred to as clearance order") ordering the demolition of each of those buildings.

(2) A clearance order shall describe by reference to a plan the area to which it applies, and shall fix by reference to the date on which it becomes operative the period, not being less than twenty-eight days from that date, within which the Commissioner requires the buildings in the area to be vacated for the purposes of demolition, and for that purpose may fix different periods as respects different buildings.

(3) There shall be excluded from the clearance order any houses or other buildings properly included in the clearance area only on the ground that by reason of their bad arrangement in relation to other buildings, or the narrowness or bad arrangement on the streets, they are dangerous or injurious to the health of the inhabitants of the area :

Provided that this sub-section shall not apply to a building constructed or adapted as or for the purposes of, a dwelling or partly for those purposes and partly for other purposes, if any part (not being a part used for other purposes) is by reason of disrepair or sanitary defects unfit for human habitation.

(4) Before submitting the order to the State Government, the Commissioner shall-

(a) publish simultaneously in the Official Gazette and in three or more news papers circulating within the City, a notice stating the fact of such a clearance order having been made and describing the area comprised therein and naming a place where a copy of the order and of the plan referred to therein may be seen at all reasonable hours; and

(b) serve on every person whose name appears in the Commissioner's assessment book as primarily liable for payment of property tax leviable under this Act, on any building included in the area to which the clearance order relates and, so far as it is reasonably practicable to ascertain such persons, on every mortgagee thereof a notice stating the effect of the clearance order and that it is about to be submitted to the State Government for confirmation, and specifying the time within, and the manner in which, objections thereto can be made to the Commissioner.

(5) Upon compliance with the foregoing provisions with respect to the publication and service of notices of the clearance order, the Commissioner shall submit to the Standing Committee any objections received under sub-section (4) and any suggestions he may wish to make in that respect.

(6) The Standing Committee may, after consideration of any such objections and suggestions, make such modifications in respect of the order as it thinks fit, and the Commissioner shall thereafter submit the order as approved, by the Standing Committee first to the Corporation and then to the State Government for confirmation.

(7) The provisions of Schedule B to this Act shall have effect with respect to the validity and date of operation of a clearance order.

(8) When a clearance order has become operative, the owner or owners of any building to which the order applies shall demolish that building before the expiration of six weeks from the date on which the building is required by the order to be vacated or, if it is not vacated until after that date, before the expiration of six weeks from the date on which it is vacated or, in either case, before the expiration of such longer period as in the circumstances the Commissioner may deem reasonable; and if the building is not demolished before the expiration of that period the Commissioner shall take measures to demolish the building and sell the materials

thereof.

(9) Any expenses incurred by the Commissioner under the foregoing sub-section, after giving credit for the amount realised by sale of the material's, shall be payable by the owner or owners of the building, and any surplus in the hands of the Commissioner, after payment of such expenses, shall be paid by the Commissioner to the owner of the building, or if there are more owners than one, shall be paid as the owners, may agree, In default of agreement between such owners, the Commissioner shall deposit the surplus amount in the District Court and the District Judge shall decide in what proportion such amount should be paid to such owners. The decision of the District Judge shall be final.

(10) When a clearance order has become operative, no land to which the order applies shall be used for building purposes, or otherwise developed, except subject to such restrictions and conditions, as may be imposed by the Commissioner and approved by the Corporation generally or specially.

(11) In the provisions of this Act relating to buildings included in an area to which a clearance order applies references to a building shall include references to a hut, tent or other temporary or moveable form of shelter which is used for human habitation and has been in the same enclosure for a period of two years next before action is taken under those provisions, and the reference to development in sub-section (10) shall include a reference to the erection or placing on the land of a hut, tent or other temporary or moveable form of shelter.

**282. Acquisition of land surrounded by or adjoining clearance area :-**

Where, as respects any area declared by the Corporation to be a clearance area, the Commissioner determines to acquire any land comprised in the area, he may acquire also any land which is surrounded by the clearance area and the acquisition of which is reasonably necessary for the purpose of securing a cleared area of convenient shape and dimensions, and any adjoining land the acquisition of which is reasonably necessary for the satisfactory development or use of the cleared area.

**283. Provisions with respect to property of the Corporation within, surrounded by, or adjoining, clearance area :-**

Subject to the provisions of this section, the Commissioner may

include in a clearance area any land owned by the Corporation which he might have included in such area had it not been so owned, and where any land of the Corporation is included in a clearance area, or being land surrounded by or adjoining a clearance area, might have been acquired by the Commissioner under section 282 had it not previously belonged to the Corporation, the provisions of this Act, shall apply in relation to such land as if it had been acquired by the Commissioner as being land comprised in the clearance area or, as the case may be, as being land surrounded by or adjoining a clearance area.

**284. Acquisition of land in a clearance area :-**

(1) Where the Commissioner has determined to acquire land comprised in or surrounded by, or adjoining a clearance-area, he may acquire that land by agreement upon obtaining the requisite sanction under section 77 or he may, with the sanction of the Standing Committee, be authorised to acquire that land by a compulsory acquisition order made and submitted to the State Government and confirmed by them in accordance with the provisions of Schedule C to this Act.

(2) An order authorising the compulsory acquisition of land comprised in a clearance area shall be submitted by the Commissioner, with the approval of the Corporation, to the State Government within six months, and an order authorising the compulsory acquisition of land surrounded by or adjoining a clearance area shall be submitted by the Commissioner with the approval of the Corporation to the State Government within twelve months after the date of the resolution of the Corporation declaring the area to be a clearance area or within such longer period as the State Government may, in the circumstances of the particular case, allow.

(3) the provisions of Schedule B to this Act shall have effect with respect to the validity and date of operation of a compulsory acquisition order made under this section.

(4) Nothing in this section shall authorise the compulsory acquisition of any land or building vested in the Central Government without the previous sanction of the Central Government, or any land or building vested in the State Government or belonging to any corporation authorised by law to construct, work and carry on any gas, electricity, water or other

public undertaking without the previous sanction of the State Government.

**284A. Treatment of a clearance area :-**

The Commissioner having acquired any land comprised in, or surrounded by or adjoining a clearance area shall, as soon as may be, cause every building thereon to be vacated if necessary in the manner provided by section 388A, and shall deal with, the land in one or more of the following ways, that is to say-

(a) he shall demolish every building thereon before the expiration of six weeks from the date on which it is vacated, or before the expiration of such longer period as in the circumstances he deems reasonable, and thereafter may, with the sanction of the requisite authority under section 79, sell or lease the land subject to such restrictions and conditions, if any, as he thinks fit or may, subject to the sanction of the Corporation, appropriate the land for any purpose for which the Corporation is authorised to acquire land; or

(b) he shall, as soon as may be, with the sanction of the requisite authority under section 79, sell or lease the land subject to a condition that the buildings thereon shall be demolished forthwith and subject to such restrictions and other conditions, if any, as he thinks, fit : Provided that, in lieu of selling any land other than land abutting on a public street, the Commissioner may, where the owner of other land (being land which the Corporation has power to acquire) is willing to take such land in exchange for that other land, with the sanction of the Standing Committee, exchange it for such other land either with or without paying or receiving money for equality of exchange, and in relation to any such exchange the like provisions shall have effect as respects the land to be given in exchange by the Corporation as have effect by virtue of the foregoing provisions of this section as respects land sold thereunder. Any land acquired by the Commissioner by such exchange if it is situated in the clearance area shall be subject to the same restrictions as are applicable to other lands in such area.

**284B. Arrangements where acquisition of land in clearance area unnecessary :-**

Where the Commissioner has submitted to the State Government an order for the compulsory acquisition of land in a clearance area, and the State Government, on an application for an authorisation under this section being made to it by the owner or owners of the land and the Commissioner, is satisfied that the owner or owners of

the land, with the concurrence of any mortgagagee thereof, agree to the demolition of the buildings thereon and that the Commissioner can secure the proper clearance of the area without acquiring the land, the State Government may -

(a) in a case where the order has not been confirmed authorise the Commissioner to submit forthwith and without any previous publication or service, a clearance order with respect to the buildings, and upon his so doing, may modify the compulsory acquisition order by excluding the land therefrom and confirm the clearance order; or

(b) in a case where the compulsory acquisition order has been confirmed but the land has not become vested in the Corporation, on being satisfied that such agreements have been or will be entered into by all necessary parties as may be requisite for securing that the buildings shall be demolished in like manner, authorise the Commissioner to discontinue proceedings for the acquisition of the land and the land shall thereupon become subject to the like restrictions and conditions, as if the Commissioner had dealt with the land in accordance with the provisions of section 284A.

**284C. Power to acquire cleared land which owners have failed to re-develop :-**

(1) Where land has been cleared of buildings in accordance with a clearance order, the Corporation may, at any time after the expiration of eighteen months from the date on which the order became operative, by resolution determine to acquire any part of it which at the date of the passing of the resolution has not been, or is not in process of being, used for building purposes or otherwise developed by the owner thereof in accordance with plans approved by the Commissioner and any restrictions or conditions imposed under sub-section (10) of section 281.

(2) Where the Corporation has determined to acquire any land under this section the Commissioner may acquire it by agreement upon obtaining the requisite sanction under section 77, or he may, with the sanction of the Standing Committee, be authorised to acquire it by a compulsory acquisition order made and submitted to the State Government and confirmed by it in accordance with the provisions of Schedule C to this- Act.

(3) An order authorising the compulsory acquisition of land for the

purposes of this section shall be submitted by the Commissioner to the State Government within three months after the date of the passing of the resolution to acquire the land.

(4) The provisions of Schedule B to this Act shall have effect with respect to the validity and date of operation of a compulsory acquisition order made under this section.

(5) The Commissioner shall, with the approval of the Standing Committee, deal with any land acquired under this section by sale, lease, or appropriation in accordance with the provisions of section 284A.

**284D. Power of Court to determine lease where premises demolished :-**

(1) Where any premises in respect of which a clearance order has become operative from the subject matter of a lease, either the lessor or the lessee may apply to the District Court for an order under this section.

(2) Upon any such application as aforesaid, the District Court, after giving to any sub-lessee an opportunity of being heard, may, if he thinks fit, make an order for the determination of the lease, or for the variation thereof, and in either case, either unconditionally or subject to such terms and conditions (including conditions with respect to the payment of money by any party to the proceeding to any other party thereto by way of compensation, damages, or otherwise) as he may think just and equitable to impose, regard being had to the respective rights, obligations, and liabilities of the parties under the lease and all the other circumstances of the case.

(3) In this section, the expression 'lease' includes an under-lease and any tenancy or agreement for a lease, under-lease, or tenancy, and the expression "lessor, lessee and sub-lessee shall be constructed accordingly, and as including also a person deriving title under a lessor, lessee or sub-lessee. Re-development areas

**284E. Power to declare an area to be re-development area :-**

(1) If it appears to the Commissioner in respect of any area in any part of the City, that the following conditions exist, that is to say -

(a) that the area contains fifty or more dwellings for the poorer classes,

(b) that at least one-third of the poorer class dwellings in the area are overcrowded, or unfit for human habitation and not capable at a reasonable expense of being rendered so fit, or so arranged as to be congested,

(c) that it is expedient in connection with the provision of housing accommodation for the poorer classes that the area should be re-developed as a whole, the Commissioner shall cause the area to be defined on a plan and shall submit a draft re-development scheme for the approval of the Corporation. On the submission of such a draft re-development scheme, the Corporation shall take into consideration such scheme and approve the same with or without alteration as it may think fit. The Corporation shall then pass a resolution declaring the area so defined and approved by it to be a "re-development area.'

(2) As soon as may be after the Corporation has passed a resolution under the foregoing sub-section, the Commissioner on behalf of the Corporation shall transmit to the State Government a copy of the resolution and of the plan, and shall publish simultaneously in the Official Gazette and in three or more news papers circulating within the City, a notice stating that the resolution has been passed and naming a place where a copy of the resolution and of the plan may be inspected at all reasonable hours.

(3) Before any area is declared to be a re-development area, it shall be the duty of the Corporation to satisfy itself as to the sufficiency of its resources and to ascertain the number of persons who are likely to be dishoused in such area and thereafter to take such measures as are practicable whether in the arrangement of its programme or otherwise so as to ensure that as little hardship as possible is inflicted on those dishoused.

#### **284F. Re-development plan :-**

(1) Within six months after the Corporation has passed a resolution under section 284E or within such extended period as the State Government may allow, the Commissioner shall, with the approval of the Corporation, prepare and submit to the State Government a re-development plan indicating the manner in which it is intended that the defined area should be laid out and the land therein used, whether for existing purposes or for purposes requiring the carrying out of re-development thereon, and in particular the land intended to be used for the provisions of housing accommodation for the

poorer classes, for streets and for open spaces.

(2) In the preparation of the plan regard shall be had to the provisions of any improvement scheme or proposed improvement scheme under this Act or any scheme under the Bombay Town Planning Act, 1954, (Bombay I of 1955) relating to the defined area or land in the neighbourhood thereof.

(3) Before submitting the plan to the State Government, the Commissioner shall -

(a) publish simultaneously in the Official Gazette, and in three or more newspapers circulating within the City a notice stating that the plan has been prepared and is about to be submitted to the State Government, naming a place where the plan may be inspected at all reasonable hours, and specifying the time within which, and the manner in which, objections can be made; and

(b) serve a notice to the like effect on every owner, lessee and occupier (except tenants for a month or any period less than a month) or land in the defined area and on every railway administration operating a railway within the defined area and on any Corporation authorised by-law to construct, work and carry on any gas, electricity or water work or other similar work of public utility within the defined area.

(4) Upon compliance with the foregoing provisions with respect to the publication and service of notices regarding the proposed re-development plan, the Commissioner shall submit to the Standing Committee any objections received under sub-section (3) and any suggestions he may wish to make in that respect.

(5) The Standing Committee may after consideration of any such objections and suggestions make such modification in respect of the re-development plan as they think fit, and the Commissioner shall thereafter submit the plan as modified by the Standing Committee first to the Corporation and then to the State Government for approval.

(6) On receipt of notice of the State Government's approval, the Commissioner shall publish simultaneously in the Official Gazette and in three or more newspapers circulating within the City a notice stating that the re-development plan has been approved and naming a place where a copy thereof may be inspected at all reasonable hours, and shall serve, a like notice on every person on

whom a notice was served by him of his intention to submit the re-development plan to the State Government for their approval.

(7) Where, after re-development plan has been approved, the Corporation is satisfied that any land in the re-development area (that is to say the defined area or so much thereof as is comprised in the plan as approved) ought to be re-developed or used otherwise than as indicated in the plan, the Commissioner shall prepare and submit to the State Government on behalf of the Corporation a new plan in respect of that land and the provisions of this section in respect of publication, service of notices and approval by the State Government shall have effect in relation to the new plan, with the substitution of references to the new plan and to the land comprised therein, for references to the re-development plan and to the defined area.

(8) The provisions of Schedule B to this Act shall have effect with respect to the validity and date of operation of the State Government's approval of a re-development plan or of a new plan.

(9) In the subsequent provisions of this Act references to re-development or use in accordance with a re-development plan shall be constructed as references to re-development or use in accordance with a re-development plan approved Under this section or, in the case of land comprised in a new plan approved under this section, in accordance with the new plan.

**284G. Acquisition of land for purpose of re-development :-**

(1) When the State Government's approval of a re-development plan has become operative, the Commissioner may acquire by agreement, upon obtaining the requisite sanction under section 77, or he may, with the sanction of the Standing Committee, be authorised by means of an order made and submitted to the State Government and confirmed by it in accordance with Schedule C to this Act, to acquire compulsorily-

(a) land in the re-development area; and

(b) any land outside that area which may be required for the purpose of providing accommodation for persons occupying premises within that area which have been or are intended to be acquired by agreement, or in respect of which compulsory acquisition orders have been submitted.

(2) Where the Commissioner submits to the State Government an order for the compulsory acquisition under this section of land which comprises or consists of a building which in his opinion is unfit for human habitation and not capable at reasonable expense of being rendered so fit, the order as submitted shall be in a form prescribed for the purpose of indicating that the building is in that condition, and, if in the opinion of the State Government the building is properly so indicated, the order as confirmed may authorise the Commissioner to acquire the building as being in that condition.

(3) The provisions of Schedule B to this Act shall have effect with respect to the validity and date of operation of a compulsory acquisition order made under this section.

(4) Nothing in this section shall authorise the compulsory acquisition of any land or building vested in the Central Government without its previous sanction or of any land or building vested in the State Government or belonging to any Corporation authorised by-law to construct, work and carry on any gas, electricity or water work or other similar work of public utility without the previous sanction of the State Government.

(5) Land acquired by the Commissioner under this section for the provision of houses for the poorer classes shall be deemed to have been acquired by him under section 284J.

(6) Land acquired by the Commissioner under this section otherwise than for the provision of houses for the poorer classes may, with the sanction of the requisite authority under section 79, be sold or leased to any person or if such land is not abutting on any public street may with like sanction be exchanged for other land, which the Commissioner has power to acquire, either with or without paying or receiving money for equality of exchange, subject, in the case of land in the redevelopment area, to conditions for securing that it shall be re-developed or used in accordance with the re-development plan.

(7) When the State Government's approval of a re-development plan has become operative and the plan comprises any land of the Corporation, the provisions of this Act shall apply in relation to that land as if it had been land in the redevelopment area acquired by the Commissioner under this section. (8) When the State Government's approval of a re-development plan has become

operative, no person shall construct or re-construct any building or any portion of a building within the re-development area to which the plan relates except with the written permission of the Commissioner, who is granting such permission may impose such conditions approved by the Corporation generally or specially, as will, in his opinion, ensure that the construction or re-construction shall only proceed in accordance with the re-development plan.

General provisions as to land purchased for clearance or re-development.

**284H. Extinguishment of ways, easements etc., over land acquired under sections 284, 284C and 284G :-**

(1) The Commissioner may, with the approval of the State Government, by order extinguish any public right of way over land acquired by agreement under section 284, 284C or 284G. provided that an order intended to be made by the Commissioner under this sub-section shall be published alongwith a notice inviting objections simultaneously in the Official Gazette and in three or more newspapers circulating within the City and, if any objection thereto is made to the State Government before the expiration of six weeks from the publication thereof, the State Government shall not approve the order until it has considered all such objections.

(2) Where the Commissioner proposes to acquire under the sections referred to in sub-section (1) land over which a public right of way exists, it shall be lawful under this section for the Commissioner to make and the State Government to approve, in advance of the acquisition an order extinguishing that right as from the date on which the buildings on the land are vacated or at the expiration of such period after that date as may be specified in the order, or as the State Government in approving the order may direct.

(3) Upon the completion of the purchase of the land which the Commissioner on behalf of the Corporation has acquired by agreement under the sections referred to in sub-section (1), all private rights of way in, and all private rights under or over that land and all other right or easements in or relating to that land shall be extinguished, and any person who suffers loss by the extinguishment of any such rights or easement shall be entitled to be paid by the Corporation compensation of such amount as might have been awarded to a person interested in such" rights or easements as if the land to which the same relate had been

acquired under a compulsory acquisition order, for which the notice required under clause 2(a) of Schedule C to this Act had been published on the date of completion of the purchase : Provided that this sub-section shall not apply to any rights vested in Government or to any rights belonging to any Corporation authorised by-law to construct, work and carry on any gas, electricity or water work or other similar work of public utility, and shall have effect as respects other matters subject to any agreement which may be made between the Commissioner and the person in or to whom the right in question is vested or belongs.

Provision of housing accommodation for the poorer classes

**284I. Mode of provision of accommodation :-**

(1) If the Corporation, upon consideration of a representation from the Commissioner or other information in its possession, is satisfied that within any area in any part of the City it is expedient to provide housing accommodation for the poorer classes and that such accommodation can be conveniently provided without making an improvement scheme, it shall cause such area to be defined on a plan and pass a resolution authorizing the Commissioner and the Commissioner shall thereupon be empowered to provide such accommodation -

(a) by the erection of buildings or in any other manner, on any land belonging to the Corporation or any land acquired by the Corporation for the purpose;

(b) by the conversion of any buildings belonging to the Corporation into dwellings for the poorer classes;

(c) by altering, enlarging, repairing or improving any buildings which have, or an estate or interest in which has been acquired by the Corporation.

(2) The Commissioner may alter, enlarge, repair or improve any house so erected, converted or acquired.

**284J. Power of Commissioner to acquire land for housing accommodation :-**

The Commissioner may for the purposes of the foregoing section on behalf of the Corporation -

(a) acquire any land including any buildings thereon as a site for the erection of buildings for the poorer classes;

(b) acquire land for the purpose of

(i) the lease or sale of land with a view to the erection thereon of buildings for the poorer classes by persons other than the Corporation;

(ii) lease or sale of any part of the land acquired with a view to the use thereof for purposes which in the opinion of the Commissioner are necessary or desirable for, or incidental to, the development of the land as a building estate, including the provision, maintenance and improvement of buildings, gardens, factories, workshops, places of worship, places of recreation and other works or buildings for, or for the convenience of, persons belonging to the poorer classes.

**284K. Mode of acquisition of land for housing accommodation :-**

(1) Land for the purposes of the foregoing section may be acquired by the Commissioner by agreement upon obtaining the requisite sanction under section 77, or he may, with the sanction of the Standing Committee, be authorised to acquire land for those purposes by means of a compulsory acquisition order made and submitted to the State Government and confirmed by it in accordance with the provisions of Schedule C to this Act.

(2) The Commissioner may, with the consent of and subject to any conditions imposed by, the State Government acquire land for the purposes of section 284J, notwithstanding that the land is not immediately required for those purposes Provided that the Commissioner shall not be authorised to acquire any land compulsorily for those purposes unless it appears to the State Government that it is likely to be required for those purposes within ten years from the date on which it confirms the compulsory acquisition order.

(3) The provisions of Schedule B to this Act shall have effect with respect to the validity and date of operation of a compulsory acquisition order made under this section.

(4) Nothing in this Act shall authorise the compulsory acquisition for the purposes of section 284-I of any land which is the property of Government or any local authority, or which is the property of any Corporation authorised by-law to construct, work and carry on any gas, electricity or water work or other similar work of public utility

and was acquired for the purposes of such Corporation, or which, at the date of the compulsory acquisition order forms part of any park, garden or recreation ground.

**284L. Power of dealing with land acquired or appropriated for provision of housing accommodation :-**

(1) Where the Commissioner has acquired or appropriated any land for the purposes of section 284J then, without prejudice to any of his other powers under this Act, he may-

(a) lay out and construct public streets or roads and open spaces on the land;

(b) with the approval of the Standing Committee, sell or lease the land or part thereof to any person for the purpose and under the condition that person will erect and maintain thereon such number of buildings suitable for the poorer classes as may be fixed by the Commissioner in accordance with plans approved by him and, when necessary, will lay out and construct public streets or roads and open spaces on the land, or will use the land for purposes which in the opinion of the Commissioner are necessary or desirable, for, or incidental to, the development of the land in accordance with plans approved by the Commissioner including the provision, maintenance and improvement of houses and gardens, places of recreation and other works or buildings for, or for the convenience of, persons belonging to poorer classes;

(c) with the approval of the Standing Committee, sell the land or part thereof or if such land is not abutting on any public street, exchange the land or part thereof for land better adapted for those purposes, either with or without paying or receiving any money for equality of exchange;

(d) with the approval of the Standing Committee, sell or lease any buildings on the land or erected by him on the land, subject to such covenants and conditions as he may think fit to impose either in regard to the maintenance of the buildings as dwellings for the poorer classes or otherwise in regard to the use of the buildings, and upon any such sale he may, if he thinks fit, agree to the price being paid by instalments together with interest on the outstanding balance at such rate as may from time to time be prescribed by the Standing Committee in this behalf, or to a payment or part thereof being secured by a mortgage of the premises.

(2) Where the Commissioner acquires any building which can be made suitable as a building for the poorer classes or an estate or interest in such a building, he shall forthwith proceed to secure the alterations, enlargement, repair or improvement of the building, either by himself executing any necessary works, or by leasing or selling it to some person subject to conditions for securing that he will alter, enlarge, repair or improve it:

**284M. Supplementary powers in connection with provision of accommodation :-**

The powers of the Commissioner to provide housing accommodation for the poorer classes, shall include a power to provide and maintain and if desired, jointly with any other person, in connection with any such housing accommodation, any building adapted for use as a shop, any recreation grounds, or other buildings or land which in the opinion of the Commissioner will serve a beneficial purpose in connection with the requirements of the persons for whom the housing accommodation is provided. Land Acquisition

**284N. Extent to which Land Acquisition Act shall apply to acquisition of land otherwise than by agreement :-**

The Land Acquisition Act, 1894 (in this and the next succeeding sections referred to as "the Land Acquisition Act") shall to the extent set forth in Appendix I regulate and apply to the acquisition of land under this Chapter, otherwise than by agreement, and shall for that purpose be deemed to form part of this Chapter in the same manner as if enacted in the body hereof, subject to the provisions of this Chapter and to the provisions following, namely :-

(1) a reference to any section of the Land Acquisition Act shall be deemed to be a reference to such section, as modified by the provisions of this Chapter, and the expression "land", as used in the Land Acquisition Act, shall be deemed to have the meaning assigned to it by clause (30) of section 2 of this Act, and clause (b) of section 3 of the Land Acquisition Act shall, for the purposes of this Chapter, be read as if the words and parenthesis "(including Government)" were inserted after the words "includes all persons" and the words "or if he is the owner of any right created by legislative enactment over any street forming part of the land" were added after the words "affecting the land";

(2) in the construction of sub-section (2) of section 4 of the Land Acquisition Act and the provisions of this Chapter, the provisions of the said sub-section shall, for the purposes of this Act, be

applicable immediately upon the passing of a resolution under sub-section (1) of section 270, 280, 284E or 284-1 as the case may be, and the expression "State Government' shall be deemed to include the Commissioner, and the words "such locality' shall be deemed to mean the locality referred to in any such resolution;

(3) in the construction of the sections of the Land Acquisition Act deemed to form part of this Chapter and of the provisions of this Chapter, the publication of a notification under sub-section (2) of section 272, or the publication of notice of a compulsory acquisition order having been made under clause 2 (a) of Schedule C to this Act shall be deemed to be the publication of a notification under sub-section (1) of section 4 of the Land Acquisition Act and the date of publication of the declaration under section 278 or of publication of a notice of a compulsory acquisition order having been confirmed under clause 1 of Schedule B shall be deemed to be the date of the publication of the declaration under section 6 of the Land Acquisition. Provided that where land is acquired under section 273 or section 274 the date of publication of the notification under sub-section (2) of section 272 shall be deemed to be the date of publication of a declaration under section 6 of the Land Acquisition Act;

(4) the provisions of sub-section (1) of section 17 of the Land Acquisition Act to take possession of land shall apply to any land which the Commissioner is authorised under this Chapter as if it were land needed urgently for a public purpose subject to the condition that the Corporation shall pay additional compensation in the form of interest not exceeding 6 per cent, on the compensation awarded from the date on which possession of land is taken by the Collector;

(5) in the construction of sub-section (2) of section 50 of the Land Acquisition Act and the provisions of this Chapter, the Commissioner shall be deemed to be the local authority or Company concerned";

(6) notwithstanding anything contained in sub-section (1) of section 49 of the Land Acquisition Act, it shall not be competent for the owner of any building, of which it is proposed to acquire only a part, to insist on the acquisition of his entire holding where the part proposed to be acquired can, in the opinion of the Collector, be served from the remainder without material detriment thereto : Provided that the Collector shall, if required by the owner of such

building, refer the question whether such part can be severed from the remainder without material detriment for the determination of the Court and the Court shall decide upon such a reference, as if it were a reference to the Court under the said sub-section :

Provided also that, if, in the opinion of the Collector, or in the event of a reference of the Court, the part proposed to be acquired cannot be severed from the remainder without material detriment thereto, the State Government may, at the instance of the Commissioner order the acquisition of the remainder, and in such case no fresh declaration shall be necessary, but the Collector shall without delay furnish a copy of the order of the State Government to the person or persons interested and shall thereafter take order for the acquisition of the remainder in like manner and with like powers in all respects as if the acquisition had originally been provided for in the improvement scheme or under a compulsory acquisition order, as the case may be;

(7) section 54 of the Land Acquisition Act shall not apply to any case of acquisition of land to which section 284-0 applies.

**284O. Determination by Special Tribunal in certain cases :-**

(1) For the purposes of the acquisition of land under a compulsory acquisition order made and confirmed under the provisions of this Chapter, the functions of the Court under the Land Acquisition Act shall be performed by a Tribunal having the constitution and powers set forth in Schedule D and in the construction of the said Act and the provisions of this Chapter the Tribunal shall be deemed to be the Court, and the President of the Tribunal shall be deemed to be the Judge.

(2) The award of the Tribunal shall be deemed to be the award of the Court under the Land Acquisition Act, and shall be final : Provided that in any case in which the President may grant a certificate that the case is a fit one for appeal, there shall be an appeal to the High Court from any part of the award of the Tribunal.

(3) Every award of the Tribunal, and every order made by the Tribunal for the payment of money, shall be enforced by the District Court as if it were a decree of that Court.

**284P. Special provisions as to compensation :-**

In determining the amount of compensation to be awarded for any

land or building acquired under this Act, the following further provisions shall apply :-

(1) the Court shall take into consideration any increase to the value of any other land or building belonging to the person interested likely to accrue from the acquisition of the land or from the acquisition, alteration, or demolition of building;

(2) When any addition to or improvement of, the land or building has been made after the date of the publications under sub-section (2) of section 272 of a notification relating to the land or building, such addition, or improvement shall not (unless it was necessary for the maintenance of the building in a proper state of repair) be included, nor in the case of any interest acquired after the said date shall any separate estimate of the value thereof be made, so as to increase the amount of compensation to be paid for the land or building :

(3) in estimating the market value of the land or building at the date of the publication of a notification relating thereto under sub-section (2) of section 272 the Court shall have due regard to the nature and the condition of the property and the probable duration of the building, if any, in its existing state and to the state of repair thereof and to the provisions of clauses (4), (5) and (6) of this section ;

(4) if in the opinion of the Court the rental of the land or building has been enhanced by reason of its being used for an illegal purpose, or being so over crowded as to be dangerous or injurious to the health of the inmates, the rental shall not be deemed to be greater than the rental which would be obtainable if the land or building were used for legal purposes only, or were occupied by such a number of persons only as it was suitable to accommodate without risk of such overcrowding;

Explanation.- The word "overcrowding" in this sub-section shall have the same meaning as it has for the purposes of section 307.

(5) If in the opinion of the Court the building is in a state of defective sanitation, or is not in reasonably good repair the amount of compensation shall not exceed the estimated value of the property after the building has been put into a sanitary condition, or into reasonably good repair, less the estimated expense of putting it into such condition, or repair;

(6) if in the opinion of the Court the building being used or intended or likely to be used for human habitation is not reasonably capable of being made fit for human habitation, the amount of compensation for the building shall not exceed the value of the materials, less the cost of demolition;

(7) the Court may award compensation in respect of the severance of any part of a building proposed to be acquired in addition to the value of the part ;

(8) the compensation to be paid for land, including any buildings thereon, acquired as being land comprised in a clearance area shall be the value at the time valuation is made of the land as a site cleared of buildings and available for development in accordance with the requirements of the building by-laws for the time being in force :

Provided that this sub-section shall not have effect in the case of the site of a building properly included in a clearance area only on the ground that by reason of its bad arrangement in relation to other buildings or the narrowness' or bad arrangement of the streets, it is dangerous or injurious to the health of the inhabitants of the area, unless it is a building constructed or adopted as, or for the purposes of, dwelling, or partly for those purposes and partly for other purposes, and part thereof (not being a part used for other purposes) is by reason of disrepair or sanitary defects unfit for human habitation;

(9) the compensation to be paid for a building which the Commissioner is authorised to acquire under sub-section (2) of section 284G as being unfit for human habitation and not capable at reasonable expenses of being rendered so fit shall be assessed in like manner as if it had been land acquired as being comprised in a clearance area.

**284Q. Collector to take possession after making an award and transfer land to Corporation :-**

When the Collector has made an award under section II of the Land Acquisition Act, as applied by this Act, he may take possession of the land which shall thereupon vest absolutely in Government free from all encumbrances, and the Collector shall, upon payment of the cost of the acquisition, make over charge of the land to the Commissioner and the land shall thereupon vest in the Corporation subject to the liability of the Commissioner to pay on behalf of the

Corporation any further costs which may be incurred on account of the acquisition of the land. Levy of betterment charges.

**284R. Condition for levying betterment charge in clearance and redevelopment areas :-**

(1) When by the clearance or re-development of an area as provided for under sections 284A or 284F and 284G respectively and land will, in the opinion of the Commissioner, be increased in value, the Commissioner may declare that a betterment charge shall be leviable in respect of the increase in value of the land resulting from such clearance or re-development.

(2) Before declaring that a betterment charge shall be leviable under sub-section (1), the Commissioner, shall serve on every person whose name appears in the Commissioner's assessment book as primarily liable for the payment of property taxes leviable under this Act on any land or building or part of a building affected by the proposed levy of betterment charge a notice of his intention to declare a betterment charge in respect of the land, and specifying the time within which, and the manner in which objections thereto, can be made to the Commissioner.

(3) The Commissioner shall submit to the Standing Committee any objections received under sub-section (2) and any suggestions he may wish to make in that respect.

(4) The Standing Committee shall, after consideration of any of such objections and suggestions, make such modifications in respect of the proposed betterment charge as it thinks fit, and the Commissioner shall thereafter declare that the betterment charge, either with or without modifications, shall be leviable.

**284S. Method of calculating charge :-**

Where an improvement scheme has provided for the levy of a betterment charge pursuant to sub-section (2) section 271, or where the Commissioner has declared a betterment charge to be leviable under sub-section (4) of section 284R such betterment charge shall be an amount equal to one-half of the increase in value of the land and shall be calculated, in the case of an improvement scheme upon the amount by which the value of the land on completion of the execution of the scheme exceeds the value of the land at the time of the publication of the notification made under section 272 and in the case of a clearance or re-development area, upon the amount by which the value of the land

on completion of the clearance or re-development of the area exceeds the value of the land at the date of the resolution of the Corporation under section 280 or section 284E declaring that area to be clearance area or a re-development area, as the case may be.

**284T. Procedure for determining charge :-**

(1) When it appears to the Commissioner that an improvement or a clearance scheme or a re-development scheme is sufficiently advanced to enable the amount of the betterment charge to be determined, the Commissioner shall make a report to the Standing Committee to that effect and the Standing Committee after considering the report may by resolution declare the date on which for the purpose of determining the amount of the betterment charge the execution of the scheme shall be deemed to have been completed.

(2) The betterment charge leviable in each case shall be determined in accordance with section 284S after following the procedure prescribed in sub-section (3) by such officer as the State Government may, by notification in the Official Gazette, appoint in this behalf at the request of the Corporation.

(3) On a date being fixed under sub-section (1) and an officer being appointed under sub-section (2), the Commissioner shall, in consultation with such officer, serve upon every person on whom a notice in respect of the property affected has been served under sub-section (2) of section 272 or under sub-section (2) of section 284R a notice, which shall state-

(a) the date declared by the Standing Committee under sub-section (1) or aforesaid

(b) the time (being some time not less than twenty-one days after the service of the notice) and place at which the assessment of the betterment charge will be considered by such officer, and every person upon whom such notice is served shall be entitled to be heard either in person or by a duly authorised agent when the matter is taken into consideration by such officer.

(4) When such officer has determined the amount of betterment charge leviable in respect of any property, the Commissioner shall serve upon the concerned a notice stating the amount so determined.

(5) With effect from the date of service of the notice under sub-section (4) and subject to the decision upon any reference made to the Tribunal as hereinafter provided in subsection (6). the amount of the betterment charges determined as aforesaid and interest thereon, if any, shall be a charge upon the property in respect of which it is levied and shall be recoverable in the same manner as expenses declared to the improvement expenses under section 442.

(6) If any person or the Commissioner is dissatisfied with the betterment charge determined by the said officer, he may, at any time within two months from the date of service of notice under sub-section (4) refer the case for the determination of the Tribunal constituted under section 284-O, whose decision in this behalf shall be final.

(7) If no reference is made to the Tribunal for the determination of the betterment charge within the period specified in sub-section (6), the determination of a betterment charge by the officer appointed by the State Government in this behalf shall be final.

#### CHAPTER 17

#### MUNICIPAL FIRE-BRIGADE

### **285. Maintenance of firemen and of necessary fire engines, etc :-**

(1) With a view to the discharge by the Corporation of the duty of extinguishing fire and protecting life and property in case of fire, the Commissioner shall provide, in the statement of municipal officers and servants from time to time prepared by him under section 51, for a force of firemen, with a proper number of officers over them to be called "the municipal fire-brigade", and shall furnish the said brigade with all such fire-engines, fire-escapes, vehicles, accoutrements, tools, implements and means of intercommunication as may be necessary for the efficient discharge of their duties.

(2) A person may be appointed to be a member of the fire-brigade in addition to any other office or employment of such person.

(3) The Corporation may recognise any body of persons on such terms and conditions as it may fix as a volunteer fire-brigade to supplement the municipal fire-brigade.

### **286. Powers of Chief Officer of Fire-Brigade at a fire :-**

On the occasion of a fire the Chief or other officer in charge of the fire-brigade may, subject to such orders as the Commissioner may from time to time issue in this behalf, take the command of all municipal officers and servants present and of any other persons who voluntarily place their services at his disposal ; and may on such occasions exercise all or any of the powers specified in the rules.

**287. Police and municipal officers and servants to aid the fire-brigade :-**

(1) It shall be the duty of all police officers and of all municipal officers and servants to aid the fire-brigade in the execution of their duties. (2) Any police officer or any municipal officer may close any street in or near which a fire is burning and remove any persons who interfere by their presence with the operations of the fire-brigade.

**288. Damage done by fire-brigade to be deemed damage by fire :-**

( 1 ) Any damage occasioned by the fire-brigade in the due execution of their duties, or by any police or municipal officer or servant who aids the fire-brigade, shall be deemed to be damage by fire. (2) No damages shall be payable for any act done in good faith by any person in any operations carried out in pursuance of section 286 or 287.

**289. Report of fire to be submitted :-**

A report of every fire which occurs in the City shall be submitted by the chief or other officer in charge of the fire-brigade not later than the day following the fire to the Commissioner, who shall make such further inquiry, if any, as he may deem necessary and shall furnish a weekly return of all fires which occur in the City to the Standing Committee.

CHAPTER 18

SANITARY PROVISIONS

**290. Scavenging and Cleansing. :-**

Commissioner to provide for cleansing of streets and removal of refuse. For the purpose of securing the efficient scavenging and cleansing of all streets and premises, the Commissioner shall take measures for securing.-

(a) the daily surface-cleansing of all streets in the City and removal of the sweeping therefrom;

(b) the removal of the contents of all receptacles and depots and of the accumulations at all places provided or appointed by him under the provisions of this Act for the temporary deposit of dust, ashes, refuse, rubbish, trade refuse, carcasses of dead animals and excrementitious and polluted matter.

**291. Refuse, etc. :-**

to be the property of the Corporation. All matters deposited in public receptacles, depots and places provided or appointed under section 292 and all matters collected by municipal servants or contractors in pursuance of sections 290 and 293 shall be the property of the Corporation.

**292. Provision and appointment of receptacles, depots and places for refuse, etc. :-**

The Commissioner shall provide or appoint in proper and convenient situations public receptacles, depots and places for the temporary deposit or final disposal of-

- (a) dust, ashes, refuse and rubbish ;
- (b) trade refuse
- (c) carcasses of dead animals ;
- (d) excrementitious and polluted matter ;

Provided that the said matters shall not be finally disposed of in any place or manner in which the same have not heretofore been so disposed of, without the sanction of the Corporation or in any place or manner which the <sup>1</sup> [State] Government thinks fit to disallow.

1. These words were inserted by Gujarat 19 of 1964, Section 15.

**293. Provision may be made by Commissioner for collections, etc. of excrementitious and polluted matter. :-**

When the Commissioner has given public notice, under clause (a) of sub-section (1) of section 131, of his intention to provide, in a certain portion of the city, for the collection, removal, and disposal, by municipal agency, of all excrementitious and polluted matter from privies, urinals and cesspools, it shall be lawful for the Commissioner to take measures for the daily collection, removal and disposal of such matter from all premises situated in the said portion of the City.

**294. Special sanitary arrangements at certain places. :-**

(1) The Commissioner shall make such special arrangements, whether permanent or temporary, as he considers adequate for maintaining sanitation in the vicinity of any temple, math, mosque, tomb or any place of religious worship or instructions to which large numbers of persons resort on particular occasions or in any place which is used for holding fairs or festivals.

(2) The Commissioner may require any person having control over any such place as aforesaid to pay to the Corporation such contribution towards the cost of the special measures taken under sub-section (1) as the Corporation may from time to time fix.

**295. Scavenger duties in certain cases may not be discharged by private individuals without Commissioners permission. :-**

In any portion of the City in which the Commissioner has given a public notice under clause (a) of sub-section (1) of section 131 and in any premises, wherever situate, in which there is a water-closet or privy connected with a municipal drain, it shall not be lawful, except with the written permission of the Commissioner, for any person who is not employed by or on behalf of the Commissioner to discharge any of the duties of scavengers.

**296. Power to inspect premises for sanitary purposes :-**

The Commissioner may inspect any building or other premises for the purpose of ascertaining the sanitary condition thereof.

**297. Cleansing and lime-washing of any building may be required. :-**

If it shall appear to the Commissioner necessary for sanitary reasons so to do, he may, by written notice, require the owner or occupier of any building so inspected, to cause the same or some portion thereof to be lime-washed or otherwise cleansed, either externally, or internally, or both externally and internally.

**298. Buildings or rooms in buildings unfit for human habitation. :-**

(1) If, for any reasons, it shall appear to the Commissioner that any building or any room in a building intended for or used as a dwelling is unfit for human habitation, he shall give to the owner or occupier of such building notice in writing stating such reason and signifying his intention to prohibit the further use of the building or

room, as the case may be, as a dwelling and shall by such notice call upon the owner or occupier aforesaid to state in writing any objection thereto within thirty days after the receipt of such notice, and if no objection is raised by such owner or occupier within such period as aforesaid or if any objection which is raised by such owner or occupier within such period appears to the Commissioner invalid or insufficient, he may, with the previous approval of the Standing Committee, by an order in writing, prohibit the further use of such building or room as a dwelling.

Provided that, before such approval is given, the owner or occupier aforesaid shall have the right of appearing before the Standing Committee in person or by agent and of showing cause why such approval should not be given.

(2) When any such prohibition as aforesaid has been made, the Commissioner shall cause notice of such prohibition to be affixed to, and the letters "U.H.H." to be painted on the door or some conspicuous part of, such building or room, as the case may be, and no owner or occupier of such building or room shall use or suffer the same to be used for human habitation until the Commissioner certifies in writing that the building or room, as the case may be, has been rendered fit for human habitation.

(3) The Commissioner shall in each such case give written instructions to the owner or occupier as to what modifications or alterations are required to be made for rendering such building or room fit for human habitation.

(4) The Commissioner may cause any person who uses any building or room in contravention of sub-section (2) to be removed from such building or room by any police officer.

(5) Where the Commissioner has prohibited the further use of a building or room, as the case may be, as a dwelling the owner of such building shall, so far as may be necessary to prevent nuisance, keep the building or room clean and whole-some.

(6) The provisions of sub-section (6) and (7) of section 268 shall apply on the issue by the Commissioner of a certificate that the building or room, as the case may be, has been rendered fit for habitation as if such certificate were the withdrawal of a notice issued under sub-section (1) of the said section.

**299. Power to require repair of in sanitary building. :-**

(1) If it shall appear to the Commissioner that any building intended for or used as a dwelling is in any respect unfit for human habitation and does not conform with the regulations the Commissioner may by written notice, require the owner of the building, within such reasonable time, not being less than twenty one days, as may be specified in the notice, to execute such works or carry out such alterations as would render the building fit for human habitation.

(2) In addition to serving a notice under this section on the owner of the building the Commissioner may serve a copy of the notice on any other person having an interest in the building or in the land on which such building has been erected, whether as mortgagee, lessee, or otherwise.

**300. Power to order demolition of insanitary buildings. :-**

(1) If it shall appear to the Commissioner that any building intended for or used as a dwelling is unfit for human habitation and is not capable at a reasonable expense of being rendered so fit, he shall serve upon the occupier of the building and the owner thereof, and, so far as it is reasonably practicable to ascertain such persons, upon any person having interest in such building notice of the time (being some time not less than twenty-one days after the service of the notice) and place at which the condition of the building and any offer with respect to the carrying out of works, or the future use of the buildings, which he may wish to submit, will be considered by the Standing Committee, and every person upon whom such a notice is served shall be entitled to be heard either in person or by agent when the matter is so taken into consideration.

(2) A person upon whom notice is served under sub-section (1) shall, if he, intends to submit an offer with respect to the carrying out of works, within twenty-one days from the date of the service of the notice upon him, serve upon the Commissioner notice in writing of his intention to make such an offer and shall within such reasonable period as the Commissioner may allow, submit to him a list of the works which he offers to carry out.

(3) The Commissioner may with the previous approval of the Standing Committee, accept from any owner or any other person interested an undertaking in writing either that he will within a specified period carry out such works as will in the opinion of the Commissioner render the building fit for human habitation, or that

it shall not be used for human habitation until the Commissioner, on being satisfied that it has been, rendered fit for that purpose and with the previous approval of the Standing Committee cancels the undertaking.

(4) If no such undertaking as is mentioned in sub-section (3) is accepted by the Commissioner, or if, in a case where the Commissioner has accepted such an undertaking, any work to which the undertaking relates is not carried out within the specified period, or the building is at any time used in contravention of the terms of the undertaking, <sup>1</sup> [the Commissioner shall,] with the previous approval of the Standing Committee, make a demolition order requiring that the building shall be vacated within a period to be specified in the order not being less than twenty-eight days from the date on which the order becomes operative, and that it shall be demolished within six weeks after the expiration of that period, or if the building is not vacated before the expiration of that period, within six weeks after the date on which it is vacated, or in either case within such longer period as in the circumstances the Commissioner deems it reasonable to specify, and shall serve a copy of the order upon every person upon whom the Commissioner would be required by sub-section (1) to serve a notice issued by him under that sub-section.

(5) In determining for the purpose of this section whether a building can be rendered fit for human habitation at a reasonable expense, regard shall be had to the estimated cost of the works necessary to render it so fit and the value which it is estimated that the building will have when the works are completed.

1. These words were inserted by Gujarat 19 of 1964, Section 15.

**301. Procedure where demolition order made. :-**

(1) When a demolition order under section 300 has become operative, the owner [or owners] of the building to which it applies shall demolish the building within the time limited in that behalf by the order; and, if the building is not demolished within that time, the Commissioner shall [cause the building to be vacated if necessary in the manner provided in section 388A, and shall] take measures to demolish the building and sell the materials thereof.

(2) Any expenses incurred by the Commissioner under sub-section (1), after giving credit for the amount realised by sale of the materials, shall be payable by the owner of the building, and any

surplus in the hands of the Commissioner after payment of such expenses shall be paid by the Commissioner to the owner of the building, or if there are more than one owner, [shall be paid in accordance with the agreement between them. In default of agreement between such owners the Commissioner shall deposit the surplus amount in the Small Causes Court and the Chief Judge of said Court shall decide the proportion in which such amount should be paid to such owners. The decision of the Chief Judge shall be final.] [ \*\*\*\*\* ]

**302. Building rendered fit not to be deemed unfit for ten years if not conforming to regulations made sub-sequently.**

:-

Where in pursuance of a notice under sub-section (1) of section 399 any, building has been rendered fit for human habitation by the execution of works, and alterations to the satisfaction of the Commissioner, such building during a period of ten years from the date of completion of such works, and alterations shall not be deemed to be unfit for human habitation by reason only of not conforming with any regulation made subsequently to such date affecting the structure of such building.

**303. Power to order demolition of obstructive building. :-**

(1) The Commissioner may serve upon the owner of a building which appears to him to be an obstructive building notice of the time (being some time not less than twenty-one days after the service of the notice) and place at which the question of ordering the building or any part thereof to be demolished will be considered by the Standing Committee, and the owner shall be entitled to be heard either in person or by agent when the matter is so taken into consideration.

(2) If, after so taking the matter into consideration, the Standing Committee resolves that the building is an obstructive building and that the building or any part thereof ought to be demolished, the Commissioner may make a demolition order requiring that the building or that pan thereof shall be demolished, and that the building, or such pan thereof as is required to be vacated for the purposes of the demolition, shall be vacated within two months from the date on which the order becomes operative, and if he does so, shall serve a copy of the order upon the owner of the building.

(3) In this section the expression "obstructive building" means a building which, although not in itself unfit for human habitation, is so situated that by reason of its proximity to or contact with any other building it-

(a) stops or impedes ventilation or otherwise makes or conduces to make such other buildings to be a condition unfit for human habitation or dangerous or injurious to health ; or

(b) prevents proper measures from being carried into effect for remedying any nuisance injurious to health or other evils complained of in respect of such other buildings.

**304. Effect of order for demolition of obstructive building. :-**

(1) If, before the expiration of the period within which a building or part thereof in respect of which an order is made under section 303 is thereby required to be vacated, any owner or any person known to have an interest in such building or the site of the building makes to the Commissioner an offer for the sale of the building site or any interest therein to the Corporation at a price equal to the compensation to be assessed as provided in sub-section (6), the Commissioner shall upon obtaining the requisite sanction under section 77 accept the offer and shall, as soon as possible after obtaining possession, carry out the demolition.

(2) Upon payment of the price mentioned in sub-section (1) the said building and the site thereof to the extent of the interest acquired shall vest in the Corporation.

(3) If no such offer as is mentioned in sub-section (1) is made before the expiration of the said period, the owner of the building shall carry out the demolition provided for by the order before the expiration of six weeks from the last day of that period, or, if the building, or such part thereof as is required to be vacated, is not vacated until after that day, before the expiration of six weeks from the day on which it is vacated, or, in either case, before the expiration of such longer period as in the circumstances the Commissioner deems reasonable, and if the demolition is not so carried out the Commissioner shall <sup>1</sup> [cause the building or part thereof to be vacated, if necessary, in the manner provided in section 388A and] take measures to carry out the demolition and sell the materials rendered available thereby.

(4) When any obstructive building or any part thereof is demolished

either by the owner or by the Commissioner as provided for in sub-section (3), the Commissioner may at once take possession on behalf of the Corporation of the land occupied by and appurtenant to the said building or part thereof, and shall pay compensation as provided in sub-section (6).

(5) The provisions of sub-section (2) and (3) of section 301 shall apply in relation to any expenses incurred by the Commissioner under sub-section (3) and to any surplus remaining in the hands of the Commissioner as they apply in relation to any expenses or surplus in a case where a building is demolished in pursuance of a demolition order made under section 300.

(6) The compensation payable by the Commissioner for the building and the site thereof upon any sale effected under sub-section (1) and the compensation payable by the Commissioner under sub-section (4) shall be the market value of the land and the building demolished, at the date of the demolition order made under sub-section (2) of section 303.

1. These words were inserted by Gujarat 19 of 1964, Section 15.

**305. Compensation for acquiring obstructive building recoverable in certain cases as improvement expenses :-**

(1) When a demolition order in respect of an obstructive building or any part thereof has been made under section 303, the Commissioner may specify and declare to the Standing Committee the other building for the benefit of which the obstructive building or part thereof is intended to be demolished and shall serve a notice to that effect upon the owner of each of such other building.

(2) If in the opinion of the Commissioner the demolition of the obstructive building or part thereof adds to the value of the premises for the benefit of which the obstructive building has been demolished, the Commissioner shall determine the amount of increase in value and shall with the approval of the Standing Committee apportion so much of the compensation to be made for the acquisition of the whole or part of the obstructive building including the site thereof as may be equal to the increase in value of the said premises amongst them.

(3) For the purpose of sub-section (2) the Commissioner shall have the like powers as are conferred on him by or under this Act for the purpose of determining the rateable value of a building or land and

every person required to make or deliver a statement under this sub-section shall be deemed to be legally bound to do so within the meaning of Section 175 of the Indian Penal Code, 1860 [XLV of 1860]

(4) The Commissioner may declare the sum apportioned to each of the premises in respect of its increase in value to be improvement expenses incurred for the benefit of such premises and the same shall thereupon be a charge upon such premises and shall be recoverable in the same manner as expenses declared to be improvement expenses under section 442.

(5) An appeal shall lie within a period of one month to the Judge against an order of the Commissioner under sub-section (4).

**306. Appeal against demolition orders. :-**

Any person aggrieved by a demolition order made under section 300 or section 303 may within twenty-one days after the date of the service of a copy of the order appeal to the Judge, and no proceedings shall be taken by the Commissioner to enforce any order in relation to which an appeal is brought before the appeal is finally determined :

Provided that no appeal shall lie at the instance of a person who is in occupation of the premises to which the order relates under a lease or agreement of which the unexpired term does not exceed three years.

**306A. Prohibition of back-to-back buildings. :-**

<sup>1</sup> Notwithstanding anything contained in this Act, it shall not be lawful to erect any back-to-back buildings intended to be used as dwellings and any such building shall, for the purposes of this Act, be deemed to be unfit for human habitation : Provided that nothing in this section shall prevent the erection or use of a building containing several tenements in which tenements are placed back-to-back if in the opinion of the Commissioner the several tenements are so constructed and arranged as to secure effective ventilation of all habitable rooms in every tenement.]

1. Section 306A was inserted by Gujarat 19 of 1964, Section 16.

**307. Overcrowded dwellings. :-**

(1) Where it appeal to the Commissioner, whether from any certificate furnished under the rules or otherwise, that any building or any room therein used for human habitation is overcrowded, he

may apply to <sup>1</sup> [the District Magistrate] to prevent such overcrowding, and the said Magistrate, after such inquiry as he thinks fit to make, may prescribe the maximum number of persons to be accommodated in each room and may, by written order, require the owner of the building, within a reasonable time not exceeding ten days to be prescribed in the said order, to abate the overcrowding thereof, by reducing the number of lodgers, tenants, or other inmates of the said building or room or rooms, in accordance with the maximum so prescribed and to the satisfaction of the Commissioner or may pass such other order-as he may deem just and proper.

Explanation.-The landlord of the lodgers, tenants or other actual inmates of a building shall, for the purposes of this sub-section, be deemed to be the owner of the said building.

(2) Notwithstanding any provision to the contrary in any other law or in any contract, every tenant, lodger or other inmate of the said building or room shall vacate on being required by the owner so to do in pursuance of any order under sub- section (1).

(3) The [State] Government may from time to time after consulting the Corporation direct by order in the Official Gazette what shall constitute overcrowding for the purposes of this section, and may in such order specify the minimum space to be allowed for each person according to age in premises used exclusively as a dwelling and in premises used as a dwelling as well as for some other purpose.

1. These words were substituted for the words "a Magistrate of the First Class" by Bombay 8 of 1954, Section 2, Schedule Part III.

### **308. Insanitary huts and sheds. :-**

If the Commissioner is of opinion that any hut or shed used either as a dwelling or as a stable or for any other purpose, is likely, by reason of its being built without a plinth or upon a plinth of insufficient height or without proper means of drainage or ventilation, or on account of the impracticability of scavenging or owing to the manner in which it and other huts or sheds are crowded together, to cause risk of disease to the inmates thereof or to the inhabitants of the neighbourhood, or is for any reason likely to endanger the public health or safety, he may, by written notice, which shall be affixed to some conspicuous part of such hut or shed, require the owner or occupier thereof, or the owner of the

land on which such hut or shed stands, to remove or alter such hut or shed or to take such order for the improvement thereof as the Commissioner shall deem necessary.

**309. Removal of carcasses of dead animals. :-**

(1) It shall be the duty of the Commissioner to provide for the removal of the carcasses of all animals dying within the City.

(2) The occupier of any premises in or upon which any animal shall die or in or upon which the carcasse of any animal shall be found, and the person having the charge of any animal which dies in the street or in any open place, shall, within three hours after the death of such animal or, if the death occurs at night, within three hours after sunrise, report the death of such animal at the nearest office of the municipal health department.

(3) For every carcasse removed by municipal agency, a fee for the removal of such amount as shall be fixed by the Commissioner shall be paid by the owner of the animal or, if the owner is not known, by the occupier of the premises in or upon which, or by the person in whose charge, the said animal died. Regulation of Public Bathing, Washing, etc.

**310. Places for public bathing, etc. to be fixed by commissioner, and regulation of use of such places. :-**

(1) The Commissioner may from time to time -

(a) set apart portions of a river or other suitable places vesting in the Corporation for use by the public for bathing or for washing animals, or for washing or for drying clothes;

(b) specify the times at which and the sex of person by whom, such place may be used;

(c) prohibit, by public notice, the use by the public for any of the said purposes of any place not so set apart;

(d) prohibit, by public notice, the use by the public of any portion of a river or place not vesting in the Corporation for any of the said purposes ;

(e) regulate, by public notice, the use by the public of any portion of a river or other place vesting in the Corporation and set apart by him for any of the said purpose; and

(f) regulate by public notice, the use by the public of any portion of a river or other place not vesting in the Corporation for any of the said purposes, and of any work, and of the water in any work, assigned and set apart under this Act for any particular purpose.

(2) The Commissioner may charge such fees as the Standing Committee may fix for the use of any place set apart under clause (a) of sub-section (1) by any specified class or classes of persons or by the public generally.

**311. Prohibition of bathing, etc. contrary to order. :-**

Except as permitted by any order made under any provision of this Act, no person shall-

(a) bathe in or near any lake, tank, reservoir, fountain, cistern, duct, stand- pipe, stream or well or on any part of a river or other place vesting in the Corporation ;

(b) wash or cause to be washed in or near any such place or work, any animal, clothes or other article;

(c) throw, put or cause to enter into the water in any such place or work, any animal or other thing;

(d) cause or suffer to drain into or upon any such place or work, or to be brought thereinto or thereupon, anything, or do anything, whereby the water shall be in any degree fouled or corrupted;

(e) dry clothes in or upon any such place; and no person shall-

(f) in contravention of any prohibition made by the Commissioner under section 310 use any portion of a river or any place not vesting in the Corporation for any purpose mentioned in the said section;

(g) contravene the provisions of any notice given by the Commissioner under section 310 for the use of any such portion of a river or place for any such purpose.

**312. Prohibition of corruption of water by steeping therein animal or other matter, etc. :-**

No person shall-

(a) steep in any tank, reservoir, stream, well or ditch, any animal, vegetable or mineral matter likely to render the water thereof offensive or dangerous to health;

(b) whilst suffering from any contagious, infectious or loathsome disease, bathe on, in or near any bathing-platform, lake, tank, reservoir, fountain, deistern, duct, standpipe, steam or well.

**313. Factory, etc. not to be newly established without permission of Commissioner. :-**

No person shall-

(i) Newly establish in any premises,

(ii) remove from one place to another,

(iii) re-open or renew after discontinuance for a period of not less than three years, or

(iv) enlarge or extend the area or dimensions of,

any factory, workshop or work place in which it is intended to employ steam, water, electrical or other mechanical power or any bakery except with the previous written permission of the Commissioner nor shall any person work or allow to be worked any such factory, workshop, workplace or bakery without such permission:

Provided that for the purpose of clause (iii) no such permission shall be required if during the period of discontinuance the machinery has not been removed from the place where the factory, workshop or bakery was originally established.

**314. Prohibition of corruption of water by chemicals, etc. :-**

No person engaged in any trade or manufacture specified in section 376 or the rules shall,-

(a) willfully cause or suffer to be brought or to flow into any lake, tank reservoir, cistern, well, duct or other place for water belonging to the Corporation or into any drain or pipe communicating therewith, any washing or other substance produced in the course of any such trade or manufacture as aforesaid;

(b) willfully do any act connected with any such trade or manufacture as aforesaid, whereby the water in any such lake, tank, reservoir, cistern, well, duct or other place for water is fouled or corrupted.

**315. Power of Commissioner, Medical officer of Health, etc. in case of dangerous diseases. :-**

In the event of any person being found to have been attacked with a dangerous disease or any person being found suffering with such

disease in any place" or vehicle it shall be lawful for the Commissioner or the Medical Officer of Health or any other municipal officer to take such measures as are prescribed by rules.

**316. Any place may at any time be inspected for purpose of preventing spread of dangerous disease. :-**

The Commissioner may at any time, by day or by night, without notice or after giving such notice of his intention as shall, in the circumstances, appear to him to be reasonable, inspect any place in which any dangerous disease is reputed or suspected to exist, and take such measures as he shall think fit to prevent the spread of the said disease beyond such place.

**317. Destruction of huts and sheds when necessary. :-**

If the Commissioner is of opinion that the destruction of any hut or shed is necessary to prevent the spread of any dangerous disease, he may, after giving to the owner or occupier of such hut or shed such previous notice of his intention as may in the circumstances of the case appear to him reasonable, take measures for having such hut or shed and all the materials thereof destroyed.

**318. Closure of lodging and eating houses. :-**

The Commissioner may on being satisfied that it is in the public interest so to do, by written order direct that any lodging house or any place where articles of food and drink are sold or prepared, stored or exposed for sale, being a lodging house or place in which a case of a dangerous disease exists or has recently occurred, shall be closed for such period as may be specified in the order :

Provided that such lodging house or place may be declared to be open if the Medical Officer of Health certifies that it has been disinfected or is free from infection. Special Sanitary Measures.

**319. Commissioner may take special measure on outbreak of any dangerous disease. :-**

(1) In the event of the City being at any time visited or threatened with an outbreak of any dangerous disease, or in the event of any infectious disease breaking out or being likely to be introduced into the City amongst cattle including under this expression sheep and goats, the Commissioner, if he thinks the ordinary provisions of this Act and the rules or of any other law at the time in force are insufficient for the purpose, may, with the sanction of the <sup>1</sup> [State] Government-

(a) take such special measures, and

(b) by public notice prescribe such temporary orders to be observed by the public or by any person or class of persons,

(2) The Commissioner shall forthwith report to the Corporation any measures taken and any orders made by him under sub-section (1). Disposal of the Dead

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

**320. Places for disposal of the dead to be registered. :-**

(1) Every owner or person having the control of any place already used for burying, burning or otherwise disposing of the dead, shall apply to the Commissioner within a period of six months from the appointed day to register the same and the Commissioner shall cause the same to be registered.

(2) Such application shall be accompanied by a plan, bearing the signature of a licensed surveyor in token of its having been prepared by or under the supervision of such surveyor, of the place to be registered, showing the locality, boundaries and extent of the same. The application shall also contain information as regards the name of the owner or person or community interested therein, the system of management and such further particulars as the Commissioner may require.

(3) The Commissioner may, on receipt of such application and plan, register the said place in a register which shall be kept for this purpose.

(4) The Commissioner shall cause to be deposited in the municipal office at the time of registration the plan referred in sub-section (2).

(5) If the Commissioner is not satisfied with the plan or statement or particulars, he may refuse or postpone registration, until his objections have been removed.

(6) Every place vesting in the Corporation used for burying, burning or otherwise disposing of the dead shall be registered in the register kept under sub-section (3), and a plan showing the locality, extent and boundaries thereof and bearing the signature of the City Engineer shall be deposited in the municipal office.

**321. Provision of new places for disposal of the dead. :-**

(1) If the existing places for the disposal of the dead shall at any time appear to be insufficient, or if any place is closed under the provisions of section 323, the Commissioner shall, with the sanction of the Corporation, provide other fit and convenient places for the said purpose, either within or without the City, and shall cause the same to be registered in the register kept under section 320, and shall deposit in the municipal office, at the time of registration of each place so provided, a plan thereof showing the locality, extent and boundaries of the same and bearing the signature of the City Engineer.

(2) All the provisions of this Act and the rules and by-laws shall apply to any place provided under sub-section (1) without the City and vesting in the Corporation as if such place were situate within the City.

**322. New places for disposal of the dead not to be opened without permission of Commissioner. :-**

No place which has never previously been lawfully used as a place for the disposal of the dead and registered as such shall be opened by any person for the said purpose without the written permission of the Commissioner who, with the approval of the Corporation, may grant or withhold such permission.

**323. [State Government may direct closing of any place for disposal of dead. :-**

**1**

(1) If, from information furnished by competent persons and after personal inspection, the Commissioner shall at any time be of opinion-

(a) that any place of public worship is or is likely to become injurious to health by reason of the state of the vaults or graves within the walls of or underneath the same, or in any church-yard or burial-ground adjacent thereto, or

(b) that any other place used for the disposal of the dead is in such a state as to be or to be likely to become injurious to health or is otherwise no longer suitable for such use, he may submit his said opinion, with the reasons therefor, to the Corporation, which shall forward the same, with its opinion, for the consideration of the <sup>1</sup>[State] Government.

(2) Upon receipt of such opinion, the <sup>1</sup>[State] Government, after such further inquiry, if any, as it shall deem fit to cause to be made, may, by notification published in the Official Gazette and in the local newspapers, direct that such place of public worship or other place for the disposal of the dead be no longer used for the disposal of the dead. Every order so made shall be noted in the register kept under section 320.

(3) On the expiration of two months from the date of any such order of the <sup>1</sup> [State] Government, the place to which the same relates shall be closed for the disposal of the dead.

(4) A copy of the said notification, with a translation thereof in such language or languages as the Corporation may from time to time specify, shall be affixed on a conspicuous spot on or near the place to which the same relates, unless such place be a place of public worship.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

**324. [State Government may sanction re-opening of places which have been closed for disposal of dead. :-**

(1) If, after personal inspection, the Commissioner shall at any time be of opinion that any place formerly used for the disposal of the dead, which has been closed under the provisions of section 323 or under any other law or authority, has by lapse of time become no longer injurious to health, and may without inconvenience or risk of danger be again used for the said purpose, he may submit his said opinion, with the reasons therefor, to the Corporation, which shall forward the same with its opinion for the consideration of the <sup>1</sup>[State] Government.

(2) upon receipt of such opinion the <sup>1</sup> [State] Government after such further inquiry, if any, as it shall deem fit to cause to be made, may, be notification published as provided in section 323, direct that such place be reopened for the disposal of the dead. Every order so made shall be noted in the register kept under section 320.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws order, 1950.

**325. Burials within places of worship and exhumations not to be made without permission of Commissioner :-**

(1) No person shall, without the written permission of the Commissioner under sub-section (2)-

(a) make any vault or grave or interment within any wall, or underneath any passage, porch, portico, plinth or verandah of any place of worship;

(b) make any interment or otherwise dispose of any corpse in any place which is closed for the disposal of the dead under section 323;

(c) build, dig, or cause to be built or dug any grave, or vault, or in any way dispose of, or suffer or permit to be disposed of, any corpse at any place which is not registered in the register kept under section 320;

(d) exhume any body, except under the provisions of section 176 of the Code of Criminal Procedure, 1898, [V of 1898] or of any other law for the time being in force, from any place for the disposal of the dead.

(2) The Commissioner may in special cases grant permission for any of the purposes aforesaid, subject to such general or special orders as the <sup>1</sup> [State] Government may from time to time make in this behalf.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws order, 1950.

**326. Acts prohibited in connection with disposal of dead. :-**

No person shall-

(a) retain a corpse on any premises, without burning, burying or otherwise lawfully disposing of the same, for so long a time after death as to create a nuisance;

(b) carry a corpse or part of a corpse along any street without having and keeping the same decently covered or without taking such precautions to prevent risk of infection or injury to the public health as the Commissioner may, by public notice, from time to time think fit to require;

(c) except when no other route is available, carry a corpse or part of a corpse along any street along which the carrying of corpses is prohibited by a public notice issued by the Commissioner in this behalf;

(d) remove a corpse or part of a corpse, which has been kept or used for purposes of dissection, otherwise than in a closed receptacle or vehicle;

(e) whilst conveying a corpse or part of a corpse, place or leave the same on or near any street without urgent necessity;

(f) bury or cause to be buried any corpse or part of a corpse in a grave or vault or otherwise in such manner as that the surface of the coffin, or, when no coffin is used, of the corpse or part of a corpse shall be at a less depth than six feet from the surface of the ground;

(g) build or dig, or cause to be built or dug, any grave or vault in any burial ground at a less distance than two feet from the margin of any other grave or vault;

(h) build or dig, or cause to be built or dug, a grave or vault in any burial ground in any line not marked out for this purpose by or under the order of the Commissioner;

(i) without the written permission of the Commissioner, re-open for the interment of a corpse or of any part of a corpse, a grave or vault already occupied;

(j) after bringing or causing to be brought to a burning-ground any corpse or part of a corpse, cause to be burnt or cause the same to be burnt within six hours from the time of the arrival thereof at such ground;

(k) when burning or causing to be burnt any corpse, or part of a corpse, permit the same or any portion thereof to remain without being completely reduced to ashes or permit any cloth or other article used for the conveyance or burning of such corpse or part of a corpse to be removed or to remain on or near the place of burning without its being completely reduced to ashes.

#### CHAPTER 19

#### MARKETS AND SLAUGHTER HOUSES

### **327. What to be deemed municipal markets and slaughter-houses. :-**

All markets and slaughter-houses which belong to or are maintained by the Corporation shall be called "municipal markets" or "municipal slaughter-houses". All other markets and slaughter-houses shall be deemed to be private.

**328. Provision of new municipal markets and slaughter-houses. :-**

(1) The Commissioner, when authorised by the Corporation in this behalf, may construct, purchase, take on lease or otherwise acquire any building or land for the purpose of establishing a municipal market or a municipal slaughter-house or stockyard or of extending or improving any existing municipal market or slaughter-house, and may from time to time build and maintain such municipal markets, slaughterhouses and stock-yards and such stalls, shops, sheds, pens and other buildings or conveniences for the use of the persons carrying on trade or business in, or frequenting, such municipal markets, slaughter-houses or stock-yards, and provide and maintain in such municipal markets such buildings, places, machines, weights, scales and measures for weighing and measuring good sold therein as he shall think fit.

(2) Municipal slaughter-houses and stock-yards may be situated within or, with the sanction of the <sup>1</sup> [State] Government, without the City.

1. Sub-sections (2), (2A) and (2B) were substituted for sub-section (2) by Gujarat 1 of 1979, Section 17 (ii).

**329. Municipal markets, slaughter-houses and stock-yards may be closed. :-**

The Commissioner may, with sanction of the Corporation, at any time, close any municipal market or slaughter-house or stock-yard or any portion thereof, and the premises occupied for any market or slaughter-house or stock-yard or any portion thereof so closed may be disposed of as the property of the Corporation.

**330. Prohibition of sale of commodities sold in municipal markets. :-**

(1) It shall be lawful for the Commissioner, with the previous sanction of the Corporation, by public notice from time to time to prohibit within a distance of fifty yards of any municipal market the sale or exposure for sale of the commodities or of any of the commodities specified in the notice ordinarily sold in the said municipal market.

(2) Any notice issued under sub-section (1) may with like sanction at any time be cancelled or modified by the Commissioner.

**331. Opening of private markets and of private slaughter-**

**houses. :-**

(1) The Corporation shall from time to time determine whether the establishment of new private markets or the establishment or maintenance of private slaughter-houses shall be permitted in the City or in any specified portion of the City.

(2) No person shall establish a private market for the sale of, or for the purpose of exposing for sale, animals intended for human food, or any article of human food or live-stock or articles of food for live-stock or shall establish or maintain a private slaughter-house except with the sanction of the Commissioner who shall be guided in giving such sanction by the decisions of the Corporation at the time in force under sub-section (1).

(3) When the establishment of a private market or a slaughter-house has been so sanctioned, the Commissioner shall cause a notice of such sanction to be affixed in such language or languages as the Corporation may from time to time specify on some conspicuous spot on or near the building or place where such market is to be held.

Explanation.-For the purpose of sub-section (2) the owner or occupier of a place in which a private market or slaughter-house is established shall be deemed to have established such market.

**332. Levy of stallages, rents and fees in municipal markets, slaughter-houses and stock-yards. :-**

The Commissioner may-

(a) charge for the occupation or use of any stall, shop, standing, shed or pen or other building in a municipal market, slaughter-house or stock-yard and for the right to expose goods for sale in a municipal market, and for weighting and measuring goods sold in any such market and for the right to slaughter animals in any municipal slaughter-house, such stallages, rents and fees as shall from time to time be fixed by him, with the approval of the Standing Committee, in this behalf ;

(b) with the approval of the Standing Committee, farm the stallages, rents and fees leviable as aforesaid or any portion thereof, for any period not exceeding one year at a time; or

(c) put up to public auction, or, with the approval of the Standing Committee, dispose of, by private sale, the privilege of occupying

or using any stall, shop, standing, shed or pen or other building in a municipal market, slaughter-house or stock-yard for such term and on such conditions as he shall think fit.

**333. Removal of live cattle, sheep, goats or swine from any municipal slaughter-house, stock-yard, market or premises.**

:-

(1) No person shall, without the written permission of the Commissioner and without the payment of such fees as may be prescribed by him, remove any live cattle, sheep, goats or swine from any municipal slaughter-house or stock-yard or from any municipal market or premises use or intended to be used for or in connection with such slaughter-house or stock-yard :

Provided that such permission shall not be required for the removal of any animal which has not been sold within such slaughter-house, stock-yard, market or premises and which has not been within such slaughter-house, stock-yard, market or premises for a period longer than that prescribed under orders made by the Commissioner in this behalf, or which has in accordance with any by-law, been rejected as unfit for slaughter at such slaughter-house, market or premises.

(2) Any fee paid for permission under sub-section (1) in respect of any animal removed to a Panjrapole shall, subject to the orders made by the Commissioner in this behalf, be refunded on the production of a certificate from the Panjrapole authorities that such animal has been received in their charge.

**334. Power to expel persons contravening rules, by-laws or standing orders.** :-

(1) The Commissioner may expel from any municipal market, slaughter-house or stock-yard any person, who or whose servant has been convicted of contravening any rule, by-law or standing order in force in such market, slaughter-house or stockyard and may prevent such person, by himself or his servants, from further carrying on any trade or business in such market, slaughter-house or stock-yard or occupying any stall, shop, standing, shed, pen or other place therein, and may determine any lease or tenure which such person may have in any such stall, shop, standing, shed, pen or place.

(2) If the owner of any private market or slaughter-house licensed

under this Act or the lessee of such market or slaughter-house or any stall therein or any agent or servant of such owner or lessee has been convicted for contravention of any rule, by-law or standing order, the Commissioner may require such owner, lessee, agent or servant 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.

(3) If it appears to the Commissioner that in any such case the owner or lessee is acting in collusion with a servant or agent convicted as aforesaid who fails to comply with a requisition under sub-section (2) the Commissioner may, if he thinks fit, cancel the licence of such owner or lessees in respect of such premises.

**335. Prohibition of import of cattle, etc, into City without permission. :-**

(1) No person shall without the written permission of the Commissioner bring into the City any cattle, sheep, goats or swine intended for human consumption, or the flesh of any such animal which has been slaughtered at any slaughter-house or place not maintained or licensed under this Act.

(2) Any police officer may arrest without warrant any person bringing into the City any animal or flesh in contravention of sub-section (1).

(3) Any animal brought into the City in contravention of this section may be seized by the Commissioner or by any municipal officer or servant or by any police officer or in or upon railway premises by any railway servant and any animal or flesh so seized may be sold or otherwise disposed of as the Commissioner shall direct and the proceeds, if any, shall belong to the Corporation.

(4) Nothing in this section shall be deemed to apply to cured or preserved meat.

**336. Commissioner may enter any place where slaughter of animals or sale of flesh contrary to the provisions of this Act is unsuspected. :-**

(1) If the Commissioner shall have reason to believe that any animal intended for human consumption has been or is being or is

likely to be slaughtered, or that the flesh of any such animal is being sold or exposed for sale, in any place or manner not duly authorised under the provisions of this Act, the Commissioner may at any time, by day or by night, without notice, enter such place for the purpose of satisfying himself as to whether any provision of this Act or of any by-law is being contravened thereat and may seize any such animal or the carcass of such animal or such flesh found therein.

(2) The Commissioner may remove and sell by auction or otherwise dispose of any animal or the carcass of any animal or any flesh seized under sub-section (1).

(3) If within one month of such seizure the owner of the animal, carcass or flesh fails to appear and prove his claim to the satisfaction of the Commissioner or if such owner is convicted of an offence under this Act in respect of such animal or carcass or flesh the proceeds of any sale under sub-section (1) shall vest in the Corporation.

(4) No claim shall lie against any person for compensation for any damage necessarily caused by any entry made under sub-section (1) or by the use of any force necessary for effecting such entry.

**337. Commissioner to provide for inspection of articles exposed for sale for human food. :-**

It shall be the duty of the Commissioner to make provision for the constant and vigilant inspection of animals, carcasses, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, dairy produce and any other article exposed or hawked about for sale or deposited in or brought to any place for the purpose of sale or of preparation for sale and intended for human food or for medicine, the proof that the same was not exposed or hawked about or deposited or brought for any such purpose or was not intended for human food or for medicine resting with the party charged.

**338. Unwholesome articles, etc. to be seized. :-**

(1) The Commissioner may at all reasonable times inspect and examine any such animal or article as aforesaid and any utensil or vessel used for preparing manufacturing or containing the same.

(2) If any such animal or article appears to the Commissioner to be diseased or unsound or unwholesome or unfit for human consumption, as the case may be, or is not what it is represented

to be, or if any such utensil or vessel is of such kind or in such state as to render any article prepared, manufactured or contained therein unwholesome or unfit for human consumption, he may seize and carry away such animal, article, utensil or vessel, in order that the same may be dealt with as hereinafter provided and he may arrest and take to the nearest police station any person in charge of any such animal or article.

**339. Disposal of perishable articles seized under section 328. :-**

If any meat, fish, vegetable or other article of a perishable nature be seized under section 338 and the same, is, in the opinion of the Commissioner, diseased, unsound, unwholesome or unfit for human consumption, as the case may be, the Commissioner shall cause the same to be forthwith destroyed in such manner as to prevent its being again exposed for sale or used for human consumption and the expenses thereof shall be paid by the person in whose possession such article was at the time of its seizure.

**340. Saving of Bombay Animal Preservation Act, 1948. :-**

Nothing in this Chapter shall be deemed to affect in any manner the operation of the provisions of the Bombay Animal Preservation Act, 1948. [Bombay LXX-XI of 1948.]

CHAPTER 20

THE TRANSPORT UNDERTAKING

**341. Provisions of this Chapter when applicable. :-**

The provisions of this Chapter shall apply in the event of the Corporation acquiring or establishing a Transport Undertaking.

**342. Management of undertaking by Transport Manager. :-**

(1) Subject to the superintendence of the Transport Committee and of the Corporation, the Transport Manager shall manage the Transport Undertaking and perform all acts necessary for the economical and efficient maintenance, operation, administration and development of the Undertaking.

(2) Without prejudice to the generality of the foregoing provision, the Transport Manager may, with the sanction of the Transport Committee and subject to the restrictions or conditions imposed by this Act, either within or without the City -

(a) construct or acquire transport undertaking, including mechanically propelled transport facilities for the conveyance of the

public, subject to the provisions of the Motor Vehicles Act, 1939, or of any other enactment for the time being in force and the conditions of any licence, permit or sanction in favour of the Corporation granted thereunder;

(b) construct buildings and works of every description necessary or desirable for the operation or development of the Transport Undertaking ;

(c) purchase or take on lease or hire or otherwise acquire any moveable or immovable property or rights ;

(d) exercise any of the powers of a licensee holding a stage permit under the Motor Vehicles Act, 1939 (IV of 1939), which the Corporation is for the time being authorised to exercise and any other powers exercisable by the Corporation under the said Act in relation to the provision of mechanically propelled transport facilities for the conveyance of the public.

### **343. Levy of fares and charges for transport services. :-**

(1) Fares and charges shall be leviable for the conveyance of passengers or for the carriage of goods by any means of transport provided by the Transport Undertaking at such rates as may from time to time be fixed, subject to the provisions of any enactment for the time being in force and any license granted to the Corporation thereunder, by the Transport Committee with the approval of the Corporation.

<sup>1</sup>[(2) If any person travelling or having travelled in any vehicle of the Transport Undertaking avoids or attempts to avoid payment of his fare or any person having paid his fare for a certain distance proceeds in any such vehicle beyond such distance and does not pay the additional fare for the additional distance, or attempts to avoid payment thereof or any person refuses or neglects on arrival at the point up to which he has paid his fare to quit such vehicle, he shall be liable to pay, on demand by any officer or other servant of the Transport Undertaking duly authorised in this behalf by the Transport Manager, in addition to the ordinary single fare for the distance which he has travelled or where there is any doubt as to the stop from which he has travelled or where there is any doubt as to the stop from which he started, the ordinary single fare from the stop from which the vehicle originally started or in addition to any difference between any fare paid by him and the fare payable for

the additional distance such excess charge not exceeding ten rupees as the Transport Manager, with the approval of the Transport Committee, may determine in this behalf.

(2A) If a passenger liable to pay the excess charge determined under sub-section (2) fails or refuses to pay the same on demand being made therefor, he shall be liable without prejudice to his liability to pay the excess charge as so determined, to be punished for such offence with fine which may extend to fifty rupees.

(2B) The Transport Manager or any officer or other servant duly authorised under sub-section (2) may apply to the Magistrate having jurisdiction, for the recovery of the excess charge as determined under sub-section (2) as if it were a fine and the Magistrate, if satisfied that the same is payable, shall order it to be so recovered and on recovery to be paid to the Transport Manager.]

(3) It shall be lawful for every municipal servant appointed under the provisions of this Chapter and all persons called in by him for his assistance, to arrest and take to the nearest police station any person who shall be discovered either in or after committing or attempting to commit an offence <sup>2</sup> [under sub-section (2A)] and whose name and address is not known and is refused by him, and the police officer in charge of the said police station shall adopt such legal measures as may be necessary to cause the said person to be taken before a Magistrate with the least possible delay.

Acquisition and Disposal of Property

1. Sub-sections (2), (2A) and (2B) were substituted for sub-section (2) by Gujarat 1 of 1979, Section 17 (ii).

2. These words, brackets, figure and letter were substituted for the words, brackets and figure "under sub-section (2)", *ibid.*, Section 17 (ii).

#### **344. Acquisition of immovable property. :-**

(1) Whenever it is necessary or expedient for the purposes of the Transport Undertaking that the Transport Manager shall acquire any immovable property, such property may be acquired by the Transport Manager on behalf of the Corporation by agreement on such terms and at such rates or prices or at rates or prices not exceeding such maxima as shall be approved by the Transport Committee either generally for any class of cases or specially in any particular case.

(2) Whenever the Transport Manager is unable to acquire any

immovable property under sub-section (1) by agreement, the <sup>1</sup> [State] Government may, in its discretion, upon the application of the Transport Manager made with the approval of the Transport Committee and, subject to the other provisions of this Act, order proceedings to be taken for acquiring the same on behalf of the Corporation as if such property were land needed for a public purpose within the meaning of the Land Acquisition Act, 1894. I of 1894.

(3) The amount of compensation awarded and all other charges incurred in the acquisition of any such property shall, subject to the other provisions of this Act, be forthwith paid by the Transport Manager and thereupon the said property shall vest in the Corporation for the purposes of the Transport Undertaking.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

**345. Provisions governing disposal of municipal property. :-**

With respect to the disposal of property vesting in the Corporation exclusively for the purposes of the Transport Undertaking the following provisions shall have effect, namely-

(a) the Transport Manager may dispose of by sale, hire or otherwise, any moveable property belonging to the Corporation not exceeding in value, in each instance, two thousand rupees or such higher amount as the Corporation may from time to time with the approval of the <sup>1</sup> [State] Government determine ;

(b) the Transport Manager may grant a lease of any immovable property belonging to the Corporation for any period not exceeding twelve months at a time :

Provided that every lease granted by the Transport Manager (other than a contract for a monthly tenancy) the annual rent whereof at a rack rent exceeds three thousand rupees shall be reported by him, within fifteen days after the same has been granted, to the Transport Committee;

(c) with the sanction of the Transport Committee, the Transport Manager may dispose of, by sale or otherwise, any moveable property belonging to the Corporation of which the value does not exceed ten thousand rupees, and may grant a lease of any immovable property belonging to the Corporation for any period exceeding one year, or sell or grant a lease in perpetuity of any

immovable property belonging to the Corporation the value whereof does not exceed fifty thousand rupees or the annual rental whereof does not exceed three thousand rupees;

(d) with the sanction of the Corporation, the Transport Manager may lease, sell or otherwise convey any property, moveable or immovable, belonging to the Corporation.

1. Clause (a) was substituted by Gujarat 1 of 1979, Section 18 (I).

**346. [Statement of permanent officers and servants to be prepared by Transport Manager and sanctioned by Transport Committee. :-**

(1) The Transport Manager shall, from time to time, prepare and bring before the Transport Committee a statement setting forth the designations and grades of the officers and servants, who should, in his opinion, be permanently maintained for the purpose of the Transport Undertaking, and the amount and nature of the salaries, fees and allowances which he proposes should be paid to each.

(2) The Transport Committee shall sanction such statement either as it stands or subject to such modifications as it deems expedient :

Provided that -

<sup>1</sup>[(a) no new permanent office of which the minimum monthly salary, exclusive of allowances, exceeds such amount as may be fixed by the State Government by a general or special order from time to time in the case of each Corporation shall be created without the sanction of the Corporation and no new office of which the minimum or the maximum monthly salary exclusive of allowances exceeds such amount as may be fixed in this behalf by the State Government by a general or special order from time to time in the case of each Corporation shall be created except with the previous sanction of the State Government ; ]

(b) the Corporation may be resolution direct that the scales of pay of any specified classes or grades of officers or servants shall not be varied without the approval of the Corporation and, so long as such resolution is in force, the Transport Committee shall not authorise any variation in such scales without such approval.

<sup>2</sup> [Explanation.-An increase in the salary of any permanent office shall be deemed, for the purpose of sub-section (2) to be creation

of new office, if by reason of such increase, the minimum or, as the case may be, the maximum monthly salary, exclusive of allowances, exceeds the minimum, or, as the case may be, the maximum amount fixed by the State Government for the purpose of the said sub-section (2).]

1. Clause (a) was substituted by Gujarat 1 of 1979, Section 18 (I).
2. This Explanation was substituted, *ibid.*, Section 18 (2).

**347. Restriction on appointment of permanent officers and servants. :-**

No permanent officer or servant shall be entertained in any department of the Transport Undertaking unless his office and emoluments are included in the statement at the time being in force prepared and sanctioned under section 346.

**348. Creation of temporary posts. :-**

(1) The Transport Manager may create temporary posts carrying a monthly salary, exclusive of allowances, not <sup>1</sup>[exceeding such amount as may be fixed by the State Government in this behalf, by a general or special order, from time to time in the case of each Corporation] for a period of not more than six months and no such posts shall be continued beyond such period without the previous sanction of the Transport Committee.

(2) The Transport Committee may create temporary posts carrying a monthly salary, exclusive of allowances, <sup>2</sup> [exceeding such amount as may be fixed by the State Government in this behalf, by a general or special order, from time to time in the case of each Corporation] for a period of not more than six months. The Committee shall forthwith report to the Corporation the creation of every such post and no such post shall be continued beyond a period of six months without the previous sanction of the Corporation.

1. These words were substituted for the words "exceeding two hundred rupees", *ibid.*, Section 19.
2. These words were substituted for the words "exceeding two hundred rupees" by Gujarat of 1979, Section 19.

**349. Power of appointment in whom to vest. :-**

Subject to the provisions of sections 347 and 348, the power of appointing municipal officers and servants for the purposes of the Transport Undertaking shall vest in the Transport Manager if the minimum monthly salary, exclusive of allowances, <sup>1</sup> [does not

exceed such amount as may be fixed by the State Government in this behalf, by a general or special order, from time to time in the ease of each Corporation] and in the Transport Committee in all other cases.

1. These words were substituted for the words "is less than two hundred rupees", *ibid.*, Section 20.

**350. Leave of absence. :-**

(1) Subject to the provisions of the regulations, the Transport Manager may grant leave of absence to any officer or servant the power to appoint whom vests in him and for a period not exceeding three months to any other officer or servant appointed under the provisions of this Chapter.

(2) The Transport Committee may grant leave of absence for a period exceeding three months to any officer or servant appointed by the Committee.

**351. Constitution of Transport Fund. :-**

Except as provided in section 91 all moneys received by or on behalf of the Corporation in respect of the operations of the Transport Undertaking shall be credited to a fund which shall be called "the City of.....Transport Fund" and which shall, subject to the provisions herein contained, be held by the Corporation in trust for the purposes of the said undertaking.

**352. Transport Manager to receive payments on account of Transport Fund and to lodge them in bank. :-**

All moneys payable to the credit of the Transport Fund shall be received by the Transport Manager and shall be forthwith paid into the Imperial Bank of India <sup>1</sup>[or any other scheduled bank] <sup>2</sup>[or an approved co-operative bank] to the credit of an account which shall be styled "the account of the City of.....Transport Fund":

Provided that the Transport Manager may, subject to any general or special directions issued by the Transport Committee, retain such balances in cash as may be necessary for the operations of the Transport Undertaking : <sup>3</sup> [Provided further that the amount of money to be paid into an approved cooperative bank shall not exceed such amount as may be specified by the State Government generally or specially in respect of any approved co-operative bank.]

1. These words were substituted for the words and figures "or such

other bank or banks as the Corporation may, with due sanction, have selected under section 83" by Bombay 10 of 1953, Section 5.

2. These words were inserted by Bombay 19 of 1954, Section 6 (1).

3. This proviso was inserted, *ibid.*, Section 6 (2).

**353. How Transport Fund shall be drawn against. :-**

(1) No payment shall be made by the bank aforesaid out of the Transport Fund except on a cheque signed by two persons in the manner specified below, namely :-

(a) by the Commissioner or by the Transport Manager or in the absence of both by a municipal officer whose name appears in a list of officers authorised to sign cheques approved by the Transport Committee ;

(b) by a municipal officer whose name appears in the said list, other than an officer who may have signed the cheque under clause (a).

(2) Payment of any sum due by the Corporation out of the Transport Fund in excess of one hundred rupees or such higher amount as the Transport Committee from time to time fixes generally or for any specified class of payments shall be made by means of a cheque signed as aforesaid and not in any other way.

(3) Payments not covered by sub-section (2) may be made by the Transport Manager in cash, and cheques for sums not in excess of two thousand rupees each, signed as aforesaid, may be drawn from time to time to cover such payments.

**354. Deposit of portion of Transport Fund may be made with bank or agency out of City when convenient. :-**

Notwithstanding anything contained in sections 352 and 353, the Transport Manager may, with the previous approval of the Transport Committee, from time to time, remit to and deposit with a bank or other agency at any place beyond the city any portion of the Transport Fund, and any moneys payable to the credit of the Transport Fund or chargeable there-against, which can, in the opinion of the Transport Manager, be most conveniently paid into or out of the account of the Fund at any such bank or agency may be so paid.

**355. Only sums covered by budget grant to be expended from Transport Fund. :-**

(1) Except as hereinafter provided, no payment of any sum shall be made by the Transport Manager out of the Transport Fund, unless the expenditure of the same is covered by a current budget-grant, and sufficient balance of such budget-grant is still available, notwithstanding any reduction or transfer thereof which may have been made under the rules.

(2) The following items shall be excepted from the prohibition in sub-section (1) namely :-

(a) sums of which the expenditure has been sanctioned by the Transport Committee under section 102 ;

(b) repayments of moneys belonging to contractors, or other persons, held in deposit and of moneys collected or credited to the Transport Fund by mistake ;

(c) sums which the Transport Manager is under the provisions of this Act or any other enactment required or empowered to pay by way of compensation;

(d) costs incurred by the Transport Manager under section 67 ;

(e) any sum required to make good to the Municipal Fund any payment made by the Commissioner out of the Municipal Fund under the provisions of section 86 for the purpose of the Transport Undertaking.

**356. Procedure when money not covered by budget grant is expended under clause (c), (d) or (e) of sub-section (2) of section 355. :-**

Whenever any sum is expended by the Transport Manager under clause (c), (d) or (e) of sub-section (2) of section 355 he shall forthwith communicate the circumstances to the Transport Committee who shall take such action under the rules or recommend to the Corporation to take such action as shall, in the circumstances, appear possible and expedient for covering the amount of the additional expenditure.

**357. Purposes for which Transport Fund is to be applied. :-**

The moneys from time to time credited to the Transport Fund shall be applied in payment of all sums, charges and costs necessary for the purposes of acquiring, maintaining, operating and improving the Transport Undertaking and of carrying into effect the provisions of this Chapter, or of which the payment shall be duly directed or

sanctioned by or under any of the provisions of this Act, inclusive of :-

(a) the repayment to the municipal Fund of any amount disbursed therefrom for the purposes of the Transport Undertaking, including the cost of, or reasonable charges for, all supplies provided and services rendered for any such purposes by the Commissioner at the charge of the Municipal Fund;

(b) the payment to the Municipal Fund of a sum of money equivalent to the sum which would have been payable under this Act on account of municipal taxes in respect of lands and buildings and other properties, moveable and immovable, of the Transport Undertaking if the said lands, building and other properties had not vested in the Corporation;

(c) the payment of fees to the Chairman and members of the Transport Committee, and the salary and allowances of the Transport Manager;

(d) the payment of salaries and allowances of all municipal officers and servants appointed under the provisions of this Chapter and all contributions to provident funds, pensions, gratuities and compassionate allowances payable under the provisions of this Chapter or of the regulations or of any statement framed under this Act for the time being in force;

(e) the payment of all expenses and costs incurred by the Transport Manager in the exercise of any power or the discharge of any duty conferred or imposed upon him for the purpose of, or in connection with the Transport Undertaking under the provisions of this Act or of any other enactment, including moneys which he is required or empowered to pay by way of compensation ;

(f) the payment of every sum payable under a decree or order of a civil or criminal court passed against the Corporation or against the Commissioner or the Transport Manager ex-officio in any proceeding arising out of the acquisition, maintenance or operation of the Transport Undertaking, or under a compromise effected under section 481, of any suit or other legal proceeding or claim arising out of such acquisition, maintenance or operation;

(g) every sum required by the provisions of section 359 or 360 to be transferred to the Municipal Fund ;

(h) every sum chargeable under section 108.

**358. Investment of surplus moneys. :-**

(1) Surplus moneys at the credit of the Transport Fund which cannot immediately or at an early date be applied to the purposes of this Act or of any loan raised for the purposes of the Transport Undertaking maybe, from time to time, deposited at interest in the Imperial Bank of India<sup>1</sup>[or any other scheduled bank]<sup>2</sup>[or an approved co-operative bank]<sup>3</sup>[or be invested in public securities] :<sup>4</sup>[Provided that the Amount of money to be deposited in an<sup>5</sup> [approved co- operative bank] shall not exceed such amount as may be specified by. the State Government generally or specially in respect of any approved co-operative bank.]

(2) All such deposits and investments shall be made by the Transport Manager on behalf of the Corporation, with the sanction of the Transport Committee, and with the like sanction, the Transport Manager may at any time withdraw any deposit so made or dispose of any securities and re-deposit or re-invest the money so withdrawn, or the proceeds of the disposal of such securities.

(3) The loss, if any, arising from any such deposit or investment shall be debited to the Transport Fund.

1. These words were substituted for the words and figures "or such other bank as the Corporation may with due sanction have selected under section 83" by Bombay 10 of 1953, s. 6.

2. Thsee words were inserted by Bombay 19 of 1954, Section 7 (1).

3. These words were added by Bombay 57 of 1953, Section 2.

4. This proviso was added by Bombay 19 of 1954, Section 7 (2).

5. These words were substituted for the words "approved bank" by Bombay 58 of 1954, Section 2, Sch.

**359. Fixed annual payment to Municipal Fund. :-**

(1) Out of the balance of income over expenditure remaining at credit of the Revenue Account of the transport Fund at the close of each official year, after defraying or making allowance for all charges, costs and expenses payable out of the revenue of the said Fund and allowing for the retention of the cash balance specified in, or for the time being fixed under section 98 to the credit of the said Fund, there shall be transferred to the credit of the Municipal Fund the amount provided in sub- section (2) :

Provided that if the balance at credit of the said Revenue Account,

after allowing for the matters aforesaid, is less than the amount provided in sub-section (2), the whole of such balance shall be transferred to the Municipal Fund and any deficit shall be made good to the Municipal Fund out of the Revenue Reserve Fund maintained under section 360 and if the deficit still remains, it shall be made good to the Municipal Fund out of the balance available at credit of the Revenue Account of the next or any subsequent year after allowing for all the matters aforesaid and for the amount provided in sub-section (2) in respect of that year.

(2) The amount to be transferred to the Municipal Fund under sub-section (1) shall be in respect of each official year such sum as the Corporation, before the beginning of that year, may determine.

(3) The sum to be transferred under sub-section (1) shall be paid into any bank with which the Municipal Fund is deposited to the credit of the said Fund by means of a cheque drawn upon the Transport Fund not later than the thirtieth day of June immediately following the close of the year in which the balance out of which the transfer is due to be made accrues.

**360. Disposal of surplus balance of revenue. :-**

(1) If after making allowance for the matter mentioned in section 359 there remains any further surplus balance of income over expenditure at credit of the Revenue Account of the Transport Fund, such surplus shall be disposed of as follows :-

(a) 30 per cent, of the surplus shall be credited under a separate heading in the accounts maintained under section 361 to a special fund to be called the 'Revenue Reserve Fund', unless the balance in the said Revenue Reserve Fund, with such credit, would exceed such sum as the Corporation shall with the sanction of the <sup>1</sup> [State] Government fix, in which case only such sum, if any, as is required to bring the balance to the sum so fixed shall be so credited and the remainder of the surplus, up to 30 per cent, thereof, shall be added in equal shares to the amounts credited or transferred under clauses (b), (c) and (d);

(b) 30 per cent, of the surplus and such additional amount as may be available under clause (a) shall be credited under a separate heading in the accounts maintained under section 361 to a special fund called "the Transport Betterment Fund;"

(c) 25 per cent of the surplus and such additional amount as may

be available under clause (a) shall be transferred to the Municipal Fund for credit to the Welfare Fund constituted under the rules; and

(d) 15 per cent, of the surplus and such additional amounts as may be available under clause (a) shall be transferred to the Municipal Fund.

(2) The Revenue Reserve Fund shall be applied to the following purposes :-

(i) in making good or in reduction of any deficit in the amount to be transferred in any year to the Municipal Fund under section 359; and

(ii) in meeting any charges to be defrayed out of the Transport Fund to the extent to which the balance available in the Fund is insufficient for the purpose.

(3) The Transport Betterment Fund shall be applied to improvement in the services, amenities and facilities provided for the public by the Transport Undertaking.

(4) The amounts to be transferred to the Municipal Fund under clause (c) and (d) of sub-section (1) shall be paid into any bank with which the Municipal Fund is deposited to the credit of the said Fund by means of cheques drawn upon the Transport Fund not later than the thirtieth day of June immediately following the close of the official year in which the transfers are due to be made. Accounts.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

**361. Accounts of the Transport Undertaking. :-**

Accounts of the receipts and expenditure of the Corporation on account of the Transport Undertaking and of the properties vested or vesting in the Corporation for the purposes of the said Undertaking shall be kept in such manner and in such forms as the Transport Committee shall from time to time prescribe.

**362. Preparation of annual administration report and statement of accounts. :-**

(1) The Transport Manager shall, as soon as may be, after each first day of April, have prepared a detailed report of the administration of the Transport Undertaking during the previous

official year, together with a statement showing the amount of the receipts and disbursements respectively credited and debited to the Transport Fund during the said year and the balance at the credit of the fund at the close of the said year as also an account of the balances due on loans and shall submit the same to the Transport Committee.

(2) After an examination and review of the report and statement by the Transport Committee, a copy of the report together with a copy of the Committee's review shall be forwarded to the usual or last known address of each councillor and copies thereof shall be delivered to any person requiring the same on payment of such reasonable fee for each copy as the Transport Manager, with the previous approval of the Transport Committee, shall determine.

#### CHAPTER 21

#### VITAL STATISTICS

### **363. Appointment of Registrars. :-**

(1) The Medical Officer of Health shall be the Registrar General of the City for the purpose of registering births and deaths.

(2) The Commissioner may in consultation with the Registrar General-

(a) divide the City into such and so many divisions as he may from time to time think fit ;

(b) nominate for each such division a municipal officer to be the registrar of, births and deaths ; and

(c) appoint for each registrar a suitable station as his office within the division for which he is appointed.

### **364. Register books to be maintained. :-**

(1) Such particulars as the Commissioner may from time to time specify regarding births and deaths shall be entered in separate register books of births and register books of deaths which shall be maintained by the Registrar General or, if the City has been divided into divisions, by the Registrar of each division.

(2) The Commissioner shall specify the forms of the registers required to be maintained under sub-section (1) and the manner in which such registers shall be maintained.

### **365. Registrar to inform themselves of all births and**

## **Deaths. :-**

(1) It shall be the duty of the Registrar General or, if the City is divided into divisions under section 363, of the Registrar of each division to inform himself carefully of every birth and death which shall happen in the City or in his division, as the case may be, and of the particulars concerning the same required to be registered under section 364, and shall, as soon after each such birth or death as conveniently may be, register the same in the book maintained for the purpose without making any charge or demanding or receiving any fee or reward for so doing other than his remuneration as a municipal officer.

(2) Other municipal officers, besides the Registrar General and the Registrars, may be appointed, with the duty of informing themselves of every birth or of every death or of every birth and every death in the division to which they are respectively appointed and of the particulars concerning the same required to be registered, and of submitting such information to the Registrar General of the said division, as the case may be, or to such other person as the Commissioner directs.

### **366. Information of birth to be given within seven days. :-**

It shall be the duty of the father and mother of every child born in the City and, in default of the father and mother, of the occupier of the premises in which to his knowledge the child is born, and of each person present at the birth and of the person having charge of the child, to give, to the best of his knowledge and belief, to the Registrar General or, if the City has been divided into divisions, to the Registrar of the division or to a municipal officer appointed under section 365 within seven days after such birth information of the particulars required to be registered concerning such birth :

Provided that -

(a) in the case of an illegitimate child, no person shall, as father of such child, be required to give information under this Act concerning the birth of such child, and the Registrar General or Registrar, as the case may be, shall not enter in the register the name of any person as father of such child, unless at the joint request of the mother and of the person acknowledging himself to be the father of such child, and such person shall in such case sign the register together with the mother;

(b) a person required to give information only in default of some

other person shall not be bound to give such information if he believed and had reasonable grounds for believing that such information had been given ;

(c) when a child born in any hospital, the officer in charge thereof shall be bound to forward forthwith to the Registrar General or Registrar, as the case may be, a report of such birth in such form as the Registrar General may from time to time specify.

**367. Information respecting finding of new born child to be given. :-**

In case any new-bom child is found exposed, it shall be the duty of any person finding such child and of any person in whose charge such child may be placed to give, to the best of his knowledge and belief, to the Registrar General or Registrar or other municipal officer aforesaid, within seven days after the finding of such child, such information of the particulars required to be registered concerning the birth of such child as the informant possesses.

**368. Information of death to be given. :-**

(1) It shall be the duty of the nearest relative of any person dying in the City present at the death, or in attendance during the last illness, of the deceased and, in default of such relative, of each person present at the death, and of the occupier of the premises in which, to his knowledge, the death took place, and, in default of the persons hereinbefore in this section mentioned of each inmate of such premises to give to the best of his knowledge and belief to the Registrar General or, if the City has been divided into divisions under section 363, to the Registrar of the division in which the death took place or to an officer appointed under section 365 information of the particulars required to be registered concerning such death within twenty four hours of its occurrence :

Provided that if the cause of death is known to be a dangerous disease the information aforesaid shall be given within twelve hours of its occurrence.

**369. Medical practitioner who attended a deceased person to certify cause of his death. :-**

In the case of a person who has been attended in his last illness by a duly qualified medical practitioner, that practitioner shall within three days of his becoming cognizant of the death of such person sign and forward to the Registrar General a certificate of the cause

of such person's death, in such form as shall from time to time be prescribed by the Commissioner in this behalf, and the cause of death as stated in such certificate shall be entered in the register, together with the name of the certifying medical practitioner.

**370. Correction of errors in registers of births or deaths. :-**

(1) Any clerical error which may at any time be discovered in a register of births or in a register of deaths may be corrected by any person authorised in that behalf by the Commissioner.

(2) An error of fact or substance in any such register may be corrected by any person authorised as aforesaid by entry in the margin, without any alteration of the original entry, upon production to the Commissioner, by the person requiring such error to be corrected, of a declaration on oath setting forth the nature of the error and the true facts of the case, made before a Magistrate by two persons required by this Act to give information concerning the birth or death with reference to which the error has been made or, in default of such persons, by two credible persons having knowledge of the case, and certified by such Magistrate to have been made in his presence.

(3) Except as aforesaid no alteration shall be made in any such register.

**371. Registration of name of child or of alteration of name. :-**

:-

(1) When the birth of any child has been registered and the name, if any, by which it was registered, is altered or, if it was registered without a name, when a name is given to it, the parent or guardian of such child or other person procuring such name to be altered or given may, within twelve months next after the registration of the birth, deliver to the Registrar General or, if the City is divided into divisions under section 363, to the Registrar of the division in which the birth was registered, such certificate as hereinafter mentioned, and the Registrar General or Registrar upon the receipt of that certificate shall, without any erasure of the original entry, forthwith enter in the register-book the name mentioned in the certificate as having been given to the child.

(2) The certificate shall be in such form as the Commissioner may from time to time prescribe, and, in the case of a Christian, shall be signed by the minister or person who performed the rite of baptism

upon which the name was given or altered, or, if the child is not baptised or is not a Christian, shall be signed by the father, mother or guardian of the child or other person procuring the name of the child to be given or altered.

(3) Every minister or person who performs the rite of baptism shall deliver the certificate required by this section on demand, on payment of a fee not exceeding one rupee.

#### CHAPTER 22

#### LICENCES AND PERMITS.

### **372. Grant of licences to Architects or Engineers, Structural Designers, Plumbers and Clerks of Works. :-**

(1) The Commissioner may grant to any person he thinks fit renewable licence for a period of one year to act as (i) Surveyor, (ii) an Architect or Engineer, (iii) Structural Designer, (iv) Clerk of Works, or (v) a Plumber for the purposes of this Act.

(2) No licence shall be granted under sub-section (1) unless the person has the qualifications or experience, or both, as may be prescribed by by-laws.

(3) No application for a licence shall be refused if the applicant has the qualifications and experience prescribed by by-laws except upon the ground that the applicant is unfit, through incompetency, misconduct or other grave reason, to hold such licence.

(4) If the Commissioner refuses any application for a licence under sub-section (3), he shall, at the request of the applicant, furnish such applicant with his reasons for such refusal in writing under his signature without charge.

### **373. Orders may be prescribed for guidance of Surveyors, etc. :-**

(1) The Commissioner may with the approval of the Standing Committee from time to time issue orders for the guidance of Licensed Surveyors, Architects or Engineers, Structural Designers, Clerks of Works and Plumbers respectively.

(2) Copies of all orders so prescribed for the time being in force shall be kept on sale at the municipal head office at such price as the Commissioner may fix and a copy thereof shall be kept available for inspection at all reasonable times at such office.

**374. Fees and charges of licensed plumbers to be prescribed by Standing Committee. :-**

The Standing Committee may from time to time prescribe the fees or charges to be paid to licensed plumbers for any work done by them under or for any purpose of this Act, and no licensed plumber shall demand or receive more than the fee or charge so prescribed for any such work.

**375. Licensed plumber to be bound to execute work properly. :-**

No licensed plumber shall execute any work under this Act carelessly or negligently or make use of any bad material, appliance or fitting for the purpose of such work.

**376. Certain things not to be kept, and certain trades and operations not to be carried on without licence. :-**

(1) Except under and in conformity with the terms and conditions of licence granted by the Commissioner, no person shall-

(a) keep in or upon any premises any articles specified in the rules-

(i) in any quantity or in excess of the quantity specified in the rules as the maximum quantity of such article which may at one time be kept in or upon the same premises without a licence, and

(ii) for any purpose whatever or for sale or for other than domestic use as may be specified in the case of each article in the rules;

(b) keep in or upon any building intended for or used as a dwelling or within fifteen feet of such building, cotton in pressed bales or boras or loose in quantity exceeding four hundred-weight;

(c) keep, or allow to be kept, in or upon any premises, horses, cattle or other fourfooted animals-

(i) for sale,

(ii) for letting out on hire,

(iii) for any purpose for which any charge is made or any remuneration is received, or

(iv) for sale of any produce thereof ;

(d) carry on, or allow to be carried on, in or upon any premises-

(i) any of the trades or operations connected with any trade

specified in the rules;

(ii) any trade or operation which in the opinion of the Commissioner is dangerous to life or health or property, or likely to create a nuisance either from its nature, or by reason of the manner in which or the conditions under which, the same is or is proposed to be, carried on ;

(e) carry on within the City, or use any premises for, the trade or operation of a farrier.

(2) A person shall be deemed to have known that a trade or operation is, in the opinion of the Commissioner, dangerous or likely to create a nuisance within the meaning of paragraph (ii) of clause (d) of sub-section (1), after written notice to that effect, signed by the Commissioner, has been served on such person or affixed to the premises to which it relates.

(3) A person shall be deemed to carry on or to allow to be carried on a trade or operation within the meaning of clause (d) of sub-section (1) if he does any act in furtherance of such trade or is in any way engaged or concerned therein whether as principal, agent, clerk, master, servant, workman, handicraftsman or otherwise.

(4) When any premises are used in the manner described in clause (c) or (d) of sub-section (1) it shall be presumed, until the contrary is proved, that the owner or occupier of such premises, or both the owner and occupier have permitted such use.

(5) It shall be in the discretion of the Commissioner-

(a) to grant any licence referred to in sub-section (1) subject to such restrictions or conditions (if any) as he shall think fit to prescribe, or

(b) to withhold any such licence.

(6) Every person to whom a licence by granted the Commissioner under sub- section (3) shall keep such licence in or upon the premises, if any, to which it relates.

(7) The Commissioner may at anytime by day or night enter or inspect any premises for the use of which a licence has been granted under this section.

(8) Nothing in this section shall be deemed to apply to mills for spinning or weaving cotton, jute, wool or silk, or to any other large

mill or factory which the Commissioner may from time to time with the approval of the Standing Committee specially exempt from the operation thereof.

**376A. Power to stop use of premises where such use is dangerous -or causes nuisance. :-**

<sup>1</sup> Whenever the Commissioner is of opinion that the use of any premises for any of the purposes specified in sub-section (1) of section 376 is dangerous to life, health or property or is causing a nuisance either from its nature or by reason of the manner in which or the conditions under which the use is made and such danger or nuisance should be immediately stopped, the Commissioner may, notwithstanding anything contained in section 376, require the owner or occupier of the premises to stop such danger or nuisance within such time specified in such requisition as the Commissioner considers reasonable and in the event of the failure of the owner or occupier to comply with such requisition, the Commissioner may himself or by an officer subordinate to him cause such use to be stopped.]

1. These words were substituted for the words "cut or peeled fruit and" by Gujarat 19 of 1964, s. 17.

**377. Prohibition of sale in municipal markets without licence of Commissioner. :-**

(1) No person shall, without a licence from the Commissioner, sell or expose for sale any animal or article in any municipal market.

(2) Any person contravening this section may be summarily removed by the Commissioner or by any municipal officer or servant.

**378. Private markets not to be kept open without licence. :-**

(1) No person shall without, or otherwise than in conformity with the terms of, a licence granted by the Commissioner in this behalf-

(a) keep open, or permit to be kept open, a private market;

(b) use or permit to be used any place in the City as a slaughter-house or for the slaughtering of any animal intended for human food;

(c) use or permit to be used any place without the City, whether as a slaughter-house or otherwise, for the slaughtering of any animal intended for human food to be consumed in the City :

Provided that-

(i) the Commissioner shall not refuse a licence for keeping open a private market lawfully established at the appointed day if application for such licence is made within two months thereof except on the ground that the place where the market is held fails to comply with any requirement of this Act or of the rules, by-laws or standing orders;

(ii) the Commissioner shall not cancel or suspend or refuse to renew any licence for keeping open a private market for any cause other than the failure of the owner thereof to comply with some provision of this Act, or with some standing order or with some by-law ;

(iii) the Commissioner may cancel or suspend any licence for failure of the owner of a private market to give in accordance with the conditions of his licence a written receipt for any stallage, rent, fee, or other payment received by him or his agent from any person for the occupation or use of any stall, shop, standing shed, pen or other place therein ;

(iv) nothing in this section shall be deemed to prevent the Commissioner from granting written permission for the slaughter of an animal in any place that he thinks fit, on the occasion of any festival or ceremony or under special circumstances.

(2) When the Commissioner has refused, cancelled or suspended any licence to keep open a private market, he shall cause a notice of his having so done to be affixed in such language or languages as the Corporation may from time to time specify on some conspicuous spot on or near the building or place where such market has been held.

**379. Prohibition of sale in unauthorised private markets. :-**

No person who knows that any private market has been established without the sanction of the Commissioner, or is kept open after a licence for keeping the same open has been refused, cancelled or suspended by the Commissioner, shall sell or expose for sale therein any animal or articles of human food, or any live-stock or food for live-stock.

**380. Slaughter of animals for skins. :-**

No person shall slaughter any cattle, horses, sheep, goats or pigs for removing the skin thereof or cut up the carcass of any such animal at any place outside a municipal slaughter-house or a

licensed slaughter-house otherwise than in conformity with the written permission of the Commissioner.

**381. Prohibition of sale of animals, etc. except in market. :-**

No person shall, without a licence from the Commissioner, sell or expose for sale -

(a) any four-footed animal or any meat or fish intended for human food, in any place other than a municipal or private market;

(b) ices and aerated waters, kulfi, sugar-cane juice, <sup>1</sup> [cut or peeled fruit,] vegetables, any confectionery or sweetmeats whatsoever or such other cooked food

or other articles intended for human consumption as may from time to time by public notice be specified by the Commissioner, in any place other than a municipal or private market or licenced eating house or sweet-meat shop.

1. These words were substituted for the words "cut or peeled fruit and" by Gujarat 19 of 1964, s. 17.

**382. Butchers and persons who sell flesh of animals to be licensed. :-**

No person shall without, or otherwise than in conformity with the terms of a licence granted by the Commissioner in this behalf-

(a) carry on within the City, or at any municipal slaughter-house, the trade of a butcher ;

(b) use any place in the City for the sale of the flesh of any animal intended for human consumption or any place without the City for the sale of such flesh for consumption in the City.

**383. Licence required for dealing in dairy produce. :-**

No person shall without, or otherwise than in conformity with the terms of a licence granted by the Commissioner in this behalf-

(a) carry on within the City the trade or business of a dairyman ;

(b) use any place in the City as a dairy or for the sale of any dairy produce.

**384. Licences for sale in public places. :-**

Except under and in conformity with the terms and provisions of a licence granted by the Commissioner in this behalf, no person shall use any public place or any public street for the purpose of hawking or exposing for sale, any article whatsoever, whether it be for human consumption or not.

**385. Licences for use of skill in handicraft or rendering services for purposes of gain in public place or street. :-**

Except under and in conformity with the terms and provisions of a licence granted by the Commissioner in this behalf, no person shall, for purposes of gain, use any public place or public street for the purpose of using his skill in any handicraft or in rendering services to and for the convenience of the public. IX. General Provisions regarding licences and Permits.

**386. General provisions regarding grant, suspension or revocation of licences and written permissions and levy of fees, etc. :-**

(1) whenever it is provided by or under this Act that a licence or a written permissions may be given for any purpose, such licence or written permission shall specify the period for which, and the restrictions and condition subject to which, the same is granted and the date by which an application for the renewal of the same shall be made and shall be given under the signature of the Commissioner or of a municipal officer empowered under section 69 to grant the same.

(2) Except as may otherwise be provided by or under this Act, for every such licence or written permission a fee may be charged at such rate as shall from time to time be fixed by the Commissioner, with the sanction of the Corporation.

(3) Subject to the provisions of the proviso to sub-section (1) of section 378, any licence or written permission granted under this Act, may at any time be suspended or revoked by the Commissioner, if he is satisfied that it has been secured by the holder through misrepresentation or fraud or if any of its restrictions or conditions is infringed or evaded by the person to whom the same has been granted, or if the said person is convicted of an infringement of any of the provisions of this Act or of any rule, by-law or standing order in any matter to which such licence or permission relates.

(4) When any such licence or written permission is suspended or revoked, or when the period for which the same was granted has expired, the person to whom the same was granted shall, for all purposes of this Act, be deemed to be without a licence or written permission, until the Commissioner's order for suspending or revoking the licence or written permission is cancelled by him or

until the licence or written permission is renewed, as the case may be :

Provided that, when an application has been made for the renewal of a licences or permission by the date specified therein, the applicant shall be entitled to act as if it has been renewed, pending the receipt of orders.

(5) Every person to whom any such licence or written permission has been granted shall, at all reasonable times, while such written permission or licence remains in force, if so required by the Commissioner, produce such licence or written permission.

(6) Every application for a licence or written permission shall be addressed to the Commissioner.

(7) The acceptance by or on behalf of the Commissioner of the fee for a licence or permission shall not in itself entitle the person paying the fee to the Jicence or permission.

#### CHAPTER 23

#### POWER OF ENTRY, INSPECTION AND EVICTION.

### **387. Power of entry and inspection. :-**

(1) The Commissioner may enter into or upon any premises, with or without assistance or workman, which he is empowered by or under the provisions of this Act or the rules to enter or inspect or in order to make any inspection, survey, measurement, valuation or inquiry or to execute any work which is authorised by or under this Act or which it is necessary for any of the purposes, or in pursuance of any of the provisions, of this Act or of any rules, by-laws, regulations or standing orders thereunder to make or execute.

(2) Without prejudice to the generality of the provisions of subsection (1), the Commissioner or any municipal officer or servant authorised by him in this behalf

(a) any stable, garage, coachhouse or any place where any vehicle, boat or animal liable to tax is kept-under section 145;

(b) any land whereon any municipal drain has been or is proposed to be constructed-under section 155;

(c) any land belonging to any person for the purpose of emptying his own drain into a municipal drain-under section 159, 161, 167 and 168 ;

- (d) any land whereon shafts or pipes for ventilating drains are required to be fixed-under section 175 ;
- (e) drains, ventilators, shafts, pipes, cess-pools, latrines, urinals, bathing and washing places-under section 181 ;
- (f) any land which provides access to any municipal water work-under section 191;
- (g) any premises which are suspected to have been used for any trade or keeping any article in contravention of section 376 ;
- (h) any premises for the use of which a licence is required and has been granted under the provisions of this Act ;
- (i) any building during its erection or any work during its execution ;
- (j) any premises which are provided by the Corporation for the residence of municipal officers and servants.

**388. Time of making entry. :-**

(1) No such entry shall be made within sunset and sunrise : Provided that in any case in which it has been expressly provided by or under this Act such entry may be made by day or night.

(2) Except as otherwise expressly provided by or under this Act, no building used as a human dwelling shall be entered unless with the consent of the occupier thereof without giving him atleast six hours' notice in writing of the intended entry and, except when it is deemed inexpedient to mention the purpose thereof, of such purpose.

(3) When such premises may otherwise be entered without notice, sufficient notice shall be given in every instance to enable the inmates of any apartment appropriated to females to remove themselves.

(4) Due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.

(5) No claim shall lie against any person for compensation for any damage necessarily caused by an entry under sub-section (7) of section 376 or by the use of any force necessary for effecting such

entry.

**388A. Power of Commissioner to evict persons summarily in certain cases. :-**

**1**

(1) Where the Commissioner is required by section 284A, 301 or 304 to cause building or part thereof to be vacated, he may take or cause to be taken such steps and use or cause to be used such force as may in the opinion of the Commissioner be reasonably necessary therefor.

(2) The Commissioner may, after giving 15 clear days notice to the persons evicted under sub-section (1)", remove or cause to be removed or dispose of by public auction any property remaining in such building.

(3) Where property is sold under sub-section (2) the sale proceeds shall, after deducting the expenses of sale, be paid of such person or persons as may appear to the Commissioner to be entitled to the same.]

1. Section 388A was inserted by Gujarat 19 of 1964, Section 19.

CHAPTER 24  
COMPENSATION

**389. Doing minimum damage in certain cases :-**

(1) In the exercise of the powers under the following provisions of this Act by the Commissioner or any other Municipal officer or servant or any other person authorised by or under this Act to execute any work, as little damage as can be shall be done and compensation assessed in the manner prescribed by or under this Act shall be paid to any person who sustains damage in consequence of the exercise of such powers, namely :-

(a) carrying any municipal drain through, across or under any street or any place laid out as or intended for a street or across any cellar or vault under any street-under sub-section (1) of section 155;

(b) entering upon and constructing any new drain or repairing or altering any municipal drain already constructed-under sub-section (2) of section 155;

(c) affixing of pipes or shafts for the purpose of ventilation of any drain or cesspool to any building or tree-under sub-section (1) of

section 175;

(d) opening of any ground, any portion of a drain, any portion of a building or any work exterior to a building-under section 182;

(e) entering upon, and passing through any land in the vicinity of a water work or conveying or causing to be conveyed men, materials and tools through such land-under section 191;

(f) acquiring any building or land required for a public street-under section 216;

(g) removing or altering a structure or fixture-under sub-section (4) of section 226, sub-section (3) of section 227 and section 232;

(h) the rounding or splaying of a building at the corner of two or more streets-under section 243 ;

(i) cutting into, laying open or pulling down any building or work-under section 261 ; <sup>1</sup>[(ii) the demolition or alteration of a hut or shed-under section 263A;]

(j) the demolition of an obstructive building-under section 304 ;

(k) the destruction of an insanitary hut or shed-under section 317;

(1) the destruction of any property in exercise of the powers vested in the Commissioner for preventing a dangerous or infectious disease-under section 319 ;

(m) the exercise of powers of execution of any work in regard to which no express provision occurs in the Act, rules or by-laws for the payment of compensation.

(2) If in the exercise of the powers under section 191 damage is caused by an act of an officer of the <sup>2</sup>[State] Government compensation shall be payable by the <sup>2</sup> [State] Government

.

1. This clause was inserted by Bombay 19 of 1956, Section 3.

2. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

**390. Commissioner to determine compensation. :-**

Subject to the provisions of this Act, the Commissioner or such other officer as may be authorised by him in this behalf shall, after holding such inquiry as he thinks fit, determine the amount of compensation to be paid under section 389.

### **391. Appeal :-**

Any person aggrieved by the decision of the Commissioner or other officer under section 390 may, within a period of one month, appeal to the Judge in accordance with the provisions of Chapter XXVI.

#### CHAPTER 25

#### PENALTIES.

### **392. Certain offences punishable with fine. :-**

(1)Whoever-

(a) contravenes any provision of any of the sections, sub-sections or clauses mentioned in the first column of Part I of the table in Appendix II or of any regulation or order made thereunder, or

(b) fails to comply with any requisition lawfully made upon him under any of the said sections, sub-sections or clauses,

(2) Whoever, after having been convicted of-

(a) contravening any provision of any of the sections, sub-sections or clauses mentioned in the first column of Part II of the table in Appendix II or of any regulation or order made thereunder, or

(b) failing to comply with any requisition lawfully made upon him under any of the said sections, sub-sections or clauses,

### **393. Offences punishable under the Penal Code. :-**

(1) Whoever contravenes any provision of any of the sections, sub-sections or clauses of this Act mentioned in the first column of the following table or of any regulation or order made thereunder, and whoever fails to comply with any requisition lawfully made upon him under any of the said sections, sub-sections or clauses, shall be deemed to have committed an offence punishable under the section of the Indian Penal Code (XLV of 1860.) respectively specified in the second column of the said table as the section of the said Code under which such person shall be punishable, namely :-

Sections of this Act Sections of the Indian Penal Code under which offenders are punishable. 194 (2), 311, clauses (a), (b), (c) and (d), 312 277 319 " " " 188 477 " " 177

(2) Whoever being the owner or occupier of a building fails to comply with any notice in writing given by the Commissioner under any of the provisions of this Act not referred to in sub-section (1)

calling for particulars or information in connection with the preparation of the list of voters at ward elections or the municipal election roll or who furnishes particulars or information which he knows to be false or incorrect shall be deemed to have committed an offence punishable under section 176 or section 177 of the Indian Penal Code, (XLV of 1860.) as the case may be.

(3) Any candidate who is elected councillor for more than one ward at contested ward elections and who fails to comply with a written notice lawfully given by the Commissioner requiring him to choose for which of the wards he shall serve shall be deemed to have committed an offence punishable under section 177 of the Indian Penal Code.(XLV of 1860.)

(4) Whoever fails to comply with a lawful requisition, notice or order of the Commissioner for information or a written return relative to the determination of the rateable value of any building or to the levy or assessment of any municipal tax or whoever furnishes information or makes return which he knows to be false, incorrect or misleading shall be deemed to have committed an offence punishable under section 176 or Section 177 of the Indian Penal Code, 1860 , (XLV of 1860.) as the case may be.

**394. Punishment for offences of preparing false election rolls. :-**

Any officer or servant of the Corporation who knowingly prepares or makes an entry in the list of persons qualified to be enrolled as voters at ward elections which is incorrect or false shall, on conviction, be punished with imprisonment of either description for the term which may extend to six months or with fine which may extend to five hundred rupees or with both.

**395. Punishment for acquiring share or interest in contract, etc. with Corporation. :-**

Any councillor or any member of the Transport Committee who is not a councillor who knowingly acquires, directly or indirectly, any share or interest in any contract or employment with, by or on behalf of the Corporation, not being a share or interest such as, under section 10, it is permissible for a councillor to have without being thereby disqualified for being a councillor, and any Commissioner, Transport Manager, municipal officer or servant who knowingly acquires, directly or indirectly, any share or interest in any contract or employment with, by or on behalf of the Corporation, not being a share or interest such as, under sub-

clause (ii) or (iv) of sub-section (2) of section 10, it is permissible for councillor to have without being thereby disqualified for being a councillor, shall be deemed to have committed the offence made punishable by section 168 of the Indian Penal Code. (XLV of 1860.)

**396. Punishment for breach of section 61 or 62. :-**

Whoever acts or abets the commission of an act which is in contravention of the provisions of section 61 or 62 shall, on conviction, be punished with imprisonment of either description for a term which may extend to one year or with fine or with both.

**397. Punishment for offences against section 194. :-**

(1) Whoever contravenes any provision of sub-section (1) of section 194 shall, on conviction, be punished with imprisonment which may extend to one month or with fine which may extend to one hundred rupees or with both.

(2) When any person is convicted under sub-section (1) the Magistrate who convicts him may order the immediate removal of any building, or the immediate discontinuance of the operation or use of land, in respect of which such conviction has been held.

(3) If any order made under sub-section (2) is disobeyed or the execution thereof resisted, the offender shall, on conviction, be punished with imprisonment which may extend to one month or with fine which may extend to one hundred rupees or with both.

**398. Penalty for evasion of octroi or toll. :-**

Where any vehicle, animal, or goods imported into the limits of the City are liable to the payment of toll or octroi any person who, with the intention of defrauding the Corporation, causes or abets the introduction of or himself introduces or attempts to introduce within the limits of the City any such vehicle, animal or goods upon which payment of the toll or octroi due on such introduction has neither been made nor tendered, shall, on conviction, be punished with fine which may extend to ten times the amount of such toll or octroi or to two hundred and fifty rupees, whichever may be greater.

**399. General penalty. :-**

Whoever contravenes any provision of this Act or rule, by-law, regulation, standing order, licence, permission or notice issued thereunder or fails to comply with any requisition lawfully made under any such provision shall, if no penalty is provided in any

other provision of this Act, for such contravention or failure, be punished, for each such offence, with fine which may extend to one hundred rupees and with further fine which may extend to twenty rupees for every day on which such contravention or failure continues after the first conviction.

**400. Extent of penal responsibility of agents and trustees of owners. :-**

No person who receives the rent of any premises in any capacity described in paragraph (i), (ii) or (iii) of sub-clause (a) of clause (45) of section 2 shall be liable to any penalty under this Act for omitting to do any act as the owner of such premises, if he shall prove that his default was caused by is not having funds of, or due to, the owner sufficient to defray the cost of doing the act required.

**401. Offence by companies, etc. :-**

Where a person committing an offence under this Act, or any rule, by-law, regulation or standing order is a company, or a body corporate, or an association of persons (whether incorporated or not), or a firm, every director, manager, secretary, agent or other officer or person concerned with the management thereof, and every partner of the firm shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offense.

**402. Compensation payable by offenders against this Act for damage caused by them. :-**

(1) If, on account of any act or omission, any person has been convicted of an offence against this Act or against any rule, regulation or by-law, and, by reason of such act or omission of the said person, damage has occurred to any property of the Corporation, compensation shall be paid by the said person for the said damage notwithstanding any punishment to which he may have been sentenced for the said offence.

(2) In the event of dispute, the amount of compensation payable by the said person shall be determined by the Magistrate before whom he was convicted of the said offence, and on non-payment of the amount of compensation so determined, the same shall be recovered under a warrant from the said Magistrate as if it were a fine inflicted by him on the person liable therefor.

CHAPTER 26

PROCEEDINGS BEFORE JUDGE, APPELLATE COURTS AND MAGISTRATES.

### **403. Procedure in election inquiries. :-**

(1) If an application is made under section 16 for a declaration that any particular candidate shall be deemed to have been elected, the applicant shall make parties to his application all the candidates who were duly nominated for the seat or seats in the ward in question, whether or not the said candidates have been declared elected, and shall proceed against the candidate or candidates declared elected.

(2) The applicant shall, whenever so required by the Judge, deposit in the

(3) If, after making such inquiry as he deems necessary, the Judge finds that the election of a returned candidate has been procured or induced or the result of the election has been materially affected by any corrupt practice, or any corrupt practice has been committed in the interests of a returned candidate or the result of the election has been materially affected by the improper acceptance or rejection of any nomination or by reason of the fact that any person nominated was not qualified or was disqualified for election, or by the improper reception or refusal of a vote or by the reception of a vote which is void, or by any non-compliance with the provisions of this Act or any rules made thereunder relating to the election, or by any mistake in the use of any prescribed form, or the election has not been a free election by reason of the large number of cases in which bribery or undue influence has been exercised or committed, he shall declare the election of the returned candidate to be void and if he does not so find he shall confirm the election of the returned candidate.

(4) All applications received under section 16- (a) in which the validity of the election of councillors elected to represent the same ward is in question shall be heard by the same Judge, and (b) in which the validity of the election of the same councillor elected to represent the same ward is in question shall be heard together.

<sup>1</sup> [(5) (a) In an enquiry under sub-section (3) into an application made under section 16 for a declaration that a particular candidate shall be deemed to have been elected, the returned candidate or any other party thereto may give evidence to prove that the election of the person in whose favour such declaration is sought would have been void, if such person had been declared elected and an application had been presented calling in question his

election ; (b) if after holding such enquiry the Judge is of opinion- (i) that the candidate in whose favour the declaration is sought has received a majority of the valid votes, or (ii) that but for the votes obtained by the returned candidate by corrupt practices, such candidate would have obtained a majority of the valid votes, the judge shall, in addition to declaring the election of the returned candidate to be void, declare the candidate, in whose favour the declaration is sought, to have been duly elected.]

(6) The Judge's order under this section shall be conclusive.

(7) Every election not called in question in accordance with the foregoing provisions shall be deemed to have been to all intents a good and valid election.

1. Sub-section (5) was substituted for the original by Gujarat 13 of 1961, Section 2.

#### **404. Disqualification for election as councillor for certain election offences. :-**

(1) If the Judge sets aside an election of a candidate on the ground that a corrupt practice has been committed in the interest of such candidate, he shall declare such candidate to be disqualified for the purpose of any fresh election which may be held under this Act.

(2) If in any proceedings under section 16, the Judge finds that a corrupt practice has been committed within the meaning of that section by any person he may, if he thinks fit, declare such person to be disqualified for being elected and for being a councillor for such term of years not exceeding seven as he may fix : Provided that no such declaration shall be made unless such person has been given a reasonable opportunity to be heard :

Provided further that the <sup>1</sup> [State] Government may by order in writing at any time relieve such person from such disqualification but subject only to such order, the declaration by the Judge shall be conclusive.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

#### **405. References to the Judge. :-**

In the following cases a reference shall be made to the Judge:-

(1) whether a councillor has ceased to hold office under section 12 ;

(2) whether a person has ceased to be a member of the Transport Committee under section 26 ;

(3) whether the Commissioner may be directed to remove a shaft or pipe on the application of the owner of a building or hut under section 175 ;

(4) regarding the amount of the price for the land required for setting forward a building under section 216 ;

(5) regarding the amount or payment of expenses for any work executed or any measure taken or things done under the orders of the Commissioner or any municipal officer under section 439 ;

(6) regarding the amount or payment of expenses or compensation and the apportionment thereof falling under any of the provisions of this Act or any rule or by-law thereunder not otherwise specifically provided for.

**406. Appeals when and to whom to lie. :-**

(1) Subject to the provisions hereinafter contained, appeals against any rateable value or tax fixed or charged under this Act shall be heard and determined by the Judge.

(2) No such appeal <sup>1</sup>[shall be entertained] unless-

(a) it is brought within fifteen days after the actual of the cause of complaint ;

(b) in the case of an appeal against a rateable value a complaint has previously been made to the Commissioner as provided under this Act and such complaint has been disposed of ;

(c) in the case of an appeal against any tax in respect of which provision exists under this Act for a complaint to be made to the Commissioner against the demand, such complaint has previously been made and disposed of ;

(d) in the case of an appeal against any amendment made in the assessment book for property taxes during the official year, a complaint has been made by the person aggrieved within fifteen days after he first received notice of such amendment and his complaint has been disposed of ;

(e) in the case of an appeal against a tax, or in the case of an appeal made against a <sup>2</sup>[rateable value, the amount of the

disputed tax claimed from the appellant, or the amount of the tax chargeable on the basis of the disputed rateable value, up to the date of filing the appeal, has been deposited by the appellant with the Commissioner] :

**3**[ **4** [Provided that where in any particular case the judge is of the opinion that the deposit of the amount by the appellant will cause undue hardship to him, to judge may in his discretion, either unconditionally or subject to such conditions as he may think fit to impose, dispense with a part of the amount deposited so however that the part of the amount so dispensed with shall not exceed twenty five per cent of the amount deposited or required to be deposited.] ]

1. These words were substituted for the words "shall be heard" by Gujarat 5 of 1970, Section 10 (1).

2. This portion was substituted for the portion beginning with the words "rateable value after a bill" and ending with the words "with the Commissioner" by Gujarat 1 of 1979, Section 21 (a).

3. This proviso was added by Gujarat 5 of 1970, Section 10 (2).

4. This proviso was substituted by Gujarat 1 of 1979, Section 21 (b).

**407. Cause of complaint when to be deemed to have secured. :-**

For the purposes of section 406, cause of complaint shall be deemed to have accrued as follows, namely :-

(a) in the case of an appeal against a rateable value, on the day when the complaint made to the Commissioner against such value is disposed of;

(b) in the case of an appeal against any tax referred to in a clause (c) of sub section (2) of the said section on the day when the complaint against the tax is disposed of by the Commissioner ;

(c) in the case of an appeal against any amendment made in the assessment book for property taxes during the official year, on the day when the complaint made to the Commissioner by the person aggrieved against such amendment is disposed of ;

(d) in the case of an appeal against tax of not covered by clause (b) above on the day when payment thereof is demanded or when a bill therefore is served.

**1** [

1. Section 408 was substituted by Gujarat 1 of 1979, Section 22.

#### **408. Arbitration. :-**

(1) Where any person aggrieved by an order fixing or charging any rateable value or tax under this Act desires that any matter in difference between him and the other parties interested in such order should be referred to arbitration, then, if all such parties agree to do so, they may, at any time within fifteen days after the accrual of the cause of complaint, apply to the Judge for an order of reference on such matter and on such application being made, the provisions of the Arbitration Act, 1940[X of 1940] relating to arbitration in suits shall, so far as they can be made applicable apply to such application and the proceedings to follow thereon, as if the said Judge were a Court within the meaning of that Act and the application were an application made in a suit.

(2) An application for an order of reference to arbitration as aforesaid may also be made during the pendency of any appeal under section 406, at any time before a decision is given in such appeal and thereupon the provisions of sub-section (1) shall apply as if such application were an application under sub-section (1).]

#### **409. Appointment of expert valuer. :-**

(1) If any party to an appeal against a rateable value makes an application to the Judge either before the hearing of the appeal or at any time during the hearing of the appeal, but before evidence as to value has been adduced to direct a valuation of any premises in relation to which the appeal is made, the Judge may, in his discretion, appoint a competent person to make the valuation and any person so appointed shall have power to enter on, survey and value the premises in respect of which the direction is given ;

Provided that, except when the application is made by the Commissioner, no such direction shall be made by the Judge unless the applicant gives such security as the Judge thinks proper for the payment of the costs of valuation under this sub- section.

(2) The costs incurred for valuation under sub-section (1) shall be costs in the appeal, but shall be payable in the first instance by the applicant.

(3) The Judge may, and on the application of any party to the appeal shall, call as a witness the person appointed under sub-section (1) for making the valuation and, when he is so called, any party to the appeal shall be entitled to cross-examine him.

**410. Reference to Civil Appellate Court. :-**

If, before or on the hearing of an appeal relating to the rateable value or tax, any question of law or usage having the force of law, or the construction of a document arises, the Judge may, and on the application of any party to the appeal shall, draw up a statement of the facts of the case and the question so arising, and refer the statement with his own opinion on the point for the decision of the :[Civil Appellate Court].

**411. Appeals to the Civil Appellate Court. :-**

An appeal shall lie to the <sup>1</sup>[Civil Appellate Court]-

<sup>2</sup>[(aa) from a decision of the Judge in an appeal under section 391 against an assessment of compensation under clause (0 of sub-section (1) of section 389, and]

(a) from any decision of the Judge in an appeal under section 406 by which a rateable value in excess of two thousand rupees is fixed, and

<sup>3</sup>[(bb) from any order of the Judge under the proviso to sub-section (2) of section 406; and],

(b) from any other decision of the said Judge in an appeal under the said section, upon a question of law or usage having the force of law or the construction of a document;

Provided that no such appeal shall be heard by the <sup>1</sup> [Civil Appellate Court] unless it is filed within one month from the date of the decision of the Judge.

1. These words were substituted for the words "District Court" by Gujarat 8 of 1968, Section 8(2).

2. Clause (aa) was inserted by Gujarat 19 of 1964, Section 20.]

3. Clause (bb) was inserted by Gujarat 5 of 1970, Section 11.

**412. Costs of proceedings in appeal. :-**

The costs of all proceedings in appeal under section 406 before the Judge including those of arbitration under section 408 and of valuation under section 409 shall be payable by such parties in such proportion as the Judge shall direct and the amount thereof shall, if necessary, be recoverable as if the same were due under a decree of a Court of Small Causes under \*[the relevant Small Cause Courts Act].

**413. Unappealed values and taxes and decisions on appeal**

**to be final. :-**

(1) Every rateable value fixed under this Act against which no complaint is made as hereinbefore provided, and the amount of every sum claimed from any person under this Act on account of any tax, if no appeal therefrom is made as hereinbefore provided, and the decision of the Judge aforesaid upon any appeal against any such value or tax if no appeal is made therefrom under section 411 and if such appeal is made the decision of the <sup>1</sup> [Civil Appellate Court] in such appeal shall be final.

(2) Effect shall be given by the Commissioner to every decision of the said Judge on any appeal against any such value or tax.

1. These words were substituted for the words "District Court" by Gujarat 8 of 1968, Section 8(2).

**414. Appeals to the Judge. :-**

Appeal shall lie to the Judge against the orders of the Commissioner in the following cases, namely :-

(1) an order declining to remove a shaft or pipe-under section 175;

(2) an order requiring a building to be set forward-under section 215;

(3) an order requiring the owner or occupier to repair, protect or enclose a place found to be dangerous-under section 247;

(4) an order directing the demolition of an insanitary building-under section 300 ;

(5) an order directing the demolition of an obstructive building-under section 303 :

Provided that no such appeal shall lie unless it is filed within one month from the date of the order of the Commissioner.

**415. Appeals against demolition orders. :-**

(1) On an appeal being made against a demolition order made under section 300 or 303, the Judge may make such order either confirming or quashing or varying the order as he thinks fit, and he may, if he thinks fit, accept from an appellant any such undertaking as might have been accepted by the Commissioner, and any undertaking so accepted by the Judge shall have the like effect as if it had been given to and accepted by the Commissioner under section 300 :

Provided that the Judge shall not accept from an appellant upon whom such

(2) An appeal shall lie to the <sup>1</sup>[Civil Appellate Court] from a decision of the Judge on an appeal under this section, within one month of such decision, when the ratable value entered in the Commissioner's assessment book in accordance with the provisions of this Act, of the premises to which the demolition order appealed against wholly or partially relates, exceeds two thousand rupees.

(3) A decision passed by the Judge under this section, if an appeal does not lie therefrom under sub-section (2) or if no appeal is filed, and, if an appeal is filed the decision of the <sup>1</sup>[Civil Appellate Court] in appeal shall, be final.

(4) Any order against which an appeal might be brought under this section shall, if no such appeal is brought, become operative on the expiration of the period of twenty-one days mentioned in section 306, and shall be final and conclusive as to any matters which could have been raised on such appeal, and any such order against which an appeal is brought shall, if and so far as it is confirmed by the Judge or the <sup>1</sup>[Civil Appellate Court], become operative as from the date of the final determination of the appeal. (3) For the purposes of this section, the withdrawal of an appeal shall be deemed to be the final determination thereof, having the like effect as a decision confirming the order appealed against and, subject as aforesaid, an appeal shall be deemed to be finally determined on the date when the decision of the <sup>1</sup>[Civil Appellate Court] is given or in a case where no appeal is brought to the <sup>1</sup>[Civil Appellate Court] upon the expiration of the period within which such an appeal might have been brought, or in a case where no appeal lies to the <sup>1</sup> [Civil Appellate Court], on the date when the decision of the Judge is given.

1. These words were substituted for the words "District Court" by Gujarat 8 of 1968, Section 8 (2).

**416. Appeals against decision of the Judge regarding payment of expenses for works executed. :-**

(1) An appeal shall lie to the <sup>1</sup>[Civil Appellate Court] from a decision of the Judge regarding the amount or payment of expenses for any work executed, when the amount of the claim in respect of which the decision is given exceeds two thousand rupees

:

Provided that no such appeal shall be heard by the <sup>1</sup>[Civil Appellate Court] unless it is filed within one month from the date of the decision of the Judge.

(2) The decision of the Judge regarding the amount or payment of expenses for any work executed, if no appeal is filed under this section, and, if an appeal is filed, the decision of the <sup>1</sup>[Civil Appellate Court] in such appeal shall be final.

(3) When an appeal is filed under sub-section (1) in respect of a decision regarding the amount or payment of expenses for any work executed, the Commissioner shall defer proceedings for the recovery of the amount determined under the said section to be due pending the decision of the <sup>1</sup> [Civil Appellate Court] and, after the decision, shall proceed to recover only such amount, if any, as shall be thereby determined to be due.

1. These words were substituted for the words "District Court" by Gujarat 8 of 1968, Section 8 (2).

**416A. Fees in appeals before Civil Appellate Court. :-**

<sup>1</sup>The State Government may from time to time, by notification in the Official Gazette, prescribe what fee, if any, shall be paid for an appeal to the <sup>2</sup>[Civil Appellate Court] under section 411, 415 or 416 :

Provided that the <sup>2</sup>[Civil Appellate Court] may, whenever it thinks fit, receive an appeal by or on behalf of a poor person, without payment or on a part payment of the prescribed fees :

Provided further that whenever an appeal made to the <sup>2</sup>[Civil Appellate Court] is settled by agreement of the parties before the hearing, half the amount of the fees paid up shall be repaid by the <sup>2</sup> [Civil Appellate Court] to the party by whom the same may have been paid.]

1. This section was inserted by Bombay 45 of 1954, Section 2.

2. These words were substituted for the words "District Court" by Gujarat 8 of 1968, Section 8 (2).

**417. Remedy of owner of building or land against occupier who prevents his complying with any provisions of this Act.**

:-

(1) if the owner of any building or land is prevented by the occupier thereof from complying with any provision of this Act or of any rule, regulation or by-law or with any requisition made under this Act or under any such rule, regulation or bylaw in respect of such building or land, the owner may apply to the Judge.

(2) The Judge, on receipt of any such application, may make a written order requiring the occupier of the building or land to afford all reasonable facilities to the owner for complying with the said provision or requisition, or to vacate the premises temporarily if the said provision or requisition relates to any action under section 264. involving the safety or convenience of such occupier, and may also, if he thinks fit, direct that the cost of such application and order be paid by the occupier.

(3) After eight days from the date of such order, it shall be incumbent on the said occupier to afford all such reasonable facilities to the owner for the purpose aforesaid or to vacate the premises temporarily as shall be prescribed in the said order, and in the event of his continued refusal so to do, the owner shall be discharged, during the continuance of such refusal, from any liability which he would otherwise incur by reason of his failure to comply with the said provision or requisition.

(4) Nothing in this section shall affect the powers of the Commissioner under any provision of this Act to cause any premises to be vacated.

**418. Power to summon witnesses and compel production of documents. :-**

(1) For the purposes of any inquiry or proceeding under this Act, the Judge may summon and enforce the attendance of witnesses and compel them to give evidence and compel the production of documents, by the same means and, as far as is possible, in the same manner as is provided in the case of a Court of Small Causes by or under <sup>1</sup>[the relevant Small Cause Courts Act] and in all matters relating to any such inquiry or proceeding the Judge shall be guided generally by the provisions of the said Act so far as the same are applicable.

(2) If, in any such inquiry or proceeding, the person against whom the complaint or application has been made fails to appear, notwithstanding that he has been duly summoned for this purpose,

the Judge may hear and determine the case in his absence.

(3) The costs of every such inquiry or proceeding as determined by the Judge, shall be payable by such parties and in such proportions as the Judge shall direct and the amount thereof shall, if necessary, be recoverable as if the same were due under a decree of a Court of Small Causes constituted under <sup>1</sup> [the relevant Small Cause Courts Act] :

Provided that, if such inquiry or proceeding relates to a dispute regarding expenses declared to be improvement expenses by or under any provision of this Act, the amount of the costs directed by the Judge to be paid by the owner or occupier of the premises in respect of which or for the benefit of which the improvement expenses were incurred shall be a charge on such premises and may also be recovered in the manner prescribed in section 442.

1. These words were substituted for the words and figures "the Provincial Small Cause Courts Act, 1887" by Gujarat 8 of 1968, Section 8 (4).

**419. Fees in proceeding before the Judge. :-**

(1) The <sup>1</sup>[State] Government may, from time to time, by notification in the Official Gazette, prescribe what fee, if any, shall be paid :-

(a) on any application, appeal or reference made under this Act to the Judge; and

(b) previous to the issue, in any inquiry or preceding of the Judge under this Act. of any summons or other process :

Provided that the fees, if any, prescribed under clause (a) shall not, in cases <sup>2</sup>[the relevant Small Cause Courts Act], in cases in which the value of the claim or subject matter is of like amount.

(2) The <sup>1</sup> [State] Government may from time to time by a like notification determine by what person any fee prescribed under clause (a) of sub-section (1) shall be payable.

(3) No application, appeal or reference shall be received by the Judge, until the fee, if any, prescribed therefor under clause (a) of sub-section (1) has been paid.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

2. These words were substituted for the words and figures "the Provincial Small Cause Courts Act, 1887" by Gujarat 8 of 1968, Section 8 (4).

**420. Exemption of poor persons from fees. :-**

The Judge may, whenever, he thinks fit, receive an application, appeal or reference made under this Act, by or on behalf of a poor person, and may issue process on behalf of any such person without payment or on a part payment of the fees prescribed under section 419.

**421. Repayment of half fees on settlement before hearing.**

:-

Whenever any application, appeal or reference made to the Judge under this Act is settled by agreement of the parties before the hearing, half the amount of all fees paid up to that time shall be repaid by the Judge to the parties by whom the same have been respectively paid.

**422. Appointment of a Magistrate of the First Class. :-**

(1) The <sup>1</sup>[State] Government may with the consent of the Corporation create one or more posts of Magistrates of the First Class for the trial of offences against this Act, or against any rule, regulation or by-law made thereunder and may appoint any person to such post and may also appoint such ministerial officers for the court of any such Magistrate as it may think necessary :

Provided that notwithstanding the appointment of one or more Magistrates of the First Class under this section it shall be open to the District Magistrate subject to the rules for the time being in force under section 17 of the Code of Criminal Procedure, 1898, regulating the distribution of business in the Courts of Magistrates of the First Class to make such distribution of the work of trial of such offences and of all other work before the Courts of the Magistrates (including any appointed under this section) as may appear to him most conducive to efficiency.

(2) Such Magistrate or Magistrates and their establishments shall be paid such salary, pension, leave allowances and other allowances as may, from time to time, be fixed by the <sup>2</sup>[State] Government.

(3) The amounts of the salary and other allowances as fixed under sub-section (2), together with all other incidental charges shall be reimbursed to the <sup>2</sup>[State] Government by the Corporation, who

shall also pay to the <sup>2</sup>[State] Government such contribution towards the pension, leave and other allowances of such Magistrate or Magistrates and their establishment as may from time to time be fixed by the <sup>2</sup>[State] Government:

Provided that the <sup>2</sup>[State] Government may, with the concurrence of the Corporation, direct that in lieu of the amounts payable under this section the Corporation shall pay to the <sup>2</sup>[State] Government annually, on such date as may be fixed by the <sup>2</sup>[State] Government in this behalf, such fixed sum as may be determined by the <sup>2</sup> [State] Government in this behalf.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

2. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

**423. References to Magistrates. :-**

In the following matters references shall be made to a Magistrate of the First Class having jurisdiction within the limits of the City :-

(a) the abatement of overcrowding-under section 307;

(b) the detention of a person suffering from a dangerous disease in a public hospital under the rules.

**424. Disposal of animals and articles of non-perishable nature seized under section 338. :-**

(1) Any animal and any article not of a perishable nature and any utensil or vessel seized under section 338 shall be forthwith taken before a Magistrate of the First Class.

(2) If it shall appear to such Magistrate that any such animal or article is diseased, unsound or unwholesome or unfit for human consumption, as the case may be. or is not what it was represented to be or that such utensil or vessel is of such kind or in such state as to render any article prepared, manufactured or contained therein unwholesome or unfit for human consumption, he may, and if it is diseased, unsound, unwholesome or unfit for human consumption, he shall cause the same to be destroyed, at the charge of the person in whose possession it was at the time of its seizure, in such manner as to prevent the same being again exposed or hawked about for sale or used for human consumption or for the preparation or manufacture of, or for containing any such article as aforesaid.

**425. Penalty for possessing food which appears to be diseased, unsound or unwholesome or unfit for human food. :-**

In every case in which food, on being dealt with under section 424, appears to the Magistrate to be diseased, unsound or unwholesome or unfit for human consumption, the owner thereof or the person in whose possession it was found, not being merely bailee or carrier, thereof, shall, on conviction, if in such case the provisions of section 273 of the Indian Penal Code do not apply, be punished with fine which may extend to five hundred rupees. ;

**426. Application for summon to be refused if not applied for within a reasonable time. :-**

In all prosecutions under section 425 the Magistrate shall refuse to issue a summons for the attendance of any person accused of an offence against such section, unless the summons is applied for within a reasonable time from the alleged date of the offence of which such person is accused. VIII. Proceedings before Magistrate and the <sup>1</sup> [Criminal Appellate Court]

1. These words were substituted for the words "Sessions Court" by Gujarat 8 of 1968, Section 8 (3).

**427. Cognizance of offences. :-**

(1) Offences for the contravention of sections 60, 61 and 325 shall be cognizable.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, [V of 1898] all offences against this Act, or against any rule, regulation or bylaw, whether committed within or without the City, shall be cognizable by a Magistrate of the First Class having jurisdiction in the City and no such Magistrate shall be deemed to be incapable of taking cognizance of any such offence or of any offence against any enactment hereby repealed, by reason only of his being liable to pay any municipal tax or of his being benefited by the Municipal Fund.

(3) Notwithstanding anything contained in section 200 of the said Code, it shall not be necessary in respect of any offence against this Act, or any rule, regulation or by-law made thereunder, to examine the complaint when the complain is presented in writing.

**428. Limitation of time within which complaints of offence punishable under this Act shall be entertained. :-**

No Magistrate shall take cognizance of any offence punishable under this Act, or any rule, regulation or by-law, unless complaint of such offence is made before him

(a) within six months next after the date of the commission of such offence; or

(b) if such date is not known or the offence is a continuing one within six months next after the commission or discovery of such offence.

**429. Power of Magistrate to hear cases in absence of accused. :-**

If any person summoned to appear before a Magistrate to answer a charge of an offence punishable under this Act or any rule, regulation or by-law fails to appear at the time and place mentioned in the summons, and if service of summons is proved to the satisfaction of the Magistrate and no sufficient cause is shown for the non- appearance of such person the Magistrate may hear and determine the case in his absence.

**430. Report of Chemical Analyser to Government. :-**

Any document purporting to be a report under the hand of the Chemical Analyser to Government upon any article duly submitted to him for analysis may be used as evidence of the facts therein stated in any inquiry or prosecution under this Act.

**431. Complaint concerning nuisances. :-**

(1) Any person who resides in the City may complaint to a Magistrate of the First Class having jurisdiction therein of the existence of any nuisance or that in the exercise of any power conferred by section 156, 157, 175, 176, 177, 249 or 292 more than the least practicable nuisance has been created.

(2) Upon receipt of any such complaint, the Magistrate, after making such inquiry as he thinks necessary, may, if he sees fit, direct the Commissioner-

(a) to put in force any of the provisions of this Act or of any rule, regulation or by-law or to take such measures as to such Magistrate shall seem practicable and reasonable for preventing, abating, diminishing or remedying such nuisance;

(b) to pay to the complaint such reasonable costs of and relating to the said complaint and order as the said Magistrate shall determine

inclusive of compensation for the complaint's loss of time in prosecuting such complaint.

(3) Subject to the provisions of section 432 it shall be incumbent on the Commissioner to obey every such order.

(4) Nothing in this Act contained shall interfere with the right of any person who may suffer injury or whose property may be injuriously affected by any act done in the exercise of any power conferred by section 156, 157, 175, 176, 177, 249 or 292 to recover damages for the same.

**432. Appeal to the Criminal Appellate Court from order passed under section 431. :-**

(1) An appeal shall lie to the <sup>1</sup>[Criminal Appellate Court] from an order passed by a Magistrate under section 431 within one month of the date thereof.

(2) The <sup>1</sup>[Criminal Appellate Court] may, when disposing of an appeal under sub-section (1), direct by whom and in what proportions, if any, the costs of the appeal are to be paid, and costs so directed to be paid may, on application to a Magistrate of the First Class having jurisdiction in the City, be recovered by him, in accordance with the direction of the <sup>1</sup>[Criminal Appellate Court], as if they were a fine imposed by himself.

(3) When an appeal has been preferred to the <sup>1</sup>[Criminal Appellate Court] under this section the Commissioner shall defer action upon the order of the Magistrate until such appeal has been disposed of and shall thereupon forthwith give effect to the order passed in such appeal by the <sup>1</sup>[Criminal Appellate Court] or, if the order of the Magistrate has not been disturbed by the <sup>1</sup>[Criminal Appellate Court], then to his order.

(4) The <sup>1</sup> [Criminal Appellate Court] may, from time to time, make rules for regulating the admission of appeals under sub-section (1) and the procedure to be followed in the adjudication thereof.

1. These words were substituted for the words "Sessions Court" by Gujarat 8 of 1968, Section 8 (3).

**433. Offenders against this Act may in certain cases be arrested by police officers :-**

(1) Any police officer may arrest any person who commits in his

view any offence against this Act or against any rule, regulation or by-law, if the name and address of such person be unknown to him, and if such person, on demand declines to give his name and address or gives a name and address which such officer has reason to believe to be false.

<sup>1</sup>[(2) No person so arrested shall be detained in custody after his true name and address are ascertained or, without the order of the <sup>2</sup> [nearest Judicial Magistrate], for a longer period than twenty-four hours from the time of arrest exclusive of the time necessary for the journey from the place of arrest to the court of such Magistrate.]

1. Sub-section (2) was substituted for the original by the Adaptation of Laws Order, 1950.

2. These words were substituted for the words "nearest Magistrate" by Bombay 8 of 1954, Section 2, Sch., Part III.

#### **434. Code of Civil Procedure to apply. :-**

(1) Save as expressly provided by this Chapter the provisions of the Code of Civil Procedure, 1908, [V of 1908] relating to appeals from original decrees shall apply to appeals to the Judge from the orders of the Commissioner and relating to appeals from appellate decrees shall apply to appeals to the "[Civil Appellate Court].

(2) All other matters for which no specific provision has been made under this Act shall be governed by such rules as the <sup>1</sup> [State] Government may from time to time make after consultation with the High Court.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

#### **435. Limitation. :-**

(1) In computing the period of limitation prescribed for an appeal or application referred to in this Chapter, the provisions of sections 5, 12, and 14 of the Indian Limitation Act, 1908, [IX of 1908] shall, so far as may be apply.

(2) When no time is prescribed by this Act for the presentation of an appeal, application or reference, such appeal or application shall be presented or reference shall be made within thirty days from the date of the order in respect of or against which the appeal, application or reference is presented or made.

**436. Execution of orders of the Judge and Civil Appellate Courts. :-**

**1**

(1) All orders of the Judge shall be executed in the same manner as if they were decrees of the Court of Small Causes passed under <sup>2</sup>[the relevant Small Cause Courts Act].

(2) All orders of the<sup>1</sup>[Civil Appellate Courts] shall be executed as if they were the decrees of the <sup>1</sup> [Civil Appellate Court].

1. These words were substituted for the words "District Judge" by Gujarat 8 of 1908, Section 8 (1).

2. These words were substituted for the words and figures "the Provincial Small Cause Courts Act, 1887", *ibid.*, Section 8 (4).

**436A. Rules of construction in respect of Magistrate for city of Ahmedabad. :-**

<sup>1</sup> The references in this Act to a Magistrate of the First Class or Magistrate shall in relation to the City of Ahmedabad be constructed as references to a Magistrate appointed under section 14 of the Ahmedabad City Courts Act, 1961.][Gujarat XIX of 1961.]

1. Section 436A was inserted, *ibid.*, Section 10.

**437. Criminal Procedure Code to apply to all inquiries and proceedings before Magistrates. :-**

The provisions of the Code of Criminal Procedure, 1898, [V of 1898] shall, so far as may be, apply to all inquiries and proceedings under this Act before the Magistrates.<sup>1</sup>

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

CHAPTER 26A

POWER TO EVICT PERSONS FROM PREMISES BELONGING TO THE CORPORATION.

**437A. Power to evict certain persons from Municipal premises. :-**

**1**

1. Repealed by Gujarat 12 of 1973, Section 19].

**437B. Power to recover rent or damages as arrears of land revenue. :-**

**1**

1. Repealed by Gujarat 12 of 1973, Section 19].

**437C. Deduction of rent from salary or wages in certain cases. :-**

**1**

1. Repealed by Gujarat 12 of 1973, Section 19].

**437D. Appeal. :-**

**1**

1. Repealed by Gujarat 12 of 1973, Section 19].

**437E. Bar of jurisdiction of Civil Courts. :-**

**1**

1. Repealed by Gujarat 12 of 1973, Section 19].

**437F. Saving of other provisions. :-**

**1**

1. Repealed by Gujarat 12 of 1973, Section 19].

CHAPTER 27

RECOVERY OF MUNICIPAL DUES OTHER THAN TAXES.

**438. Recovery of expenses of removals by Commissioner under certain sections. :-**

(1) The expenses incurred by the Commissioner in effecting any removal under section 60, section 231 or sub-section (3) of section 239, or, in the event of a written notice issued under sub-section (2) of section 226 or, sub-section (3) of section 227 or section 232 or sub-section (3) of section 244 or sub-section (3) of section 245 or section 264 or section 308 not being complied with under section 479, and all other expenses and charges specified in sub-section (2), if any, shall subject to the provisions of sub-section (2), be recoverable by the sale of the materials removed, and if the proceeds of such sale do not suffice, the balance shall be paid by the owner of the said materials.

(2) If the expenses of removal are in any case paid before the materials are sold, the Commissioner shall restore the materials to the owner thereof, on his claiming the same at any time before they are sold or otherwise disposed of, and on his paying all other expenses, if any, incurred by the Commissioner in respect thereof or in respect of the intended sale or disposal thereof and all such charges, if any as the Commissioner may fix for the storage of the materials.

(3) If the materials are not restored to the owner thereof under

sub-section (2) they shall be sold by auction or otherwise disposed of as the Commissioner thinks fit :

Provided that, if the materials are perishable, they may be sold or disposed of forthwith, and, if other than perishable, they shall be sold or disposed of as soon as conveniently may be after one month from the date of their removal whether the expenses of the removal and the charges, if any, for storage have in the mean time been paid or not and the proceeds, if any, of the sale or other disposal, shall, after defraying therefrom the costs of the sale or other disposal, and if necessary, of the removal and the charges for the storage, be paid to the credit of the Municipal Fund, and shall be the property of the Corporation.

**439. Expenses recoverable under the Act to be payable on demand, and if not paid on demand may be recovered as arrear of property tax. :-**

(1) Whenever under this Act, or any rule, regulation or by-law the expenses of any work executed or of any measure taken or thing done by or under the order of the Commissioner or of any municipal officer empowered under section 69 in this behalf are payable by any person, the same shall be payable on demand.

(2) If not paid on demand, the said expenses shall be recoverable by the Commissioner, subject to the provisions of sub-section (4) and sub-section (3) of section 416 by distress and sale of the moveable property or attachment and sale of the immovable property of the defaulter, as if the amount thereof were a property-tax due by the said defaulter.

(3) If, when the Commissioner demands payment of any expenses under sub-section (1) his right to demand the same or the amount of the demand is disputed, or if, in the case of expenses incurred by the Commissioner in taking temporary measures under sub-section (2) of section 247, the necessity for such temporary measures is disputed, the Commissioner shall refer the case for the determination of the Judge.

(4) Pending the Judge's decision the Commissioner shall defer further proceedings for the recovery of the sum claimed by him, and, after, decision, shall, subject to the provisions of section 416, proceed to recover only such amount if any, as shall be thereby determined to be due.

**440. If defaulter is owner of premises in respect of which expenses are payable, occupier to be also liable for payment thereof. :-**

If the said expenses are due in respect of some work executed or thing done to, upon or in connection with, some building or land or of some measure taken with respect to some building or land or in respect of a private street and the defaulter is the owner of such building or land or of the premises fronting or adjoining such street or abutting thereon, as the case may be, the amount thereof may be demanded from any person who at any time, before the said expenses have been paid, occupies the said building, land or premises under the said owner; and in the event of the said person failing to pay the same, they may be recovered, by distress and sale of the moveable property or the attachment and sale of the immovable property of the said person, as if the amount thereof were a property-tax due by him :

Provided as follows, namely :-

(a) unless the said person neglects or refuses at the request of the Commissioner, truly to disclose the amount of the rent payable by him in respect of the said building or premises and the name and address of the person to whom the same is payable, the said person shall not be liable to pay on account of the said expenses any larger sum than, upto the time of demand, is payable by him to the owner on account of rent of the said building, land or premises; but it shall rest upon the said person to prove that the amount of the expenses demanded of him is in excess of the sum payable by him to the owner;

(b) the said persons shall be entitled to credit in account with the owner for any sum paid by or recovered from him on account of the said expenses;

(c) nothing in this section shall affect any agreement made between the said person and the owner of the building, land or premises in his occupation respecting the payment of the expenses of any such work, thing or measure as aforesaid.

**441. Commissioner may agree to receive payment of expenses in instalments. :-**

Instead of recovering any such expenses as aforesaid in any manner hereinbefore provided, the Commissioner may, if he thinks fit and with the approval of the Standing Committee, take an

agreement from the person liable for the payment thereof, to pay the same in instalments of such amounts and at such intervals as will secure the payment of the whole amount due, with interest thereon, at such rate not exceeding nine percent per annum as the Standing Committee may fix from time to time, within a period of not more than five years.

**442. Certain expenses may be declared to be improvement expenses. :-**

(1) Any expenses incurred by the Commissioner under any provision of this Act in respect of any material or fittings supplied or work executed or thing done to, upon or in connection with some building or land which are recoverable from the owner or occupier of such building or land may, subject to the regulations, be declared to be improvement expenses if the Commissioner with the approval of the Corporation, thinks fit so to declare them, and no such declaration being made, such expenses, together with interest thereon payable under sub-section (2), shall be a charge on the premises in respect of which, or for the benefit of which, the expenses have been incurred.

(2) Improvement expenses shall be recoverable in instalments of such amount not being less for any premises than twelve rupees per annum, and at such intervals as will suffice to discharge such expenses, together with interest thereon at such rate not exceeding six percent per annum as the Standing Committee may fix from time to time, within such period not exceeding thirty years as the Commissioner with the approval of the Corporation may in each case determine.

(3) The said instalments shall be payable by the occupier of the premises on which the expenses and interest thereon are so charged or, in the event of the said premises becoming unoccupied at any time before the expiration of the period fixed for the payment of such expenses or before the sum, with interest as aforesaid, are fully paid off, by the owner for the time being of the said premises, so long as the same continue to be unoccupied.

**443. Proportion of improvement expenses may be deducted from rent. :-**

(1) Where the occupier by whom any improvement expenses are paid holds the premises on which the expenses together with interest thereon are charged, at a rent not less than the rack-rent,

he shall be entitled to deduct three-fourth of the amount paid by him on account of such expenses and interest thereon as aforesaid from the rent payable by him to his landlord, and, if he holds at a rent less than the rack-rent, he shall be entitled to deducted from the rent so payable by him such proportion of three-fourths of the amount paid by him on account of such expenses and interest thereon as aforesaid as his rent bears to the rack-rent.

(2) If the landlord from whose rent any deduction is so made is himself liable to the payment of rent for the premises in respect of which the deduction is made and holds the same for a term of which less than twenty years is unexpired (but not otherwise), he may deduct from the rent so payable by him such proportion of the sum deducted from the rent payable to him as the rent payable by him bears to the rent payable to him, and so in succession with respect to every landlord (holding for a term of which less than twenty years is unexpired) of the same premises both receiving and liable to pay rent in respect thereof :

Provided that nothing in this section shall be constructed to entitle any person to deduct from the rent payable by him more than the whole sum deducted from the rent payable to him.

**444. Redemption of charge for improvement expenses. :-**

At any time before the expiration of the period for the payment of any improvement expenses together with interest thereon, the owner or occupier of the premises on which they are charge may redeem such charge by paying to the Commissioner such part of the said expenses and such interest due, if any, as may not have been already paid or recovered.

**445. Recovery of instalments due under sections 441 and 442. :-**

Any instalment payable under section 441 or 442 which is not paid when the same becomes due, may be recovered by the Commissioner by distress and sale of the moveable property or the attachment and sale of the immovable property of the person by whom it is due as if it were a property-tax due by the said person.

**446. In default of owner the occupier of any premises may execute required work and recover expenses from the owner. :-**

Whenever the owner of any building or land fails to execute any work which he is required to execute under this Act or under any

rule, regulation or by-law the occupier, if any, of such building or land may, with the approval of the Commissioner, execute the said work, and he shall be entitled to recover the reasonable expenses incurred by him in so doing from the owner and may without prejudice to any other right of recovery deduct the amount thereof from the rent which from time to time becomes due by him to the owner.

**447. Persons liable for expenses or compensation may be sued for recovery thereof. :-**

Instead of proceeding in any manner aforesaid for the recovery of any expenses or compensation of which the amount has been as certain as hereinbefore provided, or after such proceedings have been taken unsuccessfully or with only partial success the sum due, or the balance of the sum due as the case may be, may be recovered by a suit brought against the person liable for the same in any Court of competent jurisdiction.

CHAPTER 28  
CONTROL.

**448. Power of 1[State] Government to require performance of duties in default of any municipal authority. :-**

(1) If it shall at any time appear to the <sup>1</sup>[State] Government upon complaint or otherwise that default has been made in the performance of any duty imposed on any of the municipal authorities by or under this Act or by or under any enactment for the time being in force, the <sup>1</sup>[State] Government may, if satisfied after due inquiry that the alleged default has been made, make an order prescribing a period for the performance of that duty :

Provided that, except in any case which appears to the <sup>1</sup>[State] Government to be one of emergency, no such order shall be made until after the expiry of one month from the date of service of a written notice on the Corporation, and if the <sup>1</sup>[State] Government shall think fit, on the Commissioner, requiring cause to be shown why such order should not be made, nor until the cause, if any, so shown has been considered by the <sup>1</sup>[State] Government.

(2) If the duty is not performed within the period prescribed in an order made, under sub-section (1), the <sup>1</sup>[State] Government may appoint some person to perform <sup>7</sup> [State] Government shall determine and the cost of the proceedings under this section shall

be paid out of the Municipal Fund.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950,

7. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

**449. Expenses of measures enforced under section 448 how to be recovered. :-**

(1) When any such order as is mentioned in sub-section (2) of section 448, shall have been made, the Corporation shall cause to be paid to the <sup>1</sup>[State] Government the sum or sums of money of which payment shall from time to time be required, in pursuance of the said order, in any requisition made by the <sup>1</sup>[State] Government.

(2) If, within fourteen days from the delivery of any such requisition, the same is not complied with, the <sup>1</sup> [State] Government may by a written order authorise and direct some person to receive from the bank in which the Municipal Fund is lodged the sum or sums mentioned in the said order.

(3) The said bank shall, upon production of the said written order, forthwith pay the said sum or sums to the person therein authorised to receive the same and the said written order shall be a sufficient discharge to the said bank from all liability to the Corporation in respect of any sum or sums so paid by it out of the Municipal Fund.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

**450. Power to <sup>1</sup>[State] Government to call for extracts from proceedings, etc. :-**

(1) The <sup>1</sup>[State] Government may at any time call upon the Corporation to furnish it with any extract from any proceedings of the Corporation, the Standing Committee, the Transport Committee or any other committee constituted under this Act or from any record under the control of the Corporation and with any statistics concerning or connected with the administration of this Act; and the Corporation shall furnish the same without unreasonable delay.

(2) The <sup>1</sup> [State] Government may at any time call upon the Commissioner or the Transport Manager to furnish it with any

information, report, explanation or statistics concerning or connected with the executive administration of this Act so far as each is concerned, and the Commissioner or the Transport Manager as the case may be, shall furnish the same without unreasonable delay.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

**451. Power of 1[State] Government to suspend section under this Act. :-**

(1) If the <sup>1</sup>[State] Government is of opinion that the execution of any resolution or order of the Corporation or of any other municipal authority or officer subordinate thereto or the doing of any act which is about to be done or is being done by or on behalf of the Corporation is in contravention of or in excess of the powers conferred by this Act or of any other law for the time being in force or is likely to lead to a breach of the peace or to cause injury or annoyance to the public or to any class or body of persons, the <sup>1</sup>[State] Government may, by order in writing, suspend the execution of such resolution or order, or prohibit the doing of any such act.

(2) A copy of such order shall forthwith be sent to the Corporation by the <sup>2</sup>[State] Government.

(3) The <sup>1</sup> [State] Government may at any time, on representation by the Corporation or otherwise, revise, modify or revoke an order passed under sub- section (1).

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

\* Please see sections 3, 5 and 6 of Gujarat 26 of 1965.

**452. Power of 1[State] Government to 3(Dissolve) Corporation in case of incompetency persistent default or excess or abuse of powers. :-**

(1) If at any time upon representation made or otherwise it appears to the <sup>1</sup>[State] Government that the Corporation is not competent to perform, or persistently makes default in the performance of, the duties imposed upon it or under this Act or any "other law for the time being in force or exceeds or abuses its powers, the <sup>3</sup>[State] Government may, after having given the Corporation an opportunity to show cause why such order should

not be made, by an order published, with the reasons therefor, in the Official Gazette, direct that the Corporation shall be <sup>4</sup>[dissolved].

(2) When an order is made under sub-section (1), the following consequences shall ensue :-

(a) all the councillors shall, as from the date of the order of <sup>1</sup>[dissolution] vacate their offices as such councillors ;

(b) if the <sup>1</sup>[State] Government so directs in the order, the members of the Transport Committee shall, as from the said date, vacate their offices as such members ;

(c) all powers and duties of the Corporation, the Standing Committee and, if the <sup>1</sup>[State] Government has directed that the members of the Transport Committee shall vacate office, the Transport Committee under this Act or under any other law for the time being in force shall, during the period of suppression, be exercised and performed by such person or persons as the <sup>2</sup>[State] Government from time to time appoints in this behalf ;

(d) all property vested in the Corporation shall, during the period of <sup>2</sup>[dissolution], vest in the <sup>10</sup>[Government] ;

(e) the person or persons appointed under clause (c) may delegate his or their powers and duties to an individual or to a committee or sub-committee.

(6) in the principal Act, section 454 except the proviso, shall be renumbered as sub-sec.(1) of the section, and

(a) after sub-section (1) as so renumbered, the following sub-section shall be added, namely-

[(2) The corporation may make rules either prospectively or retrospectively for the purpose of levy of property tax under section 141B;

Provided that while making any rules under this sub-section no provision for breach thereof under section 468, shall be made retrospectively]

<sup>3</sup> [(3) [xxx]

(4) The Corporation shall be re-constituted with a period of six months from the date of dissolution by the election of the

councillors at the general election held in accordance with the provisions of this Act :

provided that the person or persons appointed under clause (c) of sub-section (2) shall continue to exercise the power and perform the duties of the corporation, standing committee and, as the case may be, the Transport Committee until the first meeting of the Corporation re-constituted by election of councillors as aforesaid shall have been held ; ]

3. This words was substituted for the "Superseded for a period' and ending with 'under this section' by Gujarat 16 of 1993 Section 18 (1). ending with 'under this section' by Gujarat 16 of 1993 Section 18 (1).

4. This word was substituted for the "Supersede" by Gujarat 16 of 1993 Section 18 (5).

10. Sub-section (3) shall be deleted by Gujarat 160 G. 1993 Section 18 (3). Any order published under section 452A was deemed to have been published under section 3A. vide section 3 of Gujarat 19 of 1986.

**452A. Power of State Government to make suitable provisions by order on alteration of limits of a City. :-**

Deemed to have been deleted with effect on and from the 1st April 1986 by Gujarat 19 of 1986, Section 3 (1).

CHAPTER 29

RULES, BY-LAWS, REGULATIONS AND STANDING ORDERS

**453. Rules in Schedule to be part of the Act :-**

The rules in <sup>1</sup> [Schedule A] as amended from time to time shall be deemed to be part of this Act.

1. This word and letter were substituted for the word "Schedule" by Gujarat 19 of 1964, ss. 22 and 23.

**454. Alteration of and addition to Schedule :-**

(1) The Corporation may add to <sup>1</sup>[Schedule A] rules not inconsistent with the provisions of this Act <sup>2</sup>[and the rules made by the State Government under this Act] (which expression shall in this section be deemed not to included <sup>3</sup> [the said Schedule

1. This word and letter were substituted for the word "Schedule" by Gujarat 19 of 1964, ss. 22 and 23.

2. This was inserted by Gujarat 16 of 1993 Section 19.

3. These words and letter were substituted for the words "the said Schedule", *ibid.*, Section 23.

**455. Power to make ru subject to[es sanction of State**

**Government. :-**

(1) The power to make, add to, alter or rescind any rule under section 454, shall be subject to the sanction of the <sup>1</sup> [State] Government and to the condition of the rules being made after previous publication.

(2) All rules made under section 451 shall be finally published in the Official Gazette and shall thereupon have effect as if enacted in this Act.

(3) In addition to the publication required under sub-section (1) and (2), the Corporation may determine in each case what further publication, if any, is required for rules made or proposed to be made.

1. This word and letter were substituted for the word "Schedule" by Gujarat 19 of 1964, ss. 22 and 23.

**456. Power of }[State] Governments to make rule. :-**

(1) The State Government may, by notification in the Official Gazette make rule to provide for matter expressly required or allowed by the to prescribe by rules or for such of the matters for carrying out the purposes of this Act.

(2) All the rules made under sub-section (1) shall be subject condition of previous publication.

Provided that the State Government may for sufficient reason, dispense with the requirement of previous publication.

(3) All the rules made under sub-section( 1) shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission or to such modification as the Legislature may make during the session in which they are also so laid, or the session immediately following.

(4) Any recession or modification so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.

(5) Any rules made by the Corporation which are inconsistent with the rule made by the State Government shall be null and void to the extent of inconsistency.

(6) The <sup>1</sup>[State] Government may at any time required the

Corporation to make rules under section 454 in respect of any purpose or matter specified in section 457.

(7) If the Corporation fails to comply with such requisition within such reasonable time as may be fixed by the <sup>2</sup>[State] Government, the <sup>2</sup> [State] Government may, after previous publication make such rules and the rules so made shall, on final publication in the Official Gazette, have effect as if enacted in the Act.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

2. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

**457. Matters in respect of which rules may be made. :-**

In particular, and without prejudice to the generality of the powers conferred by section 454, rules made thereunder may provide for or regulate all or any of the following purposes and matters, namely :-

(1) Ward elections.- (a) The amount of the rateable value of business premises for the purposes of the business premises qualification under section 8; <sup>1</sup>[(b) to (i)]

(2) Proceedings of Corporation and Committees and conduct of business.- (a) The time and place of meetings of the Corporation, committees and sub- committees;

(b) the manner in which notice of such meetings shall be given ;

(c) the quorum necessary for the transaction of business at such meetings;

(d) the management and adjournment of such meetings, and the regulation or orderly conduct of business thereat, including the withdrawal or suspension of members guilty of disorderly conduct;

(e) the submission, asking and answering of questions at meetings of the Corporation;

(f) the constitution of Special Committees;

(g) the keeping of minutes and the submission of reports of meetings of the Corporation, Committees and sub-committees;

(h) the delegation of the powers of the Standing Committee to sub-Committees;

(i) the payment of conveyance charges to the Chairman and

members of the Transport Committee for attendance at meetings thereof;

(j) any other matter relating to the proceedings of the Corporation, a committee or a sub-committee, the holding and regulation of meetings, the conduct of debate, the inspection of minute-books and the supply of copies of minutes to councillors or other persons on payment of fees or otherwise.

(3) Municipal Officers and Servants.-

(a) The qualifications necessary for and the method of appointment to posts the power of appointment to which vests in the Corporation

(b) the mode of appointment to other posts;

(c) the powers and duties of the Municipal Chief Auditor and his staff;

(d) the determination of the services under the municipality to be treated as essential services for the purposes of Chapter V.;

(4) Contracts.-

(a) The manner in which contracts may be executed;

(b) the security to be demanded for the due performance of contracts;

(c) the calling, examination and acceptance of tenders;

(d) the procedure to be followed in disposing of the property of the Corporation.

(5) Special Funds.-The constitution, maintenance and disposal of special funds within the Municipal Fund or the Transport Fund.

(6) Budget estimates.-

(a) The classification of budget-estimates of expenditure according to budget heads;

(b) the manner of making reduction in or transfers from one budget head to another or within a budget head.

(7) Municipal Taxes.-

(a) The assessment and recovery of municipal taxes;

(b) the conditions on which refunds of municipal taxes shall be allowed;

(c) in respect of a tax leviable under sub-section (2) of section 127, the matters referred to in sub-section (1) of section 149.

(8) Drainage.-

(a) The constructions, maintenance, improvement, alteration and discontinuance of drains;

(b) the conditions and restrictions to be observed with reference to drains;

(c) the conditions for connections with municipal drains;

(d) the conditions on which occupiers of trade-premises may discharge any trade-effluent into municipal drains;

(e) the conditions to be observed in erecting or affixing ventilation shafts or pipes under section 175;

(f) the manner in which samples of trade-effluent shall be analysed;

(g) the construction, position and maintenance of water-colsets, privies, urinals, bathing places or washing places.

(9) Water Supply.-The terms and conditions of the supply of water to building or other premises.

(10) Streets.-

(a) The information and documents to be furnished in connection with the lay-out of lands for building and private streets;

(b) the definition of sky-signs;

(c) the naming or numbering of streets and public places and the numbering of <sup>2</sup> [premises].

(11) Regulation of Buildings.-

(a) The manner in which further information and documents in regard to the erection of, or additions to, alterations in, or repairs of, buildings shall be supplied;

(b) the conditions to be observed in commencing, carrying out, and completing building work and in occupying buildings on completion

of works;

(c) the restrictions under which alterations may be made in the use of buildings;

(d) the inspection of newly constructed buildings;

(e) the conditions on which loans may be granted out of the Municipal Fund for building and the form of application for such loans.

(12) Fire Brigade.-The powers exercisable by the chief or other officer of the municipal fire brigade on the occasion of a fire.

(13) Sanitary Provisions.-

(a) The furnishing of information regarding the number of occupants in buildings;

(b) the removal and disposal of filth, rubbish, and polluted and excrementitious matter from premises;

(c) the maintenance of premises in a sanitary condition;

(d) the prevention of nuisances, including the prohibition and regulation of wells;

(e) the removal, trimming and cutting of trees and hedges;

(f) the regulation of the keeping of animals in the City;

(g) the regulation of public bathing and the washing of clothes;

(h) the information to be furnished by persons applying for permission to establish, remove, or re-open a factory, workshop, workplace or bakery governed by section 313;

(i) the articles which may not be kept and the trades and operations which may not be carried on in or upon any premises without a licence under section 376;

(j) the inspection of premises used or suspected of being used as a factory, workshop, workplace or bakery or for any licenseable trade or occupation or for the storage of any licenseable article;

(k) the prevention and regulation of the discharge of smoke, steam, fumes and noxious vapours;

(1) the prohibition and regulation of the use of whistles, trumpets

and noise-producing instruments operated by any mechanical means;

(m) measures for the prevention of the spread of dangerous diseases.

(14) Markets.-The regulation of sales within or outside municipal or private markets.

(15) Fares and charges levied by Transport Undertaking.-The exhibition of notices of fares and charges in vehicles used for the conveyance of passengers.

(16) Vital Statistics.-The supply of forms of certificates regarding the cause of death to medical practitioners.

(17) General.-Any matter which is or may be prescribed to be provided for by rules.

1. (h) to (i) deleted by Gujarat 16 of 1993 Section 21.

2. This word was substituted for the word "Building" by Bombay 22 of 1956, Section 8 (I).

**458. By-laws for what purpose to be made. :-**

The Corporation may from time to time make by-laws, not inconsistent with this Act and the rules, with respect to the following matters, namely :-

(1) regulating, in any particular not specifically provided for in this Act or the rules, the construction, maintenance, protecting, flushing, cleansing and control of drains, ventilation-shafts or pipes, cess-pools, water-closets, privies, latrines, urinals, washing places, drainage works of every description, whether belonging to the Corporation or other persons, municipal water-works, private communication pipes, private streets and public streets;

(2) regulating all matters and things connected with the supply and use of water;

(3) regulating the maintenance, supervision and use of public and private cartstands and the levy of fees for the use of such of them as belong to the Corporation;

(4) prescribing the forms of notice under sections 253 and 254, the information, documents and plans to be furnished therewith in respect of different classes of structures or works, the manner in which and the persons by whom notices shall be signed and the

manner in which plans, sections, descriptions, structural drawings or structural calculations shall be drawn, given, prepared and signed ;

(5) regulating the manner in which, the supervision under which, the agency through which and the conditions and restrictions under which the work of erecting or re-erecting buildings of particular classes and any work such as is described in section 254 shall be carried out;

(6) the structure of walls, foundations, roofs and chimneys, the number, width and position of staircases, the width of corridors and passages, the materials, dimensions and strength of floors and staircases and of all scantlings, girders, posts and columns of buildings, for securing stability and the prevention of fires and the safety of the inmates in the event of fire and for purposes of health, either generally or with reference to the type of the structure and the use to which it is intended to be put;

(7) the construction of scaffolding for building operations to secure the safety of the operatives and of the general public;

(8) the provision and maintenance of sufficient open space, either external or internal, about buildings to secure a free circulation of air, and of other means for the adequate ventilation of buildings;

(9) the provision and maintenance of suitable means of access to buildings and preventing encroachment thereon;

<sup>1</sup> [(9A) the provision and maintenance of parking space and loading and unloading space, for buildings erected or re-erected in such locality or for such use as may be specified]

(10) the provision and maintenance of house-gullies and service-passages;

(11) regulating the conditions on which frame buildings may be constructed;

(12) regulating the use of land as building site, prescribing the minimum size of such sites, either generally or for specified areas and prescribing setbacks from the street margin for all or particular classes of buildings on specified streets or classes of streets or in specified localities;

(13) regulating the height of structures generally or with reference

to the materials of which they are constructed or the width of the streets on which they front of the areas in which they are situated or the purposes for which they are intended to be used;

(14) regulating the number and height above the ground or above the next lower storey of the storeys of which a building may consist;

(15) prescribing the form of the completion certificate required under section 263 and the manner in which and the person by whom it shall be signed and sub- scribed;

(16) regulating the intervals at which, the manner in which and the persons by whom buildings shall be periodically inspected under section 265;

(17) regulating the management, maintenance, control and use of dwellings intended for the poorer sections of the community vesting in the Corporation;

(18) prescribing the qualifications and experience of licensed surveyors, architects, engineers, structural designers, clerks of works and plumbers;

(19) regulating in any particular not specifically provided for in this Act conservancy and sanitation, the destruction of rodents and other vermin, preventive and remedial measures against mosquitoes, flies and other inspect pests;

(20) the control and supervision of all premises used for any of the purposes mentioned in section 376 and of all trades and manufactures carried on thereon and the prescribing and regulating of the construction, dimensions, ventilation, lighting, cleansing, drainage and water-supply of any such premises;

(21) the inspection of much-Cattle, and prescribing and regulating the construction, dimensions, ventilation, lighting, cleansing, drainage and water supply of cattle-sheds and dairies;

(22) securing the cleanliness of milk-stores, milk-shops and milk-vessels used by dairymen or milk-sellers for containing milk;

(23) regulating the sale of milk in the City; the protection of milk against contamination and the prevention of the sale of contaminated milk;

(24) requiring notice to be given whenever any much animal is

- affected with any contagious disease and prescribing precautions to be taken for protecting milchcattle and milk against infection or contamination;
- (25) regulating the measures to be taken in the event of the outbreak of any disease among animals which is communicable to man and the supply of information which will facilitate the taking of such measures;
- (26) securing the efficient inspection of markets and slaughter-houses and of shops in which articles intended for human food are kept or sold;
- (27) the control and supervision of butchers carrying on business within the City or at a municipal slaughter-house without the City;
- (28) regulating the use of any municipal market building, market place or slaughter-houses or any part thereof;
- (29) controlling and regulating the sanitary condition of markets and slaughter-houses and preventing the exercise of cruelty therein;
- (30) the licensing of hand-carts, other than those exempted from taxation under section 143 or those plying for hire in respect of which licences have been issued under the Bombay Public Conveyances Act, 1920, and the seizure and detention of any such hand-carts that have not been duly licensed;
- (31) requiring notice to be given of the occurrence of cases of any infectious, epidemic or endemic disease, not being dangerous disease, which may be specified and prescribing the precautions to be taken by persons suffering from, or exposed to infection from, any such disease;
- (32) regulating the disposal of the dead and the maintenance of all places for the disposal of the dead in good order and in a safe sanitary condition, due regard being had to the religious usage's of the several classes of the community;
- (33) regulating the use of any place for the skinning and cutting up of the carcasses of animals;
- (34) facilitating and securing complete and accurate registration of births and deaths;
- (35) the registration of marriages;

(36) securing the protection of public parks, gardens, public parking places and open spaces vested in or under the control of the Corporation from injury or misuse, regulating their management and the manner in which they may be used by the public and providing for the proper behaviour of persons in them;

(37) regulating the use of barbed wire or other material for the fencing of land or premises abutting on any street, pathway or place which the public are entitled to use or frequent;

(38) regulating trade in rags, bones or second-hand clothing, bedding or other similar articles, including measures for disinfecting on import or before removal, sale or exposure for sale or use in any manufacturing process of any such article;

(39) regulating the holding of fairs and industrial exhibitions in the City;

(40) regulating and prohibiting the stocking of inflammable materials and of the lighting of fires in any specified portion of the City;

(41) regulating the charges for services rendered by any municipal authority;

(42) regulating admission to, and use by members of the public of, municipal hospitals, dispensaries, infirmaries, homes and similar institutions and the levy of fees therein;

(43) the protection of the property of the Corporation;

(44) regulating the inspection by members of the public of municipal records and the fees to be charged before such inspection is allowed.

(45) regulating the grant of certified copies or extracts from municipal records, and the fees chargeable for such copies or extracts;

(46) regulating the appointment by owners of buildings or lands in the City who are not resident therein of agents residing in or near the City to act for such owners for all or any of the purposes of this Act or the rules, regulations or by-laws;

(47) regulating generally matters affecting the conduct of the Transport undertaking and the travelling in or upon vehicles of the undertaking used for the conveyance of passengers, subject to the

provisions of any other enactment applicable to the undertaking and the provisions of any rules, by-laws, regulations, permit or licence issued thereunder, and, in particular, the observance by municipal officers and servants appointed in connection with the undertaking of sobriety, courtesy and special vigilance to prevent danger to persons or vehicles using the streets;

(48) carrying out generally the provisions and intentions of this Act.

1. Clause (9A) was inserted by Gujarat 19 of 1964, Section 24.

**459. Commissioner to lay draft by-laws before the Corporation for its consideration. :-**

It shall be the duty of the Commissioner from time to time to lay before the Corporation for its consideration a draft of any by-law which he shall think necessary or desirable for the furtherance of any purpose of this Act.

**460. Hearing by Corporation of objections to proposed by-laws. :-**

No by-law shall be made by the Corporation, unless-

(a) a notice of the intention of the Corporation to take such by-law into consideration shall have been given in the Official Gazette and in the local newspapers at least six weeks before the date on which the Corporation finally considers such by-law ;

(b) a printed copy of such by-law shall have been kept at the chief-municipal office and made available for public inspection free of charge by any person desiring to peruse the same at any reasonable time for at least one month from the date of the notice given under clause (a);

(c) printed copies of such by-law shall have been delivered to any person requiring the same on payment of such fee for each copy as shall be fixed by the Commissioner;

(d) all objections and suggestions which may be made in writing by any person with respect thereto within one month of the date of the notice given under clause (a) shall have been considered by the Corporation.

**461. By-laws to be confirmed by 1[State] Government. :-**

No by-law made under section 458 shall have any validity unless and until it is confirmed by the <sup>1</sup> [State] Government.

1. This word was substituted for the word "Provincial" by the

Adaptation of Laws Order, 1950.

**462. By-laws confirmed by 1[State] Government to be published in the Official Gazette. :-**

When any by-law has been confirmed by the <sup>1</sup> [State] Government it shall be published in the Official Gazette, and thereupon shall have the force of law.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

**463. Printed copies of by-laws to be kept on sale :-**

(1) The Commissioner shall cause all by-laws from time to time in force to be printed, and shall cause printed copies thereof to be delivered to any person requiring the same, on payment of such fee for each copy as he may fix.

(2) Printed copies of the by-laws for the time being in force shall be kept for public inspection in some part of the municipal office to which the general public has access and in such places of public resort, markets, slaughter-houses and other works

(3) In regard to by-laws relating exclusively to the operations of the Transport Undertaking the provisions of this section shall apply as if for the word "Commissioner" the words "Transport Manager" had been substituted and as if sub-section (2) had provided for the display of the relevant by-laws in every vehicle of the Transport Undertaking used for the conveyance of the public.

**464. [State] Government may modify or repeal by-laws :-**

(1) If it shall at any time appear to the <sup>1</sup>[State] Government that any by-law should be modified or repealed either wholly or in part, it shall cause its reasons for such opinion to be communicated to the Corporation and prescribe a reasonable period within which the Corporation may make any representation with regard thereto which it shall think fit.

(2) After receipt and consideration of any such representation or, if in the meantime no such representation is received, after the expiry of the prescribed period, the <sup>1</sup>[State] Government may at any time by notification in the Official Gazette, modify or repeal such by-law either wholly or in part.

(3) The modification or repeal of a by-law under sub-section (2)

shall take effect from such date as the <sup>1</sup> [State] Government shall in the said notification direct or, if no such date is specified, from the date of the publication of the said notification in the Official Gazette, except as to anything done or suffered or omitted to be done before such date.

(4) The said notification shall also be published in the local newspapers.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

#### **465. Regulations :-**

(1) The Standing Committee shall from time to time frame regulations not inconsistent with this Act and the rules but in consonance with any resolution that may be passed by the Corporation-

(a) prescribing the qualifications required for appointments to posts in municipal service other than those specified in sub-clause (a) of clause (3) of section 457;

(b) fixing the amount and the nature of the security to be furnished by any municipal officer or servant from whom it may be deemed expedient to require security;

(c) regulating the grant of leave to municipal officers and servants;

(d) authorizing the payment of allowances to the said officers and servants, or to certain of them, whilst absent on leave;

(e) determining the remuneration to be paid to the persons appointed to act for any of the said officers or servants during their absence on leave;

(f) authorizing the payment of travelling or conveyance allowance to the said officers and servants;

(g) regulating the period of service of all the said officers and servants;

(h) determining the conditions under which the said officers and servants, or any of them, shall on retirement or discharge receive pensions, gratuities or compassionate allowances, and under which the surviving spouse or children and, in the absence of the surviving spouse or children, the parents, brothers and sisters, if

any, dependent on any of the said officers and servants, shall, after their death, receive compassionate allowances and the amounts of such pensions, gratuities or compassionate allowances;

(i) prescribing the procedure to be followed in removing from service or dismissing or otherwise punishing any municipal officer or servant other than an officer who is appointed under section 40 or 45 or who is appointed to act in the place of such officer;

(j) authorizing the payment of contributions, at certain prescribed rates and subject to certain prescribed conditions, to any pension or provident fund which may, with the approval of the Standing Committee, be established by the said officers and servants or to such provident fund, if any, as may be established by the Corporation for the benefit of the said officers and servants;

(k) prescribing the conditions under which and, subject to the provisions of sub-section (2) of section 50, the authorities by whom the said officers and servants or any of them, may be permitted while on duty or during leave to perform a specified service or series of services for a private person or body or for a public body, including a local authority, or for the Government and to receive remuneration therefor ;

(1) in general, prescribing any other conditions of service of the said officers and servants.

(2) The Standing Committee may also from time to time frame regulations not inconsistent with the provisions of this Act and the rules-

(a) determining the standards of fitness of buildings for human habitation;

(b) regulating the declaration of expenses incurred by the Commissioner under the provisions of this Act and the rules in respect of any materials or fittings supplied or work executed or thing done to, upon or in connection with some building or land which are recoverable from the owner or occupier to be improvement expenses;

(c) prescribing the powers of the Municipal Chief Auditor with regard to the disapproval of, and the procedure with regard to the settlement of objections to, expenditure from the revenue of the Corporation ;

(d) regulating the grant of permission by the Commissioner for the construction of shops, ware-houses, factories, huts or buildings designed for particular uses in any streets, portions of streets or localities specified in a declaration in force under section 269.

(3)

(a) No regulation under sub-section (1) or under clause (a) of sub-section (2) shall have effect until it has been confirmed by the Corporation and, if made under clause (h) of sub-section (1), until it has in addition been confirmed by the <sup>1</sup>[State] Government;

(b) regulations under <sup>2</sup> [clause (c) of sub-section (2)] shall be made in consultation with the Chief Auditor and shall not have effect unless sanctioned by the Corporation.

(4) With reference to officers and servants appointed under Chapter XX and to expenditure from the Transport Fund the provisions of sub-section (1) and of clause (c) of sub-section (2) shall apply as if for the words "Standing Committee" the words "Transport Committee" had been substituted.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

2. These words, brackets, letter and figure were substituted for the words, brackets, letter and figure "clause (b) of sub-section (2)" by Bombay 39 of 1951, Section 3, Second Schedule.

#### **466. Making of standing orders by Commissioner :-**

(1) The Commissioner may make standing orders consistent with the provisions of this Act and the rules and by-laws in respect of the following matters, namely :- (A)

(a) prescribing nakas for the collection of octroi and tolls;

(b) regulating the mode and manner in which octroi and tolls shall be collected;

(c) determining how octroi shall be calculated when no reliable evidence is available of the value of the goods imported;

(d) regulating the stamping, sealing or otherwise marking of imported goods;

(e) prescribing the manner in which refunds of octroi shall be claimed or made and the conditions under which agents shall be recognised for obtaining refunds of octroi.

(f) determining the supervision under which, the routes by which and the time within which goods intended for immediate exportation shall be conveyed out of the City and the fees payable by persons so conveying the goods;

(g) any other matter relating to the collection of octroi which is not provided for in this Act;

(B) the manner in which sales of immovable property attached for the non-payment of municipal dues shall be held;

(C) (a) the training, discipline and good conduct of the men belonging to the municipal fire-brigade and any volunteer fire brigade recognised by the Corporation.

(b) their speedy attendance with engines, fire-escapes and all necessary implements on the occasion of any alarm of fire.

(c) the maintenance of the said brigade generally in a due state of efficiency;

(d) determining the officers to whom and the places at which intimation of the outbreak of a fire shall be reported and the action to be taken on the receipt of such intimation;

(e) for the granting of gratuities, rewards or certificates to persons who have given notice of fires or who have rendered meritorious service to the firebrigade on the occasion of a fire;

(a) for preventing nuisance or obstruction in any market-building, market-place, slaughter-house or stock-yard or in the approaches thereto;

(b) fixing the days and the hours on and during which any market, slaughter-house or stock-yard may be held or kept open for use and prohibiting the owner of any private market from-keeping it closed without lawful excuse on such days or during such hours

(c) prohibiting every vendor in a market from closing his shop, stall or standing to the public without lawful excuse or from withholding from sale any articles in which he normally deals;

(d) for keeping every market-building, market-place, slaughter-house or stock-yard in a cleanly and proper state, and for removing filth and refuse therefrom;

(e) requiring that any market-building, market-place, slaughter-

house or stock-yard be properly ventilated and be provided with a sufficient supply of water;

(f) requiring that in market-buildings and market-places passages be provided between the stalls of sufficient width for the convenient use of the public;

(g) for the marking or branding for purpose of identification of animals rejected for slaughter as discarded or unwholesome;

(h) regulating the method of slaughter at slaughter-houses;

(i) requiring the allotment in markets of separate areas for different classes of articles;

(j) generally regulating the orderly management and control of markets, slaughter-houses and stock-yards.

(2) No order made by the Commissioner under clause (A) of sub-section (1) shall be valid unless it is approved by the Standing Committee and confirmed by the <sup>1</sup> [State] Government, and no order made by the Commissioner under clause (B) or paragraph (e) of clause (C) of sub-section (1) shall be valid unless it is approved by the Standing Committee.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1959.

**467. Posting of standing orders and table of stallages, rents, etc :-**

A printed copy of the standing orders shall be affixed in a conspicuous place in the municipal office and a printed copy of the table of stallages, rents and fees, if any, in force in any market, slaughter-house or stock-yard under sections 332 and 333 shall be affixed in some conspicuous spot in the market-building, market-place, slaughter-house or stock-yard.

**468. Penalty for breach of rules, by-laws, regulations or standing orders :-**

In marketing rules under section 454 or by-laws, regulations or standing orders, the <sup>1</sup> [State] Government, the Corporation, the Standing Committee, or the Commissioner, as the case may be, may provide that for any breach thereof the offender shall on conviction-

(a) be punished with fine which may extend to five hundred rupees, and in the case of a continuing breach with fine which may

extend to twenty rupees for every day during which the breach continues, after conviction for the first breach.

(b) be punished with fine which may extend to twenty rupees for every day during which the breach continues, after receipt of written notice from the Commissioner or any municipal officer duly authorised in that behalf to discontinue the breach.

(c) in addition to the imposition of such fine, be required to remedy the mischief so far as lies in his power.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1959.

#### CHAPTER 30

#### MISCELLANEOUS.

#### **469. Public notices how to be made known. :-**

Whenever it is provided by or under this Act that public notice shall or may be given of anything, such public notice shall, in the absence of special provision to the contrary, be in writing under the signature of the Commissioner or of a municipal officer empowered under section 69 to give the same, and shall be widely made known in the locality to be affected thereby, by affixing copies thereof in conspicuous public places within the said locality, or by publishing the same by beat of drum, or by advertisement in the local newspapers, or by any two or more of these means and by any other means that the Commissioner shall think fit.

#### **470. Advertisements how to be made :-**

Whenever it is provided by or under this Act that notice shall be given by advertisement in the local newspapers, or that a notification or any information shall be published in the local newspapers, such notice, notification or information shall be inserted, if practicable, in at least two newspapers in such language or languages as the Corporation may from time to time specify in this behalf published or circulating in the City.

#### **471. Consent, etc. of Corporation, etc. may be proved by written documents :-**

(1) Whenever under this Act or any rule, by-law, regulation or standing order, the doing or the omitting to do anything or the validity of any thing depends upon the consent, sanction, approval, concurrence, confirmation, declaration, opinion or satisfaction of-

(a) the Corporation, the Standing Committee, the Transport Committee or any other Committee;

(b) the Commissioner or the Transport Manager or any municipal officer, a written document signed as provided in sub-section (2) purporting to convey or set forth such consent, sanction, approval, concurrence, confirmation, declaration, opinion or satisfaction shall be sufficient evidence of such consent, sanction, approval, concurrence, confirmation, declaration, opinion or satisfaction.

(2) The written document referred to in sub-section (1) shall be signed-

(a) when the authority concerned is the Corporation or the Standing Committee or any Committee other than the Transport Committee, by the Municipal Secretary on behalf of such authority;

(b) when the authority concerned is the Transport Committee, by the Chairman of the Committee;

(c) when the authority concerned is the Commissioner, the Transport Manager or any municipal officer, the Commissioner, the Transport Manager or such municipal officer, as the case may be.

**472. Notices, etc. by whom to be served or presented :-**

Notices, bills, schedules, summonses and other such documents required by this Act or by any rule, regulation or by-law to be served upon or issued, or presented or given to any person, shall be served, issued, presented or given by municipal officers or servants or by other persons authorised by the Commissioner in this behalf.

**473. Service how to be effected on owners of premises and other persons :-**

When any notice, bill, schedule, summons or other such document is required by this Act, or by any rule, regulation or by-law to be served upon or issued or presented to any person such service, issue or presentation shall, except in the cases otherwise expressly provided for in section 474, be effected-

(a) by giving or tendering to such person the said notice, bill, schedule, summons or other documents; or

(b) if such person is not found, by leaving the said notice, bill, schedule, summons or other documents at his last known place of abode in the City, or by giving or tendering the same to some adult

member or servant of his family or by leaving the same at his usual place of business, if any, or by giving or tendering the same to some adult employee, if any, of his at such place; or

(c) if such person does not reside in the City and his address elsewhere is known to the Commissioner by forwarding the said notice, bill, schedule, summons or other document to him by post under cover, bearing the said address; or

(d) if none of the means aforesaid be available, by causing the said notice, bill, schedule, summons or other document to be affixed on some conspicuous part of the building or land, if any, to which the same relates.

**474. Service on owners or occupier of premises how to be effected :-**

When any notice, bill, schedule, summons, or other such document is required by this Act, or by any rule, regulation or by-law, to be served upon or issued or presented to the owner or occupier of any building or land, it shall not be necessary to name the owner or occupier therein, and the service, issue, or presentation thereof shall be effected, not in accordance with the provisions of the last preceding section, but as follows, namely :-

(a) by giving or tendering the said notice, bill, schedule, summons or other document to the owner or occupier, or if there be more than one owner or occupier, to any one of the owners or occupiers of such building or land; or

(b) if the owner or occupier or no one of the owners or occupiers is found, by giving or tendering the said notice, bill, schedule, summons or other document to some adult member or servant of the family of the owner or occupier or of any of the owners or occupiers; or

(c) if none of the means aforesaid be available by causing the said notice, bill, schedule, summons or other document to be affixed on some conspicuous part of the building or land to which the same relates.

**475. Sections 472, 473 and 474 inapplicable to Magistrates summons :-**

Nothing in sections 472, 473 and 474 applies to any summons issued under this Act by a Magistrate.

**476. Signature on notices, etc. may be stamped :-**

(1) Every licence, written permission, notice, bill, schedule, summons or other document required by this Act or by any rule, regulation or by-law to bear the signature of the Commissioner or of any municipal officer shall be deemed to be properly signed if it bears a facsimile of the signature of the Commissioner or of such municipal officer, as the case may be, stamped there upon.

(2) Nothing in this section shall be deemed to apply to a cheque drawn upon the Municipal Fund or upon the Transport Fund under any of the provisions of this Act, or to any deed of contract.

**477. Power of Commissioner to call for information as to ownership of premises :-**

(1) The Commissioner may, in order to facilitate the service, issue, presentation, or giving of any notice, bill, schedule, summons or other such document upon or to any person by written notice require the owner or occupier of any premises, or of any portion thereof to state in writing, within such period as the Commissioner may specify in the notice, the nature of his interest therein and the name and address of any other person having an interest therein, whether as free holder, mortgagee, lessee or otherwise, so far as such name and address is known to him.

(2) Any person required by the Commissioner in pursuance of subsection (1) to give the Commissioner any information shall be bound to comply with the same and to give true information to the best of his knowledge and belief. unauthorised works

**478. Work or thing done without written permission of the Commissioner to be deemed unauthorised :-**

(1) If any work or thing requiring the written permission of the Commissioner under any provision of this Act or any rule, regulation or by-law is done by any person without obtaining such written permission or if such written permission is subsequently suspended or revoked for any reason by the Commissioner, such work or thing shall be deemed to be unauthorised and, subject to any other provision of this Act, the Commissioner may at any time, by written notice, require that the same shall be removed, pulled down or undone, as the case may be, by the person so carrying out or doing. If the person carrying out such work or doing such thing is not the owner at the time of such notice then the owner at the time

of giving such notice shall be liable for carrying out the requisitions of the Commissioner.

(2) If within the period specified in such written notice the requisitions contained therein are not carried out by the person or owner, as the case may be, the Commissioner may remove or alter such work or undo such thing and the expenses thereof shall be paid by such person or owner, as the case may be.

**479. Works, etc. which any person is required to execute may in certain cases be executed by Commissioner at such persons cost :-**

(1) Subject to the provisions of this Act and of the rules, by-laws, regulations and standing orders, when any requisition or order is made under any provision of this Act or of any rule, by-law, regulation or standing order by written notice by the Commissioner, or by any municipal officer duly empowered in this behalf, a reasonable period shall be prescribed in such notice for carrying such requisition or order into effect, and if, within the period so prescribed, such requisition or order or any portion of such requisition or order is not complied with, the Commissioner may take such measures or cause such work to be executed or such thing to be done as shall, in his opinion, be necessary for giving due effect to the requisition or order so made; and, unless it is in this Act otherwise expressly provided, the expenses thereof shall be paid by the person or by any one of the persons to whom such requisition or order was addressed.

(2) The Commissioner may take any measure, execute any work or cause anything to be done under this section, whether or not the person who has failed to comply with the requisition or order is liable to punishment or has been prosecuted or sentenced to any punishment for such failure.

**480. Supply of materials :-**

On the written request of any person who is required under any of the provisions of this Act or of any rule, regulation or by-law to supply any materials or fittings, the Commissioner may, on such person's behalf, supply the necessary materials or fittings, or cause the necessary work to be done:

Provided that, where the provisions of section 441 or 442 will not apply, a deposit shall first of all be made by the said person of a sum which will, in the opinion of the Commissioner, suffice to cover

the cost of the said materials, fittings and work.

**481. Provisions respecting institution, etc. of civil and criminal sections and obtaining legal advice :-**

(1) The Commissioner may-

(a) take, or withdraw from proceedings against any person who is charged with-

(i) any offence against this Act or any rule, regulation or by-law;

(ii) any offence which affects or is likely to affect any property or interest of the Corporation or the due administration of this Act;

(iii) Committing any nuisance whatever;

(b) compound any offence against this Act or any rule, regulation or by-law which under the law for the time being in force may legally be compounded;

(c) defend any election petition brought under section 16;

(d) defend, admit or compromise any appeal against a rateable value or tax brought under section 406;

(e) take, withdraw, from or compromise, proceedings under sub-section (2) of section 402, sub-sections (3) and (4) of section 439 and sections 391 and 416 for the recovery of expenses or compensation claimed to be due to the Corporation;

(f) withdraw or compromise any claim for a sum not exceeding five hundred rupees against any person in respect of a penalty payable under a contract entered into with such person by the Commissioner, or, with the approval of the Standing Committee, any such claim for any sum exceeding five hundred rupees;

(g) defend any suit or other legal proceedings brought against the Corporation or against the Commissioner or a municipal officer or servant in respect of anything done or omitted to be done by them, respectively, in their official capacity;

(h) with the approval of the Standing Committee, admit or compromise any claim, suit or legal proceeding brought against the Corporation or against the Commissioner or a municipal officer or servant, in respect of anything done or omitted to be done as aforesaid;

(i) with the like approval, institute and prosecute any suit or withdraw from or compromise any suit or any claim, other than a claim of the description specified in clause (f), which has been instituted or made in the name of the Corporation or of the Commissioner;

(j) obtain and pay for such legal advice and assistance as he may, from time to time, think it necessary or expedient to obtain or as he may be desired by the Corporation or the Standing Committee to obtain, for any of the purposes mentioned in the foregoing clauses of this sub-section or for securing the exercise or discharge of any power or duty vesting in or imposed upon any municipal authority or any municipal officer or servant: Provided that the Commissioner shall not defend any suit or legal proceeding under clause (g) without first of all taking legal advice with regard thereto, and shall institute and prosecute any suit which the Corporation shall determine to have institute and prosecuted.

(2) In relation to legal proceedings arising out of the acquisition, extension, administration, operation and maintenance of the Transport Undertaking the provisions of sub-section (1) shall apply as if for the word "Commissioner" the words "Transport Manager" and for the words "Standing Committee" the words "Transport Committee" had respectively been substituted. General

#### **482. Councillors, etc. to be deemed to be public servants :-**

(1) The Commissioner and the Transport Manager and every councillor and every member of the Transport Committee who is not a councillor and every municipal officer or servant appointed under this Act, and every contractor or agent for the collection of any municipal tax and every servant or other person employed by any such contractor or agent shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. [XLV of 1860].

(2) For the purposes of sub-section (1) the words "government" in the definition of "legal remuneration" in section 161 of the Indian Penal Code (XLV of 1860.) shall be deemed to include the Corporation.

#### **483. Co-operation of Police, etc :-**

(1) The District Magistrate and the District Superintendent of Police having jurisdiction in the City shall, as far as may be, co-operate by

themselves and through their subordinates, with the Commissioner for carrying into effect and enforcing the provisions of this Act and for the maintenance of good order in the City.

(2) It shall be the duty of every police officer in the City to communicate without delay to the proper municipal officer any information which he receives of a design to commit or of the commission of any offence against this Act or against any rule, regulation or by-law and to assist the Commissioner or any municipal officer or servant reasonably demanding his aid for the lawful exercise of any power vesting in the Commissioner or in such municipal officer or servant under this Act.

**484. Assistance for the recovery of rent on land :-**

For the purpose of the recovery of any amount due on account of rent from any person to a Corporation in respect of any land vested in or otherwise held by such Corporation, the Corporation shall be deemed to be a superior holder and every such person an inferior holder of such land, within the meaning of sections 86 and 87 of the Bombay Land Revenue Code, 1879, (Bombay V of 1879.) and the Corporation as superior holder shall be entitled, for the recovery of every such amount, to all the assistance to which under the said sections a superior holder is entitled for the recovery of rent or land revenue payable to him by an inferior holder.

**485. Informalities and errors in assessments, etc. not to be deemed to invalidate such assessment, etc :-**

(1) Any informality, clerical error, omission or other defect in any assessment made or in any distress levied or attachment made or in, any notice, bill, schedule, summons or other documents issued under this Act, or under any rule, regulation, bylaw or standing order may at any time, as far as possible, be rectified.

(2) No such informality, clerical error, omission or other defect shall be deemed to render the assessment, distress, attachment, notice, bill, schedule, summons or other document invalid or illegal if the provisions of this Act and of the rules, regulations, by-laws and standing orders have in substance and effect been complied with, but any person who sustains any special damage by reason of any such informality, clerical error, omission or other defect shall be entitled to recover compensation for the same by suit in a Court of competent jurisdiction.

**486. Indemnity for acts done in good faith :-**

No suit, prosecution or other legal proceeding shall lie in respect of anything in good faith done or purported or intended to be done under this Act against any councillor or against any member of the Standing Committee who is not a councillor or against the Commissioner, the Transport Manager or any municipal officer or servant or against any person acting under and in accordance with the directions of the Corporation, any committee constituted under this Act, the Commissioner, the Transport Manager, any municipal officer or servant or of a Magistrate.

**487. Protection of persons acting under this Act against suits :-**

(1) No suit shall be instituted against the Corporation or against the Commissioner, or the Transport Manager, or against any municipal officer or servant, in respect of any act done or purported to be done in pursuance or execution or intended execution of this Act or in respect of any alleged neglect or default in the execution of this Act :-

(a) until the expiration of one month next after notice in writing has been, in the case of the Corporation, left at the chief municipal officer and in the case of the Commissioner or of the Transport Manager or of a municipal officer or servant delivered to him or left at his office or place of abode, stating with reasonable particularity the cause of action and the name and place of abode of the intending plaintiff and of his attorney advocate, pleader or agent, if any, for the purpose of such suit, nor

(b) unless it is commenced within six months next after the accrual of the cause of action.

(2) At the trial of any such suit-

(a) the plaintiff shall not be permitted to go into evidence of any cause of action except such as is set forth in the notice delivered or left by him as aforesaid;

(b) the claim, if it be for damages, shall be dismissed if tender of sufficient amends shall have been made before the suit was instituted or if, after the institution of the suit, a sufficient sum of money is paid into Court with cost.

(3) Where the defendant in any such suit is a municipal officer or servant payment of the sum or of any part of any sum payable by

him in, or in consequence of the suit, whether in respect of costs, charges, expenses, compensation for damages or otherwise, may be made, with the previous sanction of the Standing Committee or the Transport Committee from the Municipal Fund or the Transport Fund, as the case may be.

**488. Savings in respect or certain provision of Bombay Land Revenue Code, 1879 :-**

Notwithstanding the provisions of Section 48 of the Bombay Provincial Municipal Corporations Act, 1949 , 65, 66 and 67 of the Bombay Land Revenue Code, 1879-

(1) the use of any land for any purpose to which it may lawfully be put under the provisions of this Act shall not be prohibited in exercise of the powers conferred by or under the said Code;

(2) it shall be sufficient for any occupant of land assessed or held for the purpose of agriculture to show the satisfaction of the Collector that he has complied with all the requirements of this Act and of the rules, regulations and by-laws to entitle such occupant to permission under section 65 of the said Code subject to the condition of the payment of altered assessment and fine, if any, for the use of his holding or part thereof for any purpose unconnected with agriculture.

**489. Limitation of liability of agent or trustee or owner :-**

(1) No person who receives the rent of any premises in any capacity described in paragraph (i), (ii) or (iii) of sub-clause (a) of clause (45) of section 2 shall be liable to do anything which is by this Act required to be done by the owner, unless he has or, but for his own improper act or default, might have had sufficient funds of or due to the owner to pay for the same.

(2) The burden of proving the facts entitling any person to relief under sub- section (1) shall rest on such person.

(3) When any person has secured relief under sub-section (1) the Commissioner may, by written notice, require such person to apply to the discharge of any obligation which he would, but for such relief, be bound to discharge, the first moneys which shall come to his hand on behalf of or for the use of the owner, and any person who fails to comply with such notice shall be deemed to be personally liable to discharge such obligation.

(4) Nothing in this section shall be deemed to prevent the Commissioner from carrying out the necessary works and recovering the expenses from the actual owner.

#### CHAPTER 31

#### REPEALS AND AMENDMENTS

#### **490. Certain Acts to cease to apply to City. :-**

<sup>1</sup> [The Gujarat Municipalities Act, 1963. (Gujarat 34 of 1964.) and the Gujarat Panchayats Act, 1961] (Guj 6 of 1962.) shall cease to apply, except as hereinafter provided, to any area included in the City.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1959.

#### **491. Amendment of certain enactments. :-**

The enactments specified in the second column of Appendix III shall be amended to the extent specified in the third column thereof.

#### **492. Repeal :-**

Deleted by the Gujarat Adaptation of Laws Order, 1960.]

#### **493. Transitory provisions. :-**

The provisions of Appendix IV shall apply to the constitution of the Corporation and other matter specified therein.