

**BOMBAY PROVINCIAL MUNICIPAL CORPORATION ACT,
1949**

59 of 1949

[29th December, 1949]

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**BOMBAY PROVINCIAL MUNICIPAL CORPORATION ACT,
1949**

59 of 1949

[29th December, 1949]

An Act to provide for the establishment of Municipal Corporations for certain Larger urban areas in the State of Maharashtra WHEREAS, it is expedient to provide for the establishment of Municipal Corporation for certain larger urban areas in the State of Maharashtra with a view to ensure a better municipal government of the said larger urban areas; It is hereby enacted as follows :-

CHAPTER 1

1. Short title, extent and commencement :-

(1) This Act may be called the Bombay Provincial Municipal Corporation Act, 1949.

(2)¹ It extends to the areas of Municipal Corporation constituted or deemed to be constituted under the Act.

2 [***]**

1. Sub-section (2) was substituted, by Mah. 41 of 1994 s. 43 (a)

2. Sub-section (3) was deleted by Mah 41 of 1994 s. 43 (b)

2. Definitions :-

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

(2)¹ [*****]

(2A)² "approved co-operative bank" means such co-operative Bank registered or deemed to be registered under the Bombay Co-operative Societies Act, 1925," as may be approved by the State Government by general or special order;

(2B)³ "Assembly Constituency" means a constituency provided by law for the purpose of elections to the Maharashtra Legislative Assembly, or any part thereof which is for the time being comprised in the City;

(2C) "Assembly roll" means the electoral roll prepared for any Assembly constituency in accordance with the provisions of the Representation of the People Act, 1950;

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

(3A)⁴ "Backward Class of Citizens" means such classes or parts of or groups within such classes as are declared, from time to time, by the State Government to be Other Backward Classes and Vimukta Jatis and Nomadic Tribes;

(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 or 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;

(5A)³"business" includes, --

(a) any trade, commerce, profession, consumption or manufacture or any adventure or concern in the nature of trade, commerce, profession, consumption or manufacture, whether or not such trade, commerce, profession, consumption, manufacture, adventure or concern is carried on with a motive to make gain or profit and whether or not any gain or profit accrues from such trade, commerce, profession, consumption, manufacture, adventure or concern and whether or not there is any volume, frequency, continuity or regularity in such trade, commerce, profession, consumption, manufacture, adventure or concern.

(b) any transaction in connection with, or incidental or ancillary to such trade, commerce, profession, consumption, manufacture, adventure or concern whether or not such transaction is in respect of capital assets and whether or not it is effected with a motive to make gain or profit and whether or not any gain or profit accrues from such transaction, and whether or not, there is any volume, frequency, continuity or regularity in such transaction;

(c) any occasional transaction in the nature of such trade, commerce, profession, consumption, manufacture, adventure or concern involving import, purchase or sale of goods in the city, whether or not there is any volume, frequency, continuity or regularity to such transaction and whether or not such transaction is effected with a motive to make gain or profit and whether or not any gain or profit accrues from such transaction;

(d) any transaction in connection with, or incidental or ancillary to, the commencement or closure of such trade, commerce, profession, consumption, manufacture, adventure or concern, whether or not such transaction is effected with a motive to make gain or profit and whether or not any gain or profit accrues, from such

transaction.

Explanation.- For the purposes of this clause, the activities of raising of man-made forests or rearing of seedlings or plants shall be deemed to be a business;

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

(6A) "cess" means a cess on the entry of goods into the limits of the City for consumption, use or sale therein levied in accordance with the provisions of Chapter XIA, but does not include octroi as defined in clause (42);

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

(8) "City" means the larger urban area specified in a notification issued in respect thereof under clause (2) of article 243-Q of the Constitution of India or under sub-section (2) of section 3 of the Act, forming a City;

(9) "the Commissioner" means the Municipal Commissioner for the City appointed under section 38 and includes an acting Commissioner appointed under section 39;

(10) "Corporation" means the Municipal Corporation constituted or deemed to have been constituted for a larger urban area known as a city;

(11) "Councillor " means a person duly elected as a member of the Corporation; and includes a nominated Councillor who shall not have the right, --

(i) to vote at any meeting of the Corporation and Committees of the Corporation; and

(ii) to get elected as a Mayor of the Corporation or a Chairperson of any of the Committees of the Corporation;

(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 kept for the purposes of sale or manufactured into butter, ghee, cheese, curds or dried or condensed milk for sale and in the case of a dairyman who does not occupy any 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, small-pox 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;

(16A) "dealer" means any person who whether for commission, remuneration or otherwise imports, buys or sells any goods in the City for the purpose of his business or in connection with or incidental to his business, and includes, -

(a) a factor, broker, commission agent, del credere agent or any other mercantile agent, by whatever name called, and whether or not of the same description as hereinbefore specified who buys, sells, supplies, distributes or imports any goods in the City, belonging to any principal or principals whether disclosed or not;

(b) an auctioneer, who sells or auctions goods in the City, belonging to any principal whether disclosed or not and whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal;

(c) The Central Government or any State Government which (whether or not while carrying on business) buys, sells, supplies, distributes or imports goods directly or otherwise, for commission, remuneration or otherwise;

(d) a society, club or other association of persons (whether incorporated or not) which, whether while carrying on business or not, imports, buys, sells, supplies or distributes goods whether for or on behalf of its members or not, for cash or for deferred

payment or, for commission, remuneration or otherwise.

Explanation:- For the purposes of this clause, -

(A) a manager or agent of a non-resident dealer residing in the City who imports buys, sells, supplies or distributes goods in the City or acts on behalf of such, dealer as -

(a) a mercantile agent as defined in the Sale of Goods Act, 1930, or

(b) an agent for handling of goods or documents of title relating to goods, or

(c) an agent for the collection or the payment for the sale price of goods shall be deemed to be a dealer or as a guarantor for such collection or payment;

(B) Each of the following persons and bodies who disposes of any goods including goods as unclaimed or confiscated or as unserviceable or as scrap, surplus, old obsolete or discarded material or waste products whether by auction or otherwise directly or through an agent for cash, or

(a) Port Trusts;

(b) Municipal Corporations, Municipal Councils, Zilla Parishads and other local authorities;

(c) Railway administration as defined under the Indian Railways Act, 1890;

(d) Shipping, transport and construction companies;

(e) Air transport companies and Airlines;

(f) Transporters, holding permit for transport vehicles granted under the Motor Vehicles Act, 1988 which are used or adapted to be used for hire or reward;

(g) Maharashtra State Road Transport Corporation constituted under the Road Transport Corporations Act, 1950;

(h) Customs Department of the Government of India administering the Customs Act, 1962;

(i) Insurance and Financial Corporations, or Companies, and Banking Companies;

(j) Advertising agencies;

(k) any other Corporations, Company, Body or Authority owned or set-up by, or subject to administrative control of, the Central Government or any State Government. Exception :

(i) Any individual who imports goods for his exclusive consumption or use and a department or State of Central Government not engaged in business shall not be a dealer;

(ii) An agriculturist who sells exclusively agricultural produce grown on the land cultivated by him personally, shall not be deemed to be a dealer within the meaning of this clause;]

(17) "drain" includes a sewer, tunne, pipe, ditch, gutter or channel and any cistern, flush-tank, septic tank or other device for carrying off or treating sewage, 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 sewage or offensive matter from any place;

(18) "eating house" means any premises to which the public or any sections 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 ;

(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 Factories Act, 1948

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

(21A)["Finance Commission" means the Finance Commission constituted in accordance with the provisions of 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 include confectionery, flavouring and colouring matter, and spices and condiments

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

(24) "frame building" means the external walls of which are constructed of timber framing or iron framing, and the stability of which depends upon such framing ;

(25) "goods" includes animals;

(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 utilized for the purpose of serving as a drain or of affording access to a privy, urinal, cesspool or other receptacle for filthy or polluted matter, to municipal servants or to persons employed in the cleansing thereof or in the removal of such matter therefrom ;

(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 hut for the purposes of this Act;

(28A)["importer" means a person who brings or causes to be brought any goods into the limits of the City from any place outside the area of the City for use, consumption or sale therein;"

]

(29) "the judge" means in the [City of [Pune] the Judge of the Court of Small Causes, and in any other City of 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;

(30A)["larger urban area" means an area specified as a larger urban area in a notification issued under clause (2) of article 243-Q of the Constitution of India or under the Act;

]

(31) "licensed plumber", "licensed surveyor", "licensed arthitect", "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 livestock 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 or of steel, iron or other metal;

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

(40) "nuisance" includes any act, omission, place or 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 [but does not include a cess as defined in clause 6A ;]

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

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

(45) "owner" means, -.

(a) When used with reference to any premises, the person who receive 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) 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;

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

(46A)["prescribed" means prescribed by rules ;]

(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 fittings and apparatus, if any, connected therewith, 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 any [State] Government,

(b) securities, stocks, debentures or shares the interest whereon has been guaranteed by the Central or the [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 [the territory of India]

(d) securities expressly authorized by any order which the [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 as ascertained for the purpose of fixing the rateable value of such premises ;

(54)"rateable value" means the value of any building or land fixed in accordance with the provisions of this Act and the rules for the purpose of assessment to property taxes ;

(54A) "registered dealer" means a dealer registered under section 152F;

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

(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" include rules in [Schedule D] and rules made under sections 454 and 456

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

]

(59A) "Scheduled bank" means a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 ;

]

(59B) "Scheduled Castes" means such castes, races or tribes or parts of, or groups within, such castes, races or tribes as are deemed to be the Scheduled Castes in relation to the State of Maharashtra under article 341 of the Constitution of India ;

]

(59C) "Scheduled Tribes" means such tribes or tribal communities or parts of, or groups within, such tribes or tribal communities as are deemed to be the Scheduled Tribes in relation to the State of Maharashtra under article 342 of the Constitution of India;]

(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 manufactures of all kinds ;

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

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

(62A)["State Election Commission" means the State Election Commission consisting of the State Election Commissioner appointed in accordance with the provisions of clause (1) of article 243-K of the Constitution of India;]

(63) "Street" includes any highway, and any causeway, bridge, viaduct, arch, road, lane, footway, sub-way, court, alley or riding path or passage, whether a thoroughfare or not, over which the public have a right

(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, organized, 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 movable and immovable property and rights vested or vesting in the Corporation for the purposes of every such undertaking ;

(70A) "turnover of purchases" means the aggregate of the amount

of purchase price paid and payable by a dealer or a person in respect of any purchase of goods made by him during a given period, after deducting the amount of purchase price, if any, refunded to the dealer or the person by the seller in respect of any goods purchased from the seller and returned to him within a period of six months ;

(70B) "turnover of sales" means the aggregate of the amount of sale price received and receivable by a dealer or a person in respect of any sale

]

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

(71A)⁶ "Wards Committee" means a Wards Committee constituted under section 29A of this Act;]

(72) "water closed" means a closed which has a separate fixed receptacle connected to a drainage system and separate provision for flushing from a supply of clean water either by the operation of mechanism or by automatic action;

(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 (2) was deleted, by Mah 41 of 1994. s. 44(a)
2. Clause (2A) was inserted by Bom. 19 of 1954, s. 2.
3. Clause (2B) and (2C) were inserted by Mah. 34 of 1965, s. 2.
4. Clause (3A) was inserted by Mah. 41 of 1994, 44(b)
6. Clause (71 A) was inserted by Mah. 41 of 1994, s. 44(t)

3. Specification of larger urban areas and constitution of corporations :-

(1) The Corporation for every City constituted under this Act existing on the date of coming into force of the Maharashtra Municipal

(2) Save as provided in sub-section (1), the State Government may, having regard to the factors mentioned in clause (2) of article 243-Q of the Constitution of India, specify by notification in the Official Gazette, any urban area with a population of not less than three lakhs as a larger urban area.

(2A) Every larger urban area so specified by the State Government under sub-section (2), shall form a City and there shall be a Municipal Corporation for such larger urban area known by the name of the Municipal Corporation of the City of....."

(3) [

(a) [Subject to the provisions of sub-section (2), the State Government may also from time to time after consultation with the Corporation by notification in the Official Gazette, alter the limits specified for any [larger urban are] under sub-section (1) or sub-section (2) so as to include therein, or to exclude therefrom, such area as is specified in the notification.

(b) Where any area is included within the limits of the [larger urban area] under clause (a) any appointments, notifications, notices, taxes, orders, schemes, licences, permissions, rules, by-laws or forms made, issued imposed or granted under this Act or any other law, which are for the time being in force in the [larger urban area] shall, notwithstanding anything contained in any other law for the time being in force but save as otherwise provided in section 129A or any other provision of this Act, apply to and be in force in the additional area also from the date that area is included in the City.

(4) The power to issue a notification under this section shall be

subject to the condition of previous publication.

3A. . :-

* * * * *

CHAPTER 2

CONSTITUTION, Municipal Authorities

4. Municipal authorities charged with execution of of this 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 ;

(BA) " Wards Committees"; and

(C) a Municipal Commissioner ; and in the event of the Corporation establishing or acquiring a Transport Undertaking;

(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, 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.

(2) Each Corporation shall consist of,

(a) such number of councillors, elected directly at ward elections, as is specified in the table below :

TABLE	
Population	Number of Councillors
	The minimum number of elected councillors shall

(i) Above 3 lakhs and upto 6 lakhs	<p>The minimum number of elected councillors shall be 65.</p> <p>For every additional population of 15,000 above 3 lakhs, one additional councillor shall be provided, so however that the maximum number of elected councillors shall not exceed 85.</p>
(ii) Above 6 lakhs and upto 12 lakhs	<p>The minimum number of elected Councillors shall be 85.</p> <p>For every additional population of 20,000 above 6 lakhs, one additional councillor shall be provided, so however that the maximum number of elected councillors shall not exceed 115.</p>
(iii) Above 12 lakhs and upto 24 lakhs	<p>The maximum number of elected councillors shall be 115.</p> <p>For every additional population of 40,000 above 12 lakhs, one additional councillor shall be provided, so however that the maximum number of elected councillors, shall not exceed 145.</p>
(iv) Above 24 lakhs	<p>The minimum number of elected councillors shall be 145.</p> <p>For every additional population of 1 lakh one additional councillor shall be provided so that, the maximum number of elected councillors shall be 221.</p>

(b) such number of nominated councillors not exceeding five, having special knowledge or experience in Municipal Administration to be nominated by the Corporation in such manner as may be prescribed.

(3) The [State Election Commissioner] shall, from time to time, by notification in the Official Gazette, specify for each City the number and boundaries of the wards -into which such City shall be divided, for the [so, that, as far as practicable, all wards shall be compact areas and the number of persons in each ward according to the latest census figures shall approximately be the same. Each of the wards shall elect only one Councillor:]

Provided that, no notification issued under Sub-section (3), whether before or after the commencement of the Maharashtra Municipal Corporations, Municipal Councils, Nagar Panchayats and Industrial Townships (Third Amendment) Act, 1995, shall have effect except for the general election held next after the date thereof and for subsequent elections.[* * * * *]

Provided also that, before any notification is issued under subsection (3), a draft thereof shall be published in the Official Gazette, and in such other manner as in the opinion of the [State Election Commissioner] is best calculated to bring the information to the notice of all persons likely to be affected thereby, together, with a notice specifying the date on or before which any objections or suggestions will be received, and the date after which the draft will be taken into consideration.[* * * * *]

5A. Reservation of seats :-

(1)

(a) In the seats to be filled in by election in a Corporation, there shall be seats reserved for persons belonging to the Scheduled Caste, Scheduled Tribes, Backward Class of citizens and women, as may be determined by the State Election Commissioner, in the prescribed manner.

(b) the seats to be reserved for the persons belonging to the Scheduled Castes and the Scheduled Tribes in a Corporation shall bear, as nearly as may be, the same proportion to the total number of seats to be filled in by direct election in the Corporation as the population of the Scheduled Castes or, as the case may be, the Scheduled Tribes in that Corporation area bears to the total population of that area and such seats shall be allotted by rotation to different electoral wards in a Corporation :

Provided that, one-third of the total number of seats so reserved shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes :

Provided further that, where only one seat reserved for the Scheduled Castes or as the case may be, the Scheduled Tribes then no seat shall be reserved for women belonging to the Scheduled Castes, or as the case may be, the Scheduled Tribes and where only two seats are reserved for the Scheduled Caste, or as the case may be, the Scheduled Tribe, one of the two seats shall be reserved for women belonging to the Scheduled Castes; or as the case may be, the Scheduled Tribes.

(c) the number of seats to be reserved for persons belonging to the category of Backward Class of citizens shall be twenty-seven per cent of the total number of seats to be filled in by election in a Corporation and such seats shall be allotted by rotation to different

electoral wards in a Corporation ;

Provided that, one-third of the total number of seats so reserved shall be reserved for women belonging to the category of Backward Class of citizens;

(d) one-third (including the number of seats reserved for women belonging to the Scheduled Castes, Scheduled Tribes and the category of Backward Class of citizens) of the total number of seats to be filled in by direct election in a Corporation shall be reserved for women and such seats shall be allotted by rotation to different electoral wards in a Corporation.

(2) The reservation of seats (other than the reservation for women) under clause (b) of sub-section (1), shall cease to have effect on the expiration of the period specified in article 334 of the Constitution of India."

]

6. Duration of Corporation :-

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

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

6A. Term of office of Councillors :-

The term of office of the Councillors shall be co-terminus with the duration of the Corporation.

6B. Election to constitute Corporation :-

An election to constitute a Corporation shall be completed, -

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

(b) before the expiration of a period of six months from 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.]

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 become vacant as from the date of the notice.

7A1. . :-

* * * * *

7A. Preparation of Municipal Election roll :-

The Assembly roll for the time being in force, on such date as the State Election Commissioner may, by general or special order notify, shall be divided by the State Election Commissioner into different sections corresponding to the different wards in the City; and a printed copy of each section of the roll so divided and authenticated by the State Election Commissioner or an officer authorised by him, shall be the ward roll for each ward.]

7AA. . :-

* * * * *

7AAA. . :-

* * * * *

7B. Enrolment in municipal election roll :-

Every person whose name is included in any ward roll shall be deemed to be enrolled in the municipal election roll.] Qualifications and disqualifications of Voters and councillors

8. Persons qualified to vote :-

Every person whose name is [in a ward roll, shall be deemed to be entitled to vote at the ward election, and every person whose name is not in the said roll shall be deemed to be not entitled so to vote.]

9. Qualification for election as councillor :-

(1) Subject to the provisions of this Act,[a person who [is not less than twenty-one years of age on the last date fixed for making nominations for any general election or bye-election and] is enrolled in the municipal election roll as a voter for a ward] 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-elections as such.

10. Disqualification for being a councillor :-

(1) Subject to the provisions of sections 13, [* and 404, a person shall be disqualified for being elected and for being a Councillor, if such person -

(ai) has, at any time after the commencement of section 5 of the Maharashtra Municipal Corporations (Amendment) Act, 1970, been convicted of an offence punishable under section 153A or sub-section (2) or (3) of section 505 of the Indian Penal Code :

Provided that, such disqualification shall be for a period of six years from the date of such conviction;

(a ii) has been so disqualified by or under any law ;

(i) for the time being in force for the purpose 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;

(ii) made by the Legislature of the State of Maharashtra; or

(a) has been convicted by a Court in India of any offence involving moral turpitude, unless a period of six years has elapsed since the date of such conviction; or]

Provided that, on the expiry of such sentence, the disqualification incurred under this clause shall cease :

provided further that the expiry of such sentence shall not entitle the person to continue as a Councillor or to stand for election at any bye- election held during the remainder of the current term of office of the councillors ;

(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 with 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 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.

(i) has more than two children:

Provided that, a person having more than two children on the date of commencement of the Maharashtra Municipal Corporations and Municipal Councils, Nagar Panchayats and Industrial Townships (Second Amendment) Act, 1995, (Ma. XLIII of 2000), (hereinafter in this clause referred to as "the date of such commencement"), shall not be disqualified under this clause so long as the number of children he had on the date of such commencement does not increase;

Provided further that a child or more than one child born in a single delivery within the period of one year from the date of such commencement shall not be taken into consideration for the purpose of disqualification mentioned in this clause.

Explanation :- For the purposes of this clause,-

(i) where a couple has only one child on or after the date of such commencement, any number of children born out of a single subsequent delivery shall be deemed to be one entity;

(ii) "child" does not include an adopted child or children."

(1A) A person shall be disqualified for being a councillor, if such person has, at any time during the term of his office, become disqualified, under the Maharashtra Local Authority Member's Disqualification Act, 1986 for being a councillor.]

(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 ;
- (aa) any relation being employed with by or on behalf of the Corporation, as an officer or servant thereof;
- (b) having any share or interest in any lease, sale, exchange or purchase of land or any agreement for the same.
- (i) any lease, sale, exchange or purchase of land or any agreement for the same;
- (ii) any agreement for the loan of money or any security for the payment of money only,
- (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 [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 ; or
- (d) receiving conveyance charges as a member of the Transport Committee.

11. Disabilites 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 form temporary illness or other

cause to be approved by the Corporation.;

(c) absents himself from, or is unable to attend, 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 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.

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 councillor to removal :-

(1) The [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 of 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

[State] Government relieves him of the disqualification by an order which it is hereby empowered to make.

14. State Election Commission :-

(1) The superintendence direction and control of the preparation of electoral rolls for and the conduct of, all elections to the Corporations shall vest in the State Election Commissioner.

(2) The State Election Commissioner may by order, delegate any of his powers and functions to any officer of the State Election Commissioner any officer of the State Government not below the rank of Deputy Collector or any officer of the Corporation not below the rank of the Assistant Municipal Commissioner.

(3) All the officers and members of the staff appointed or deployed for preparation of electoral rolls and conduct of election of Corporations under this Act or the rules shall function under the superintendence, direction and control of the State Election Commissioner.

(4) Notwithstanding anything contained in this Act and the rules, the State Election Commissioner may issue such special or general orders or directions which may not be inconsistent with the provisions of the Act and the rules for fair and free elections.]

14A. Power of State Election Commissioner to issue directions to prevent impersonation. 43 of 1951 :-

The State Election Commissioner may, with a view to prevent impersonation of electors at the time of election, issue such directions, as he thinks fit to the presiding officers and such directions may include instructing the electors to produce, at the time of polling, the photo identity cards issued to them under the provisions of the Representation of the People's Act, 1951.]

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 [* * * *] 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 [State Election Commissioner] of a nomination, or of the improper reception 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 [State Election Commissioner] 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 [of the commission] to make an application to the Judge at any time within one month after the result of the election has been declared for declaration that the election of the returned candidate or candidates is void.

(2A) No election to any Corporation shall be called in question except by an election petition presented to the Judge referred to in subsection (1) and no Judge other than the Judge referred to in sub-section (1) shall entertain any dispute in respect of such election.]

(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.

Explanation:- For the purposes 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 attempts 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 entitled not 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.

17. . :-

Disqualification of voters for corrupt practice.] Deleted by Mah. 30 of 1965, s. 7.

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 [State Election Commissioner] 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.

19. Mayor and Deputy Mayor :-

(1) The Corporation shall subject to the provisions of subsection (1A), at its first meeting after general elections elect from amongst the Councillors one of its number to be the Mayor and another to be the Deputy Mayor. The tenure of the Mayor and the Deputy Mayor shall be of two and a half years:

Provided that the term of the Mayors and the Deputy Mayors in office on the date of coming into force of the Maharashtra Municipal Corporations (Amendment) Act (Mah. XXV of 2000)2000, shall be regulated as under,-

(a) in case of the Corporations which have completed the first year of their term but have not yet completed two years since their first meeting after the general elections, the term of the Mayors and Deputy Mayors of such Corporations shall be of two years each;

(b) In all other cases, the term of the Mayors and Deputy Mayors who are in office on the said date shall be extended to and be co-terminus with the term of office of the elected Councillors.

Provided further that the roster relating to the reservation of the office of the Mayor shall be deemed to have been amended to provide for the extended tenure of the Mayor.]

(1A) There shall be reservation for the office of the Mayor in the Corporation, by rotation, for the Scheduled Castes, the Scheduled Tribes, women and the Backward Class of citizens, in the prescribed manner.

]

(2) The Mayor and the Deputy Mayor shall hold office until a new Mayor and a Deputy Mayor have been elected under sub-section (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 reelection to either office.

(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 the Deputy Mayor, the Corporation shall, as soon as convenient after the occurrence of the vacancy, choose one of its number 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.

19A. Honoraria fees or allowances :-

(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 amount as sumptuary allowance, [as the State Government may, from time to time] by an order determine.

]

(3) Notwithstanding anything contained in section 10, the receipt by a Councillor of any honorarium, fee or allowance as aforesaid shall not disqualify any person for being elected or being a Councillor.]

20. Constitution of Standing Committee :-

The Standing Committee shall consist of [sixteen] Councillors.

(2) The Corporation shall at its first meeting after general elections, appoint [sixteen] persons out of their 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 of 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 members who have been longest in office.

Provided that, in the case of a member who has been re-appointed for the term of his office for the purposes of this sub-section shall be computed from the date of his re-appointment.

(5) The Corporation shall at its first 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 re-appointment.

21. Appointment of Chairman of Standing Committee :-

(1) The Standing Committee shall at their 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 their own member 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 re-appointment.

(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 Committee.

(4) If any casual vacancy occurs in the office of the Chairman, the Standing Committee shall, as soon as they conveniently may be after the occurrence of the vacancy, appoint one of its member 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 held it if such vacancy had not occurred.

(5) If for any reason the Standing Committee does not appoint the Chairman under sub-section (1) or (4), within a period of thirty days from the date of its appointment under sub-section (2) of section 20, or from the date following the date of retirement of one-half of the members specified in sub-section (3) of that section, or from the date on which a casual vacancy occurs in the office of Chairman, as the case may be, the appointment of the Chairman, after the expiry of the said period, shall be made by the Corporation, from amongst the members of the Standing Committee, at a special meeting called and held for the purpose within fifteen days from the expiry of the said period of thirty days. At such meeting, the question shall be decided by a majority of votes of the Councillors present and voting and if there be an equality of votes, the presiding authority shall have and exercise a second or casting vote. Every Chairman so appointed, shall continue in office so long only as the Chairman appointed by the Standing Committee would have continued in office.

22. Member of Standing Committee absenting himself from meetings to vacate seat :-

Any member of the Standing Committee who absents himself during two successive months from the meetings 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 vacancy in Standing Committee how to be filled up :-

In the event of non-acceptance of office by a person appointed to be a member of the Standing Committee or of the death, resignation or disqualification 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 Councillor, the vacancy shall be filled up as soon as it conveniently may be by the appointment of a person thereto, who 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.

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

The Standing Committee may, from time to time, by a resolution, carried by the vote of at least two-thirds of their 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 are 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, be given to them 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 subcommittees consisting of such members of the Standing Committee not less in number than three as the Standing Committee thinks fit and every such sub-committee shall conform to any instructions that may from time to time be given to them by the Standing Committee.

25. Appointment of Transport Committee :-

In the event of the Corporation acquiring or establishing a Transport Undertaking there shall be a Transport Committee consisting of [thirteen] 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 [twelve] 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:

Provided that, in the case of a Councillor appointed a member of the Transport Committee, if at any time before the date of his retirement he ceases to be a Councillor, he shall cease to be such member, and his office shall thereupon become vacant. The vacancy shall be filled in accordance with the provisions of sub-section (9), as if it had occurred under section 26.

(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 may determine; thereafter the members of the Transport Committee who shall retire under this section shall be the members who were longest in office.

Provided that, in the case of a member who has been re-appointed for the term of his office for the purposes of this sub-section shall be computed from the date of his re-appointment.

(7) Vacancies caused by the retirement of members under subsection (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 it 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 as 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 a 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 causes to be approved by the committee; or

(d) absents himself from or is unable to attend the meeting 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 members] 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 the 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 members] 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 meeting of the Committee as may be prescribed by rules.

29. Subcommittees 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-third of its number 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 Committees :-

(1) In every City, there shall be constituted Wards Committees comprising such contiguous electoral wards as may be decided by the Corporation in accordance with following table

(2) Each Wards Committee shall consist of,-

(a) the Councillors representing the electoral wards within the territorial area of the Wards Committee;

(b) the officer-in-charge of the territorial area of the Wards Committee;

(c) such number of other members, not exceeding three, nominated by the Councillors referred to in clause (a), from amongst the members of recognised non-Government Organisations and Community based Organisations engaged in social welfare activities working within the area of the Wards Committee:

Provided that such persons are registered as electors in the Wards within the jurisdiction of the Wards Committee:

Provided further that the norms for recognition of non-Government Organisations, the requisite qualification for nomination as members and the manner in which they are to be nominated shall be such as the State Government may prescribe.

(3) The duration of the Wards Committee shall be co-terminus with the duration of the Corporation.

(4) The elected Councillors referred to in clause (a) of sub-section (2) shall at the first meeting of the Wards Committee in each official year, elect from among themselves the Chairperson who shall hold office until the first meeting in the next following official year.

(5) The Chairperson of the Wards Committee shall be deemed to have vacated the office as soon as he ceases to be a Councillor.

(6) In the event of the person of the Chairperson falling vacant

before the expiry of its term, the Wards Committee shall elect a new Chairperson:

Provided that, the Chairperson so elected shall hold office so long only as the Chairperson in whose place he is elected would have held the office if such vacancy had not occurred.

(7) The functions of the Wards Committee shall, subject to the general supervision and control of the Corporation, be,

(a) the speedy redressal of common grievances of citizens, connected with local and essential municipal services like water supply, drainage, sanitation and storm water disposal;

(b) to consider and make recommendations on the proposals regarding estimates of expenditure pertaining to the wards under different heads of account of the budget before being forwarded to the Commissioner;

(c) to grant administrative approval and financial sanction to the plans for municipal works to be carried out within the territorial area of the Wards Committee costing upto rupees five lakhs provided that specific provision exists therefore in the budget sanctioned by the Corporation;

(8) Notwithstanding anything contained in sub-section (7): the Corporation may, by resolution, delegate to a Wards Committee such other functions as it may deem fit and expedient.

(9) The Wards Committee shall meet at least once in every month at the Wards Office.]

30. Special Committees of the Corporation :-

(1) The Corporation may, from time to time appoint, out of its own body, Special Committees [including the Women and Child Welfare Committee] which shall conform to any instructions that Corporation may from time to time give them.

(1A) On the Women and Child Welfare Committee not less than seventy-five percent, of the members shall be from amongst women Councillors.

Explanation:-

For the purpose of computing the number of members at seventy-five percent., fraction, if any, shall be rounded off to one.]

(2) The Corporation may by specific resolution carried by the vote of at least 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.

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

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

[Provided further that, the Chairperson and the Deputy Chairperson on their Women and Child Welfare Committee shall be from amongst the women Councillor members thereof.]

(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,

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

Provided that if, in delegating any of their powers or duties to a Special Committee under sub-section (2), the Corporation direct that the decision of such committee shall be final, then so much of the proceedings of the special 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 of the total number of members of the committee.

Provided further that, any Special Committee may by a resolution supported by at least half of the whole number of members of the committee 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, 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 meeting 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 :-

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.

[Provided that such persons shall not be eligible to be elected as the Chairperson of such Committee and shall not have the right to vote at any meeting of the Committee.]

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 committees;

(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 Corporation has requested the concurrence of any other local authority under the provisions of sub-section (1) in respect of any [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 order.

(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 the [State] Government whose decision thereon 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 [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 [State] Government enter into an agreement with a local authority or with a combination of local authorities for the levy of octroi or tolls [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.

(5) When 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 authority or 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.]

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

No act or proceeding 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 or as the Mayor or 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 is 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 fully 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 Committees or Sub-Committees 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 be from time to time be appointed by the [State] Government.

(2) The Commissioner shall in the first instance hold office for such period not exceeding three years as the [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 [Government] be recalled to such service [* * and may Further at any [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-eighths of the whole number of

Councillors vote in favour of a resolution requiring his removal.

37. Salary of Commissioner :-

(1) The Commissioner shall receive from the Municipal Fund such monthly salary and allowances as the [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 this 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 [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 [Government] to be made by him or on his behalf shall be paid to the [State] Government from the Municipal Fund.

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

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

(2) The allowances 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 [State] Government and shall, unless the Commissioner is a salaried servant of the [Government], be paid from Municipal Fund:

Provided that, if the Commissioner is a salaried servant of the [Government] the amount of such allowance shall be regulated by the rules for the time being in force relating to the leave allowances of salaried servants of the [Government] of his class.

39. Appointment and remuneration of acting Commissioner

:-

During the absence on leave or other temporary vacancy in the office of the Commissioner, the [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 [State] Government shall determine.

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 [State] Government appoint a fit person to be the Transport Manager of the Transport Undertakings.

(2) The Transport Manager shall receive such monthly salary and allowances as the Corporation shall from time to time, with the approval of the [State] Government determine:

Provided that the salary of the Transport Manager shall not be altered to his disadvantage during his period of office.

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 exercise the powers and perform the duties conferred and imposed on the Transport Manager and shall be subject to the same liabilities, restrictions and conditions to which the Transport Manager is liable and shall receive such monthly salary, not exceeding the salary for the time being payable to the Transport Manager, as the Corporation shall

determine.

42. Commissioner not to be interested in any "[contract] 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 * * *.

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

(3) Nothing in this section shall apply to any such share or interest in any contract * * 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 as 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 Wards Committees], 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.

[Provided that the Councillors nominated under clause (b) of subsection (2) of section 5 shall, notwithstanding anything contained in this Act including the Schedule, not have the right to vote at any meeting of the Corporation.

]

(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

(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 officer 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 same right of being present at a meeting of the Transport 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.

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-City Engineer, Medical Officer Of Health, Municipal Chief Auditor, Municipal Secretary, Deputy Municipal Commissioner And Assistant Municipal Commissioner

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 [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 [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 [State] Government and any officer whose appointment the [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 [State] Government.

(6) In default of an appointment being made by the Corporation under sub-section (5) the [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.

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 :-

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 [the Water and Sewage Fund and the Consolidated Water Supply and Sewage Disposal Loan 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 officer

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 such duties of the Commissioner 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.

(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 be for all purposes be deemed to have been performed and done by the Commissioner.

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

(4) No new permanent office with a minimum monthly salary, exclusive of allowances, of one hundred rupees or more shall be created without the sanction of the Corporation and no new office with a minimum monthly salary exclusive of allowances, of five hundred rupees or more or with a maximum monthly salary exclusive of allowances, of eight hundred rupees or more shall be created without the 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.

Explanation:- An increase in the salary of any permanent office shall be deemed, for the purpose of sub-section (4), to be the creation of a new office, if by reason of such increase, the minimum monthly salary, exclusive of allowances, amounts to one hundred rupees or more or five hundred rupees or more, as the case may be or the maximum monthly salary, exclusive of allowances, amounts to eight hundred rupees or more.

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 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 is or exceeds four hundred rupees shall vest in the Corporation:

Provided that, temporary appointment for loan works carrying a month's salary of rupees four hundred or more exclusive of allowances

(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 to either case, to the approval of the Standing Committee unless the said Committee in any particular case or class of cases dispenses with this 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 a monthly salary of more than one hundred rupees exclusive of allowances shall be renewed by the Commissioner on the expiry of the said period of six months without the previous sanction of the Standing Committee.

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 in sub-section (1) of section 53 and other than those which the Corporation may, with the previous approval of the [State] Government, by order specify in this behalf, unless it is proposed to fill the appointment from amongst persons already in

(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 provisions of this section shall apply as if for the word "Commissioner" the words "Transport Manager" had been substituted.

(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.

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

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

56. Imposition of penalties of 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, exceeds [one thousand] rupees shall be dismissed by the Commissioner without the previous approval of the Standing Committee;

(b) any officer or servant whether appointed by the Corporation or any other competent authority, except Transport Manager being a

Government officer on deputation, may be suspended by the Commissioner pending an order of the Corporation and when the officer so suspended is the Transport Manager or an officer appointed under section 45, such suspension with reasons therefor, shall, forthwith be reported by the Commissioner to the Corporation, and such suspension

Provided that, such suspension of an officer or servant pending inquiry into the allegations against such officer or servant shall not be deemed to be a penalty.]

(c) the Commissioner may impose any of the penalties as specified in clause (a), (b), * (d), [(e) and (f)] of sub-section (2) on any officer appointed by the Corporation [other than the Transport Manager if he is a Government Officer on deputation;]

(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 on any officer or servant immediately subordinate to them * * * subject to a right of appeal to the Standing Committee and the Standing Committee may impose any other penalty on any such officer or servant and may also impose, any penalty on any other officer or servant immediately subordinate to the Municipal Chief Auditor or the Municipal Secretary;

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

(a) censure;

(b) withholding 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 reasonably practicable to give that person an opportunity of showing cause.

(4) Subject to the provisions of clause (d) of the proviso to subsection (1), any municipal officer or servant who is reduced, removed or 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 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" has 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 purposes of the proviso to sub-section (1).

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.

(2) Leave of absence may be granted by the Municipal Chief Auditor or the Municipal Secretary, as the case may be, to a clerk or servant immediately subordinate to him and receiving a monthly salary, exclusive of allowances, not exceeding one hundred and fifty rupees.

(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 officers and servants appointed under the provisions of Chapter XX.

58. Acting appointment :-

(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:

(2) Provided that -

(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 [State] Government;

(b) an appointment reported to the [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 [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.

59. Disqualification of municipal officer and servant :-

(1) Any person who has, directly or indirectly, by himself or his partner, any share or interest in any contract with, by or behalf of the [* * * * *] 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 [* * *] 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 [* * *] with, by or on behalf of the Corporation as under sub-clauses (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,-

(a) shall occupy the same subject to such conditions and terms as may, generally or in special cases, be prescribed by the Corporations, and

(b) shall, notwithstanding anything contained in any law for the time being in force, vacate the same on his resignation, dismissal or removal or retirement from the service of the Corporation or whenever the Commissioner, with the approval of the Corporation, thinks, it necessary and expedient to require him to do so.

(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 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 word "Transport Manager" has been substituted.

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 at least 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 the 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 word "Transport Manager" had been substituted.

62. Power of [State] Government to declare emergency :-

If the [State] Government is of the opinion that the stoppage or the cessation of the performance of any of the essential service 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 [State] Government may specify in this behalf is inefficient.

CHAPTER 6

Duties and Powers of the Municipal Authorities and Officers Obligatory and Discretionary Duties of the Corporation

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

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:-

(a) erection of substantial boundary marks of such description and in such positions as shall be approved by the [State] Government defining the limits or any alteration in the limits of the City;

(1a) planning for social and economic development;

(1b) urban forestry, protection of the environment and promotion of ecological aspects];

(2) the watering, scavenging and cleaning 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 [State] Government, the preparations of compost manure from such sewerage, offensive matter and rubbish;

(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 carry 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 and the regulation of all markets and slaughter houses;

(13) the construction or acquisition and maintenance of cattle pounds;

(14) public vaccination in accordance with the provisions of the [Bombay District Vaccination Act, 1892;]

(15) maintaining, aiding and suitably accommodating stocks 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, causeways 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;

(24) fulfilling any obligation imposed by 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 provisions 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.

64. Corporation to provide anti- rabic treatment :-

(1) The Corporation shall make payments at such rates and subject to such conditions as the [State] Government from time to time by general or special order prescribes, for the maintenance and treatment in any institution which the [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 anti-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 persons 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.

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

(1) The Corporation shall make payments at such rates for each person as the [State] Government from time to time by general or special order prescribes, for the maintenance and treatment at any asylum, hospital or house, whether within or without the city which the [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], is in force, 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 maintenance and treatment of any lunatic or leper in any

such

Provided further that the rates prescribed by the Provincial 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.

Provided also that where an application is made to the High Court under the provisions of section 88 of the Indian Lunacy Act, 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 are 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.

66. Matters which may be provided for by the Corporation at their discretion :-

The Corporation may, in its discretion, provide 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;

(1A) slum improvement and upgradation ;

(1B) urban poverty alleviation ;

(1C) cattle pounds and prevention of cruelty to animals ; and

(1D) regulation of tanneries ;]

(2) the organisation, maintenance or management of maternity and infant welfare homes 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;
- (8) the planning and maintenance of trees on road sides and elsewhere;
- (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 theaters, rest-houses and other public buildings;
- (15) the organisation 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
** * 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 subsidising of any such

Undertaking which may be in the general interest of the public;

(20) the construction, purchase, organisation, 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 on buildings therefor;

(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 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, bye-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 curtilages thereof to abut on such street or streets;

(35) the building or purchase or maintenance of suitable dwellings for the poor and working classes, of 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 milch-kine;

(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) making any contribution towards any public reception, ceremony or entertainment:

Provided that, the total expenditure on account of such contribution during any official year shall not exceed rupees twenty-five thousand or such higher amount as the State Government may, from time to time, by notification published in the Official Gazette, specify in this behalf.]

(41A) with the previous sanction of the State Government and subject to such terms and conditions as the State Government may impose, subscribing to the share capital of any company or co-operative society, with a limited liability, established or to be established for maintaining or setting up a slaughter house, or for providing any other services in the City, useful to the Corporation in carrying out any of the duties imposed upon it by or under this Act or any other law for the time being in force;

]

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

66A. Performance of functions by agencies :-

When any duty has been imposed on, or any function has been assigned to, a Corporation under this Act or any other law for the time being in force, or the Corporation has been entrusted with the implementation of a scheme by the State Government or any other authority:-

(i) the Corporation may, either discharge such duties or perform such functions or implement such schemes by itself; or

(ii) subject to such directions as may be issued and the terms and conditions as may be determined by the State Government, cause them to be discharged, performed or implemented by any agency :

Provided that the Corporation may also specify terms and conditions not inconsistent with the terms and conditions determined by the State Government, for such agency arrangement.]

67. Functions 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 of the Standing 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 this Act and of any other Act for the time being in force which imposes any duty or confers any powers 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 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

(c) in any emergency, take such immediate action for the service of 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 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 the 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 of this Act, 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 any emergency, take such immediate action for the protection of human life or of the property of the Corporation or for the maintenance

67A. Environment Status Report :-

The Commissioner shall, before the thirty-first day of July every year, place before the Corporation a report on the status of

environment within the city in respect of the last preceding official year covering such matters, and in such manner as may be specified by the State Government for time to time]

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

(1) Any of the powers, duties or 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 the revision and to such conditions and limitations, 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 and functions conferred or imposed upon or vesting in the Commissioner of the Transport Manager by or under any of the provisions of this Act may be exercised, performed or discharged, under the control of the Commissioner or the Transport Manager, as the case may be, and subject to his revision and to such conditions and limitations, if any, as may be prescribed by rules, or as he shall think fit to prescribe in a manner not inconsistent with the provisions of this Act or Rules, by any municipal officer whom the Commissioner or the Transport Manager generally or specially empowers by order in writing in this behalf; and to the extent to which any municipal officer is so empowered the word "Commissioner" and the words "Transport Manager" occurring in any provision in this Act, shall be deemed to include such officer.

(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, subsections and clauses, namely:- 10(l(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(l)(b), 131(1), 134, 137, 144, 152, 154, 160, 174, 176, 177, 188, 195, 196, 197, 201, 205, 207, 208, 209, 210, 212, 212, 213, 214, 216, 220, 224, 232, 243, 268, 269, 270, 272(2), 273, 274, 275, 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).

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 subcommittee 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 the Commissioner to produce documents and furnish returns reports, etc :-

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 fitted in his office or in the office of any municipal officer or servant subordinate to him;

(b) to furnish any return, plan, 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, from any subject concerning or connected with the administration of this Act or the Municipal Government of the City.

(2) Except as is otherwise 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 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 by 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 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-sections (1) to (4) shall have

effect as if for the word "Commissioner" the word "Transport Manager" and for the words "Standing Committee" the words "Transport Committee" has been substituted.

72. Exercise of powers to be subject to sanction by Corporation of the necessary expenditures :-

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 subsection (2) of section 86 or in sub-section (2) of section 335, be subject to the conditions that:-

(a) such expenditure, so far as it is to be incurred in the official year in which such power is 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 of 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 of 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 [ten lakh rupees] or such higher amount as the Corporation may, with the approval of the [State] Government, from time to time prescribe, shall be made by the Commissioner unless the same is previously approved by the Standing Committee;

[Provided that, where the previous approval of the Standing Committee is sought by the Commissioner for any contract [* * *] the Standing Committee shall consider and dispose of the proposal made by the Commissioner in that behalf within fifteen days from the date on which the item is first included in the agenda of any meeting of that Committee, failing which, the approval to such contract shall be deemed to have been given by the Committee, and a report to that effect shall be made by the Commissioner to the Committee;

(d) every contract made by the Commissioner involving an expenditure exceeding [fifty thousand rupees] and not exceeding [ten lakh 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."

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 Undertakings :-

For the purposes 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" has been substituted.

CHAPTER 8

Municipal Property-Acquisition of Property

76. Power 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 [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, in the District School Board of the district in which such City is situated 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 [State] Government whose decision thereon shall be final.

(4) The [State] Government may, by order in writing, direct that any immovable or other property situate in, or pertaining to, and area included within the limits of any City which, on the appointed day, was

(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.

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 the 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 maximum 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 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 maximum 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 (3) 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 [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

(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.

79. Provisions 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 moveable 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 [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

Provided 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 of premium whereof does not exceed fifty thousand rupees or the annual rental 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, moveable 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;

(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 transfer except with the prior sanction of the appropriate Government.

(g)[notwithstanding anything contained in this section, the Commissioner may, with the sanction of the Corporation, and with the approval of the State Government, grant a lease, for a period not exceeding thirty years, of a land belonging to the Corporation which is declared as a slum area under the provisions of the Maharashtra Slum Areas (Improvement, Clearance and Re-development) Act, 1971 to a cooperative society of slum dwellers, at such rent, which may be less than the market value of the premium, rent or other consideration, for grant of such lease, and subject to such conditions, as the Corporation may impose. The approval of the State Government under this clause may be given either generally for any class of cases of such lands or specifically in any particular case of such land.

Provided that, the Commissioner may in like manner renew, from time to time, the lease for such period and subject to such conditions as the Corporation may determine and impose.

Explanation:- For the purpose of this clause the expression "slum-dwellers" means the slum-dwellers whose names are included,-

(a) in the list of hutment dwellers prepared in the census of hutments taken in the year 1976; or

(b) where such census of hutments is not taken, in the Assembly roll in force in the year 1976; or

(c) in the Assembly roll prepared in 1980 and published in May 1980; or

(d) where it is contended that the name of slum-dweller remained to be included in the Assembly roll for the year 1980, in the Assembly roll in force in the years 1977, 1978 or 1979; and who are occupying such land on the date of making an application by the co-operative society to the Corporation for grant of lease of such land.]

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 enquiry, 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.]

(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 [State] Government.

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 8A

Power to evict persons from Corporation Premises

81A. Definitions :-

In this Chapter-

(a) "Commissioner", in the event of any Corporation having established or acquired, or establishing or acquiring, a Transport Undertaking, in relation to the premises of the Corporation which vest in or are held by it for the purposes of the Transport Undertaking, means the Transport Manager;

(b) "Corporation premises" means any premises belonging to, or vesting in, or taken on lease by, the Corporation;

(c) "regulations" means regulations made by the Commissioner under section 81-1;

(d) "unauthorized occupation" in relation to any Corporation premises, means the occupation by any person of Corporation premises without authority for such occupation; and includes the continuance in occupation by any person of the premises after the authority under which he was allowed to occupy the premises has expired, or has been duly determined.

81B. Power to evict person from Corporation premises :-

(1) Where the Commissioner is satisfied,-

(a) that the person authorised to occupy any Corporation premises has, whether before or after the commencement of the Bombay Provincial Municipal Corporation (Second Amendment) Act, 1969,-

(i) not paid for a period of more than two months, the rent or taxes

fees or compensation lawfully due from him in respect of such premises; or

(ii) sub-let, contrary to the terms and conditions of his occupation, the whole or any part of such premises; or

(iii) committed, or is committing, such acts of waste as are likely to diminish materially the value, or impair substantially the utility, of the premises; or

(iv) otherwise acted in contravention of any of the terms, express or implied, under which he is authorised to occupy such premises;

(b) that any person is in unauthorised occupation of any Corporation premises;

(c) that any Corporation premises in the occupation of any person are required by the Corporation in the public interest, the Commissioner may by notice served by post, or by affixing a copy of it on the outer door or some other conspicuous part of such premises, or in such other manner as may be provided for by regulations, order that person, as well as any other person who may be in occupation of the whole or any part of the premises, shall vacate them within one month of the date of the service of the notice.

(2) Before an order under sub-section (1) is made against any person, the Commissioner shall issue, in the manner hereinafter provided, a notice in writing calling upon all persons concerned to show cause why an order of eviction should not be made, The notice shall,

(a) specify the grounds on which the order of eviction is proposed to be made, and

(b) require all persons concerned, that is to say, all persons who are or may be in occupation of, or claim interest in, the Corporation premises, to show cause against the proposed order, on or before such date as is specified in the notice. If such person makes an application to the Commissioner for the extension of the period specified in the notice, the Commissioner may grant the same on such terms as to payment and recovery of the amount claimed in the notice, as he deems fit. Any written statement put in by any person and documents produced, in pursuance of the notice, shall be filled with the record of the case, and such person shall be

entitled to appear before the Commissioner by advocate, attorney or other legal practitioner. The notice to be served under this sub-section shall be served in the manner provided for the service of a notice under sub-section (1); and thereupon, the notice shall be deemed to have duly given to all persons concerned.

(3) If any" person refuses or fails to comply with an order made under sub-section (1), the Commissioner may evict that person and any other person who obstructs and take possession of the premises; and may for that purpose use such force as may be necessary;

(4) The Commissioner may, after giving fourteen clear days' notice to the person from whom possession of the Corporation premises has been taken under sub-section (3) and after publishing such notice in the Official Gazette and in at least one newspaper circulating in the locality, remove or cause to be removed, or dispose of by public auction any property remaining on such premises. Such notice shall be served in the manner provided for the service of a notice under sub-section (1).

(5) Where the property is sold under sub-section (4), the sale proceeds shall, after deducting the expenses of sale, be paid to such person or persons as may appear to the Commissioner to be entitled to the same:

Provided that, where the Commissioner is unable to decide as to the person or persons to whom the balance of the amount is payable or as to the apportionment of the same, he shall refer such dispute to a Civil Court of competent jurisdiction, and the decision of the Court thereon shall be final.

(6) If a person, who has been ordered to vacate any premises under sub-clause (i) or (iv) of clause (a) of sub-section (1), within one month of the date of service of the notice, or such longer time as the Commissioner may allow, pays to the Commissioner the rent and taxes in arrears, or as the case may be, carries out or otherwise complies with the terms contravened by him to the satisfaction of the Commissioner, the Commissioner shall on such terms, if any (including the payment of any sum by way of damages or compensation for the contravention aforesaid), in lieu of evicting such person under sub-section (3), cancel his order made under sub-section (1); and thereupon such person shall continue to hold the premises on the same terms on which he held

them immediately before such notice was served on him.

81C. Power to recover rent or damages as arrears of property tax :-

(1) Subject to any regulations made by the Commissioner in this behalf, but without prejudice to the provisions of Section 81-B, where any person is in arrears of rent payable in respect of any Corporation premises, the Commissioner may, by notice served in the manner provided for service of notice under sub-section (1) of Section 81- B, order that person to pay the same within such time not less than ten days as may be specified in the notice.

(2) Where any person" is in unauthorised occupation of any Corporation premises the Commissioner may, in the manner and having regard to the principles of assessment of damages, provided for by regulations, assess such damages on account of the use and occupation of the premises as he may deem fit, and may, by notice served in the manner referred to in sub-section (1), order that person to pay the damages within such time as may be specified in the notice.

(3) If any person refuses or fails to pay, within the time specified in the notice, the arrears of rent under sub-section (1), or damages under subsection (2), the Commissioner may recover the amount of rent, or as the case may be, or damages in the same manner as the general or property tax due from such person.

(4) No order shall be made under sub-section (2), until after the issue of a notice in writing to the person calling upon to him to show cause, within a reasonable period to be specified in such notice, why such order should not be made, and until his objections, if any, and any evidence he may produce in support of the same, have been considered by the Commissioner.

81D. Rent to be recovered by deduction from salary or wages in case of Corporation employees :-

Without prejudice to the provisions of Section 81-B, in the case of any person who is an employee of the Corporation and who has been allotted any Corporation premises, the amount of rent due by him in respect of such premises shall, on a requisition in writing made in this behalf by the Commissioner to the Head of the Corporation Department or Officer under whom such person is employed, be liable to be deducted from the salary or wages payable to such person. On receipt of such requisition, the Head of

such Department or Officer, as the case may be, shall deduct from the salary of wages payable to such person the amount specified in the requisition and pay the amount so deducted to the Commissioner in satisfaction of the rent due by him.

81E. Commissioner to have powers of Civil Court :-

The Commissioner shall, for the purpose of holding any inquiry under this Act, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) any other matter which may be prescribed by regulations made under Section 81-1.

81F. Appeals :-

(1) An appeal shall lie from every order of the Commissioner, made in respect of any Corporation premises, under section 81-B or section 81-C, to an appellate officer, who shall be the District Judge or such other judicial officer in the City of not less than ten years' standing, as the District Judge may designate in this behalf.

(2) An appeal under sub-section (1) shall be preferred,-

- (a) in the case of an appeal from an order under Section 81-B, within thirty days from the date of the service of that notice relating to the order under sub-section (1) of that section, and
- (b) in the case of an appeal from an order under Section 81-C, within thirty days from the date of the service of notice relating to the order under sub-section (1) or (2) of that section, as the case may be:

Provided that, the appellate officer may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(3) Where an appeal is preferred from an order of the Commissioner, the appellate officer may stay the enforcement of that order for such period, and on such conditions as he deems fit.

(4) Every appeal under this section shall be disposed of by the appellate officer as expeditiously as possible.

81G. Finality of orders :-

Save as otherwise expressly provided in this Chapter, every order made by the Commissioner or the appellate officer under this Chapter shall be final, and shall not be called in question in any original suit, application or execution proceeding.

81H. Power to make regulations :-

Subject to the provisions of this Chapter, no Civil Court shall have jurisdiction to entertain any suit or proceeding in respect of the eviction of any person from any Corporation premises on any of the grounds specified in section 81-B or the recovery of the arrears of rent or the damages payable for use or occupation of such premises.

81I. Power to make regulations :-

The Commissioner, with the approval of the Standing Committee, and the Transport Manager, with the approval of Transport Committees, as the case may be, may make regulations for all or any of the following matters namely :-

- (a) the forms of notices under Sections 81-B and 81-C and for prescribing the other manner in which they may be served under those sections;
- (b) the holding of inquiries under this Chapter;
- (c) the procedure to be followed in taking possession of any Corporation premises under Section 81-B;
- (d) the manner in which the damages under Section 81-C may be assessed and the principles which may be taken into account in assessing such damages;
- (e) the manner in which appeals may be preferred under section 81 - F and the procedure to be followed in such appeals;
- (f) any other matter which has to be, or may be, prescribed under this Chapter by regulations.

81J. Penalty for obstructing lawful exercise of power under this Chapter :-

Any person, who obstructs the lawful exercise of any power conferred by or under this Chapter, shall on conviction, be punished

with fine which may extend to one thousand rupees.

CHAPTER 9

The Municipal Fund

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,-

(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 of 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, by-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 such grant, gift or deposit, and 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

82A. Annual grant by State Government, from proceeds of land revenue, non- agricultural assessment and entertainments duty :-

The State Government may, under appropriation duly made in this behalf, make a grant to the Corporation every year of such amount as it may, from time to time, determine having regard to the proceeds of the land revenue and non-agricultural assessment

levied and collected under the Maharashtra Land Revenue Code, 1966 and the entertainments duty levied and collected under the Bombay Entertainments Duty Act, 1923, by it in the area within the jurisdiction of the Corporation. The grant shall be made in such manner and shall be subject to such terms and conditions, as the State Government may, from time to time, determine. All moneys received by the Corporation by way of such grants shall be credited to the Municipal Fund.]

[Provided that it shall be competent for the State Government to deduct,-

(a) from the grant made by the State Government, or

(b) from any sum representing the grant-in-aid or the share of the Corporation in the net proceeds of the taxes, duties, tolls and fees levied by the State and distributed by the state Government on the recommendation of the Finance Commission: any amount which is due to the State Government, or to any Government Corporation, a Government Company or to any other statutory authority constituted by the Government of Maharashtra.

Provided further that before making such deductions, the Corporation's say in the matter shall be considered by the Government.

]

83. Commissioner to receive payments on account of the Municipal Fund and to lodge them in a bank :-

All money 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 [or any other scheduled bank],[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:

[Provided further that the amount of money to be paid into an 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.

]

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 Account or, if there be no post of Deputy Accountant by the officer immediately subordinate

(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 may fix 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 or cheques for a sum 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 the Municipal Fund may be made with bank or agency out of City when convenient :-

Notwithstanding anything contained in the sections 83 and 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, 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 this 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 power conferred upon him by section 319;

(h) costs incurred by the Commissioner under clause (c) of subsection (3) of section 67.

87. Procedure when money not covered by budget grant is expended under clause (e), (f), (g), or (h) of subsection (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 additional expenditure.

88. Purpose for which the Municipal Fund is to be applied :-

The money 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 [State] Government;

(c) the salaries and other allowances of all municipal officer and servants and all contributions to provident funds, pensions, gratuities and compassionate allowances payable under the provisions of this Act or of the regulations or of the statement framed under this Act for the time being in force;

(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, 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 [State] Government;

(ii) under a decree or order of a 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.

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 the Municipal fund for works urgently required for public service :-

(1) On the written requisition of such officer as the [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 [State] Government] and credited to the Municipal Fund.

(3) On receipt of 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.

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.

92. Investment of surplus moneys :-

(1) Surplus money 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 [or any other scheduled bank],[or an approved co-operative Bank] [or deposited with the State Government or with any statutory Corporation approved by the State Government] or be invested in public securities:

[Provided, that the amount of money to be deposited in an 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 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 re-deposit 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]

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, 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 :-

The Commissioner shall, as soon as may be after each first day of April have prepared a detailed report of the municipal administration of 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 said report and statement by the Standing Committee, a printed copy of such report and statement together with a copy of 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.

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 official year;

(c) an estimate of the Corporation's receipts and income for the next official 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.

[Provided that a separate estimate of the income and expenditure of the Corporation for the next official year in respect of services under Chapter XII and Chapter XIII shall be prepared.]

Explanation:- The balance, if any, available in any special fund shall not be deemed to be available for re-appropriation and 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.

95A. Report on services provided in a subsidised manner :-

(1) Notwithstanding anything contained in this Chapter, the Commissioner or as the case may be, the Transport Manager, shall, while submitting the budget estimates to the Standing Committee, append thereto a report indicating whether the following services are being provided in the last preceding year in a subsidised manner and, if so, the extent of the subsidy, the source from which the subsidy was met and the sections or categories of the local population who were the beneficiaries of such subsidy, namely:-

(a) water supply and disposal of sewage,

(b) scavenging, transporting and disposal of wastes,

(c) municipal transport, and

(d) street lighting.

(2) The Standing Committee or, as the case may be the Transport Committee, shall examine the report and place it before the Corporation, with its recommendations, if any.

Explanation:- A service shall be construed as being provided in a subsidised manner if its total cost, comprising the expenditure on operations and maintenance and adequate provision for depreciation of assets and for debt servicing, exceeds the income relatable to the rendering of that service.]

96. Budget estimates to be prepared by the 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 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 pay any special fund of the sum estimated by the Commissioner, revised as it thinks proper;

(c) 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 other than sums and instalments 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 of such smaller amount as the [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

(4) The budget estimates 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).

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 re- appropriation 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; and

(c) an estimate of the Corporation's receipts and income from the Transport Undertaking for the next ensuing official year.

Explanation:- The balance, if any, available in any special fund shall not be deemed to be available for re-appropriation 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", 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 the6 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 of 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 prescribe, 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 the extent to which any of the 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.

99A. Provisions of section 99 not to apply to cess to be first levied :-

In the event of the Corporation deciding first time to levy cess specified in clause (aa) of sub-section (2) of section 127, if the cess cannot, by following the provisions of section 99 and the other relevant provisions of this Act, be brought into force on the 1st day of April of any year, then in that case, notwithstanding anything contained in section 99, the Corporation may, in a special meeting called for the purpose, determine, subject to the limitations and conditions prescribed in Chapter XIA and the rules, the rates at and the extent to which and the date from which, the cess shall be levied, and thereupon, the cess shall be levied at the rates and from the date so determined, and all the relevant provisions of this Act shall, as far as may be, apply to the cess as if the procedure prescribed by section 99 and the other provisions of this Act had been followed.]

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 them as they stand or subject to such alteration as they deem 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 case of expenditure from the Municipal Fund and the Transport Committee in 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 requirements 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 grant 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 grant 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 of any, of any special fund of not less than one lakh of rupees 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.

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 moneys 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 printed 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 the 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 State Government :-

(1) The [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 [State] Government and the costs of any such audit as determined by the [State] Government shall be chargeable to the Municipal Fund or to the Transport Fund, as the case may be.

(2) An auditor so appointed may exercise any power which the Municipal Chief Auditor may exercise.

CHAPTER 10

Borrowing Powers

109. Power of Corporation to borrow money :-

The Corporation may, with the previous sanction of the [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 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,-

- (i) 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 [State] Government be spread over a term of years;
- (ii) no loan shall be raised unless the [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 [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 [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 amount of such work' as the Standing Committee may fix may be paid out of the sum so borrowed or re- borrowed.

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.

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 the said proviso, such sum as will, with accumulations of compound interest, be sufficient after payment of all expenses to pay off the loan within the period approved:

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 [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 fund was established and, until such loan or part is wholly discharged, shall not apply the same for any other purpose.

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 subsection (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 subsection (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 [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 [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 Municipal 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.

115. Annual examinations of sinking funds :-

(1) All sinking funds established or maintained under this Act shall be subject to annual examination by [the Chief Auditor, Local Fund Accounts.] 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 under this Act or for any loan raised before the appointed day for which the Corporation is liable which shall always be valued at par, provided that the Corporation shall make good immediately

(4) The Corporation shall forthwith pay into any sinking fund any amount which [the Chief Auditor, Local Fund Accounts,] may certify to be deficient, unless the [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 Chief Auditor, Local Fund Accounts,] 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 Chief Auditor, Local Fund Accounts,] under sub-section (4) or (5) the Corporation may, after making the payment or transfer, refer the matter to the [State] Government] whose decision shall be final.

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 fund, 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 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

(vii) 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 [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 by the [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 cost due in respect thereof and of all expenses involved 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.

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 [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 use in respect thereof shall vest in the holder for the

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 Contracts Act, 1872,-

(1) when any debenture or security issued under this Act is payable to two or more persons jointly, and either of any of them dies, the

debentures or security shall be payable to the survivor or survivors of such person;

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 person.

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 debentures 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 purposes 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 (1) the Commissioner may himself record, or may request [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 parties may produce. The Magistrate to whom such request has been made may himself record the evidence or may direct any Magistrate subordinate to him to record the evidence and shall forward the record of such evidence to the Commissioner.

(4) The Commissioner or any Magistrate acting under this section may, if he thinks fit, record evidence on oath.

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 subsection (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 on 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 drawings, 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 therefor,

(2) Every such statement shall be laid before a meeting of the Corporation and shall be published in the Official Gazette and copy of such statement shall be sent to the [State] Government and to the Accountant General, Bombay.

CHAPTER 11

Municipal Taxation

127. Taxes to be imposed under this Act :-

For the purpose of this Act, the Corporation shall impose the following taxes, namely:-

(a) property taxes;

(b) a tax on vehicles, boats and animals;

(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;

(aa)[a cess on entry of goods into the limits of the city for consumption, use of sale therein to be levied in lieu of Octroi with the previous sanction of the State Government;]

(b)[* * * * *]

(c) a tax on dogs;

(d) a theatre tax;

(e) a toll on animals and vehicles, [* * * * entering the City;

[(f) any other tax [not being a tax on professions, trades, calling and employments], with the [State] Legislature has power under the [Constitution] to impose in the [State], [(2A) Notwithstanding anything contained in sub-section (1) of 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],

(3) The municipal taxes shall be assessed and levied in accordance with the provisions of this Act and the rules.

[(4) Nothing in this section shall authorise the imposition of any tax which the [State] Legislature has no power to impose in the [State], under the [Constitution].

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 defaulter's 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.

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 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;

(aa)[an additional water tax which shall be called "the water benefit tax" at such percentage of their rateable value, as the Corporation

(b)[conservancy tax or the sewerage tax at such percentage of their rateable value, as the Corporation may consider necessary for collection, removal and disposal of human waste and other wastes;

(bb) an additional conservancy or sewerage tax which shall be called the "the sewerage benefit tax" of at such percentage of their rateable value, as the Corporation may consider necessary for meeting the whole or a part of the expenditure incurred or to be incurred on capital works for making and improving the facilities for the collection, removal and disposal of human waste and other wastes;]

(c) a general tax of not less than twelve per cent of their rateable value, which may be levied, if the Corporation so determines,***** [together with not less than one-eighth and not more than three quarters per centum of their rateable value added to the general tax in order to provide for the expenses necessary for fulfilling the duties of the Corporation imposed or arising under clause (5) of section 63 of Chapter XVII];

(d)[the education cess leviable under section 148A;

(e) the street tax leviable under section 148C]

[Provided that all or any of the property taxes may be imposed on a graduated scale.]

Provided that the Corporation may, when fixing under section 99 or section 150 the rate at which general tax shall be levied for any official year or part of an official year, determine that the rate leviable in respect of buildings and lands or portions of buildings and lands in which any particular class of trade or business is carried on shall be higher than the rate fixed in respect of other buildings and lands or portions of buildings and lands by an amount not exceeding one-half of the rate so fixed.

Explanation:- Where any portion of a building or 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.

129A. Temporary provision for levying general tax at reduced rate in area of Zilla Parishad included in a larger urban area :-

(1) Notwithstanding anything contained in section 129 or any other provisions of this Act, whenever-

(a) a new [larger urban area is specified] under sub-section (2) of section 3 comprising, wholly or partly, of an area of a Zilla Parishad; or

(b) the limits of a [larger urban area] are altered under sub-section (3) of section 3 so as to include any area or a Zilla Parishad;

Period	Amount of General tax
(1)	(2)
	The amount calculated at the rate of tax on lands and

1. Period from the date of inclusion of the area in the larger urban area upto and inclusive of the 31st March of the second year following the year in which the area is included in the larger urban area	buildings payable in the area immediately before its inclusion in the larger urban area under clause (i) of sub-section (1) of section 124 of the Bombay Village Panchayats Act, 1958 or clause (e) of sub-section (1) of section 157 of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, as the case may be (hereinafter in this Table referred to as "the amount of tax payable in the Zilla Parishad area")
2. Period of one year following the period referred to in entry 1.	20 per cent. of the amount of general tax payable in the larger urban area of the amount of tax payable in the Zilla Parishad area, which ever is more.
3. Period of one year following the period referred to in entry 2.	40 per cent. of the amount of general tax payable in the larger urban area or the amount of tax payable in the Zilla Parishad area, which ever is more.
4. Period of one year following the period referred to in entry 3.	60 per cent. of the amount of general tax payable in the larger urban area of the amount of tax payable in the Zilla Parishad area, which ever is more.
5. Period of one year following the period referred to in entry 4.	80 per cent of the amount of general tax payable in the larger urban area or the amount of tax payable in the Zilla Parishad area, which ever is more.
	The same amount of general

6. Any period after the expiry of the period referred to in entry 5	tax as in force and payable in the remaining area of the larger urban area
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(2) The Corporation shall spend an amount worked out at the rate of not less than one-third of the per capita expenditure incurred in the Corporation area for the year immediately preceding the year of inclusion in the Zilla Parishad area or any such higher amount as may be feasible

130. Water tax on what premises levied :-

(1) Subject to the provisions of section 134, the water tax shall be levied only in respect of premises-

(a) to which a 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 the municipal water works by means of private water connections or of public standposts, 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, cesspool, 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 should be leviable in respect thereof.

132. General tax on what premises to be levied :-

(1) The general tax shall be levied in respect of all buildings and lands in the City 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 charitable purpose;

(c) buildings and lands vesting in the [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 [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 charitable purposes within the meaning of clause (b) of sub-section (1), namely:-

(c) buildings and lands or portions thereof in which any trade or business is carried on; and

(d) buildings and lands or portions thereof in respect of which rent is derived whether such rent is or is not applied exclusively 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 for public worship or for a public charitable purpose, such portion shall be deemed to be a separate property for the purpose of municipal taxation.

133. Payment to be made to the Corporation in lieu of the general tax by [State] Government :-

(1) The [State] Government, shall pay to the Corporation annually in two half-yearly instalments payable by the 30th day of September and 31 st day of March in every year in lieu of the general tax from which buildings and lands vesting in the [State Government] are exempted by clause (c) of sub-section 132, a sum ascertained in the manner provided in sub-sections (2) and (3).

(2) The rateable value of the buildings and lands in the City vesting in the [Government] and beneficially occupied, in respect of which but or the said exemption, general tax would be leviable from the [State] Government, shall be fixed by a person from time to time appointed in this behalf by the [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 mean time the number or extent of the buildings and lands vesting in [in the City vesting in the State Government] materially increases or decreases.

(3) The sum to be paid annually to the Corporation by the [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).

133A. Power to remit property taxes in case of buildings occupied by persons affected by natural calamities etc :-

(1) Notwithstanding anything contained in this Chapter, the Corporation may, for such period and subject to such conditions as may be specified by it, remit the whole or any part of all or any of the property taxes payable in respect of any, buildings, if the said taxes are primarily leviable from the actual occupier thereof the Government, the Corporation or the Maharashtra Housing Board, and the building as

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 this 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 [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.

136. Supply of water at public drinking fountains 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, stand-pipe 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 rate 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, or other large premises at such special rate as shall be generally approved by the Standing Committee in this behalf whether the service in respect of which such tax is leviable be performed by human labour or by substituted means or appliances.

(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 the [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.

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 had made such payment [* * *] 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.

(3) If, under the terms of the tenancy, the rent charged for any such premises is inclusive of water tax or water charges and subsequently water is supplied through a common meter and if any water tax or water charges are paid by the owner or any person acting in his behalf, such owner shall be entitled to recover from the occupier of the premises only the difference between the water tax or water charges previously payable by him and the water tax or water charges payable in respect of such premises on pro rata basis in proportion to the amount of the rent for which each of such premises is let.]

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 [Government] or from the Corporation, from the actual occupier thereof:

Provided that the property taxes due in respect of buildings vesting in the [Government] and occupied by servants of the [Government] or other persons on payment of rent shall be leviable primarily from the [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 subject;

(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 primarily 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 of 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.

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 on 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 on 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 prior payment of the land revenue, if any, due to Provincial Government thereupon, be a first charge, in the case of any building or land held immediately from the [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 tax" 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) If 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 movable property in question in question to sale under the decree, shall, as aforesaid, be a fresh charge on such premises and moveable property, along with the amount found to be due, and the Court may direct payment thereof to be made to the Corporation out of the sale proceeds.

142. Tax on what vehicles, boats and animals :-

(1) Except as hereinafter provided, a tax at rates not exceeding those prescribed by order in writing by the [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 of passengers or goods in the case of vehicles and boats for riding, racing, draught or burden in the case of animals.

[Provided that no tax shall be levied on motor vehicles save as provided in section 20 of the Bombay Motor Vehicles Tax Act. 1958.]

Explanation:- A vehicle, boat or animal kept outside the limits of the City by 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.

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 [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 Defence 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 the 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 bona fide dealers in vehicles or boats for sale merely, and not used:

Provided that a tax at such rate as the Corporation shall with the approval of the [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

(2) If any question arises under clause (b) of sub-section (1) whether any vehicle or animal vesting in the [Government] is or is not used or intended to be used for purposes of profit, such question shall be determined by the [State] Government, whose decision shall be final.

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 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 the [Government] from octroi, and refund of octroi on articles becoming property of [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 [Government] 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 [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 [Government] is used or intended to be used solely for public purposes and not to be used or intended to be used for purposes of profit.

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 therefore 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 charge 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;
- (d) any entertainment exempted by the Commissioner of Police, the District Magistrate or the State Government from the entertainment duty under the Bombay Entertainments Duty Act, 1923.]

Explanation:- For the purposes of this section a nominal charge shall be such charge as may be fixed by the rules.

148A. Levy of education cess :-

(1) For the purpose of clause (15) of section 63, the Corporation may,* * * * levy within its area an additional tax on buildings and lands (hereinafter referred to as "the education cess"), of so many per centum, not exceeding five, of the rateable value, as the Corporation may determine, such tax may be levied, if the Corporation so determines, on a graduated scale :

Provided that -

- (a) all buildings and lands vesting in the Central Government,
- (b) all other buildings and lands exempted from the general tax under section 132,
- (c) all buildings and lands of a rateable value below such sum as the Corporation may determine, shall be exempted from the education cess.

(2) The Corporation may require the Municipal Commissioner to recover the amount of the education cess determined under sub-section (1) by an addition to the general tax levied under this Act. Every addition to the general tax imposed under this sub-section shall be recovered by the Municipal Commissioner from each person

liable therefor in the same manner as the general tax due from him. The provisions of sections 139 and 140 shall apply to the education cess as if it were part of the general tax levied under this Act.

148B. Payment to be made to Corporation in lieu of education cess by State Government :-

(1) With effect from the first day of April 1993, and in respect of the period during which the education cess is levied under section 148A, the State Government shall pay to the Corporation annually, in lieu of the education cess from which buildings and lands vesting in the State Government are exempted by virtue of clause (b) of the proviso to sub-section (1) of Section 148A (hereinafter in this section referred to as 'the exempted buildings and lands'), a sum ascertained in the manner provided in sub-section (2).

(2) The sum to be paid annually to the Corporation by the State Government shall be eight-tenths of the amount which could be, or would

148C. Levy of street tax :-

(1) The Corporation may, for the purposes of clause (18) of section 63 levy within its area, an additional tax on buildings and lands (hereinafter referred to as "the street tax"), of so many per centum, not exceeding ten, of their, rateable value, as the Corporation may, from time to time determine:

Provided that, -

(a) all buildings and lands vesting in the Central Government,

(b) all other buildings and lands exempted from the general tax under section 132,

(c) all buildings and lands of a rateable value below such sum as the Corporation may determine, shall be exempted from the levy of street tax.

(2) The Corporation may require the Commissioner to recover the amount of the street tax determined under sub-section (1) by an addition to the general tax levied under this Act. Every addition to the general tax imposed under this sub-section shall be recovered by the Municipal Commissioner from each person liable therefor in the same manner as the general tax due from him. The provisions

of sections 139 and 140 shall apply to the street tax as if it were part of the general tax levied under this Act.

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 of 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 [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 [State] Government and the [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 of the levy or the extent thereof.

(3) Any sanction given by the [State] Government under subsection (2) shall become operative on such date not earlier than one month from the date of sanction as the [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 [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 effect 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 [State] Government is not given by the first day of March immediately preceding and if the [State] Government in the order of sanction specifies a date late 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.

150. Any tax imposable 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, they shall do so by increasing, for the unexpired portion of the said year, the rates at which any tax imposable 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 [State] Government or by levying with due sanction, a tax imposable under this Act but not being levied for the time being.

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.

CHAPTER 11A

Provisions Relating to Levy, Collection and Recovery of Cess in lieu of Octroi

152A. Levy of cess :-

(1)

Provided that, the Corporation may, subject to the previous sanction of the State Government, by notification in the Official Gazette, add, alter or delete any of the entries in the Schedule A or vary the rates including the maximum rates specified therein;

Provided further that, such notification shall be published after considering the objections and suggestions (if any) invited from the public by pre-publication of such notification."

(2) There shall be paid, by every dealer, who is liable to pay cess under this Chapter, the cess in accordance with the provisions of this Chapter and the rules.

152B. Incidence of cess :-

(1) Every dealer whose turnover either of all sales or of all purchases or of all imports made,-

(a) during the year immediately preceding to the year; or

(b) during the year, in which the Corporation has decided to levy the cess specified in sub-section (2) of section 127, has exceeded or exceeds the relevant limit prescribed in this behalf, shall be liable to pay the cess under this Act;

Provided that, a dealer to whom sub-clause (a) does not apply but sub-clause (b) applies and whose turnover either of all sales or of all purchases or of all imports first exceeds the relevant limit prescribed in this behalf after the first day of April of the year in which the Corporation has decided to levy the cess, shall not be liable to pay the cess in respect of the goods imported by him into the limits of the City to pay the cess in respect of the goods imported by him into the limits of the City for

(2) Every dealer whose turnover, either of all sales or of all purchases or of all imports made during any year commencing on the first day of April, being a year subsequent to the years mentioned in subsection (1) first exceeds the relevant limit prescribed in this behalf, shall be liable to pay cess under this Act:

Provided that, a dealer shall not be liable to pay the cess in respect of the goods imported by him into the limits of the City for consumption, use or sale therein during the period commencing on the first day of April of the said year upto the time when his

turnover of sales or purchases or of imports, as computed from the first day of April of the said year does not exceed the relevant limit prescribed in this behalf.

(3) Every dealer who has become so liable for payment of cess shall continue to be so liable until his registration is duly cancelled; and shall again become liable on the day his turnover of sales or purchases or imports again first exceeds the relevant limit prescribed in this behalf.

152C. Certain goods not liable to or exempt from cess :-

(1) No cess shall be leviable on the goods specified in Schedule B.

(2) Subject to the conditions, restrictions or exceptions, if any, set out against any of them, the goods specified in Schedule C shall be exempt from the payment of cess. ["Provided that the Corporation may, subject to the previous sanction of the State Government, by notification in the official Gazette, add alter or delete any of the entries in the Schedule B and C:

Provided further that, such notification shall be issued, after considering the objections and suggestions (if any), invited from the public by pre-publication of such notification."

152D. Liability of cess in certain cases :-

Where on and after the date fixed by the Corporation for levy of cess any goods on which cess is leviable under this Chapter are imported into the limit of the City by any person (not being a registered dealer) from any place outside of the City area and sold to a registered dealer, there shall be levied and collected cess on such goods at the rates fixed by the Corporation, under the rules, from time to time, and such registered dealer shall be liable to pay the cess so levied:

Provided that, no cess on the same goods shall be levied if such purchasing dealer proves to the satisfaction of the Commissioner that the cess has been paid earlier on the said goods to the Corporation.

152E. Cess Authorities :-

(1) For carrying out the purposes of this Chapter and the rules, the Commissioner shall be the Principal Authority.

(2) Likewise, the Corporation may appoint such number of -

- (a) Deputy Municipal Commissioners,
- (b) Assessor and Collectors;
- (c) Deputy Assessor and Collectors;
- (d) Assistant Assessor and Collectors; and
- (e) other officers and persons and give them such designation, as the Corporation thinks necessary.

(3) The Commissioner shall have jurisdiction co-extensive with the territorial limits of the Corporation. All other officers and persons shall have jurisdiction over such area or areas of the Corporation as the Commissioner may specify.

(4) The Commissioner shall have and exercise all the powers and perform all the duties, conferred or imposed on the Commissioner by or under this Act.

(5) A Deputy Commissioner shall, as otherwise directed by the Commissioner have and exercise all the powers, and shall perform all the duties, conferred or imposed on the Commissioner, by or under this Act.

(6) An Assessor and Collector and other officers and persons shall, within their jurisdiction, exercise such of the powers and perform such of the duties of the Commissioner under this Act, as the Commissioner may, subject to such conditions and restrictions, by order in writing, delegate to them either generally, or in respect of any particular matter or class of matters.

(7) No person or a dealer shall be entitled to call in question the territorial jurisdiction of any officer or person appointed under sub-section (2).

(8) All officers and persons appointed under sub-section (2) shall be subordinate to the Commissioner, and the subordination of the officers (other than the Commissioner, and of the persons, amongst themselves, shall be as follows:-

- (a) Deputy Municipal Commissioner shall be subordinate to the Commissioner.
- (b) An Assessor and Collector shall be subordinate to a Deputy Municipal Commissioner and the Commissioner,
- (c) A Deputy Assessor and Collector and an Assistant Assessor and

Collector shall be subordinate to an Assessor and Collector, a Deputy Municipal Commissioner and the Commissioner;

(d) An officer or person appointed under clause (e) of sub-section (2) shall be subordinate to an Assistant Assessor and Collector, A Deputy Assessor and Collector and Assessor and Collector, a Deputy Municipal Commissioner and the Commissioner, within whose jurisdiction he performs his functions.

152F. Registration :-

(1) No dealers shall, while being liable for payment of cess under the provisions of this Chapter and the rules carry on business as a dealer, unless he possesses a valid certificate of registration as prescribed;

Provided that, the provisions of this section shall not be deemed to have been contravened, if the dealer having applied in the prescribed manner and time for such registration or, as the case may be, within the prescribed period, carried on such business, pending disposal of his application or grant of registration.

(2) If a person or a dealer upon an application made by him has been registered as a dealer under the rules, and thereafter it is found that he ought not to have been so registered under the provisions of the rules, he shall be liable to pay the cess for the period from the date on which his registration certificate took effect until it is cancelled, notwithstanding that he may not be liable to pay cess under the other provisions of this Chapter and the rules.

152G. Memorandum of sales or purchases :-

If,-

(a) a registered dealer sells goods to another registered dealer, or

(b) a registered dealer who sells in the current year any goods exceeding ten rupees in value, in any one transaction to any other person. he shall issue to the purchaser a bill or cash memorandum serially numbered, signed and dated by him or his servant, manager or agent, showing therein such other particulars as may be prescribed, he shall keep a counterfoil or duplicate of such bill or cash memorandum duly numbered, signed and dated and preserve it for the period of not less than five years from the date of sale.

152H. Prohibition against collection of cess :-

No person shall collect any sum by way of cess in respect of sale of

any goods:

Provided that, this section shall not apply where a person or dealer is required to collect such amount of the cess separately in order to comply with the conditions and restrictions imposed on him under the provisions of any other law for the time being in force.

152I. Liability to maintain and produce accounts :-

Every dealer and such other person as prescribed, shall keep a true account of the value of the goods imported, purchased, consumed, used or sold by him as prescribed.

152J. Production and inspection of accounts and documents and search of premises, seizure of books of accounts and goods, etc. :-

(1)

(a) The Commissioner may, require any registered dealer to produce before him any accounts or documents, or to furnish any information, relating to stocks of goods or of imports, purchases, sales and deliveries of goods by the dealer or any other information relating to his business, as may be necessary.

(b) The Commissioner may, require any dealer of any person who has imported any goods in the City and has sold the same to a dealer or a person, to produce before him such documents, or to furnish such information relating to such goods as may be necessary.

(2) All accounts, registers and documents relating to stocks of goods, or to imports, purchases, sales and deliveries of goods by any dealer and all goods and cash kept in any place by any dealer shall, at all reasonable times be open to inspection by the Commissioner, and the Commissioner may, take or cause to be taken such copies or extracts of the said accounts, registers or documents and such inventory of the goods and cash found, as appear to him necessary.

(3) If the Commissioner has reason to believe that any dealer or person has evaded or is attempting to evade the payment of any cess due from him, he may, seize such accounts, registers or documents or goods found in the premises at the time of search of the dealer or person as may be necessary and shall grant a receipt for the same and shall retain the same for so long as may be

necessary in connection with any proceeding under this Act or for a prosecution. However, when the Commissioner seizes any books of accounts, registers or documents or goods of any dealer, he shall not retain them for more than twenty-one days without recording his reasons in writing for so doing.

(4) For the purposes of sub-section (2) or sub-section (3), the Commissioner may enter and search any place of business of any dealer or any place of activity of a person or any other place where the Commissioner has reason to believe that the dealer or person keeps or is, for the time being, keeping any accounts, registers or documents of his business or activity or stocks of goods relating to his business.

(5) Where in the course of any search or inspection any books of accounts, other documents, money or goods are found in the possession or control of any person, it shall be presumed, unless the contrary is proved, that such books of accounts, other documents, money or goods belong to such person.

152K. Commissioner to have powers of Civil Court :-

(1) The Commissioner shall, for discharging the functions under this Chapter have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, in respect of the following matters, namely:-

- (a) receiving evidence on affidavit;
- (b) summoning and enforcing the attendance of any person and examining on oath or affirmation;
- (c) requiring the discovery and production of documents;
- (d) issuing commissions for the examination of witnesses or documents; and
- (e) any other matter which may be prescribed.

(2) In the case of any affidavit to be made for the purposes of this Chapter, any officer appointed by the Commissioner in this behalf, may administer the oath to the deponent.

(3) Without prejudice to the provisions of any other law for the time being in force, where a person to whom a summons is issued by the Commissioner either to attend to give evidence or produce books of accounts, registers or other documents at a certain place

and time, intentionally omits to attend or produce such books, registers, or documents at a certain place and time, as the case may be, the Commissioner may impose on him such fine not exceeding five hundred rupees as he may deem fit; and the fine so levied may be recovered in the manner provided for recovery of arrears of cess:

Provided that, before imposing any such fine, the person concerned shall be given a reasonable opportunity of being heard.

(4) If any documents are produced by a person on whom a summons was issued by the Commissioner, and the Commissioner has reason to believe that any person evaded or is attempting to evade the payment of any cess due from him and the documents produced are necessary for establishing the case against such person, the Commissioner may, for reasons to be recorded in writing, impound the documents and shall grant a receipt for the same and shall retain the same for so long as may be necessary in connection with any proceedings under this Chapter or for prosecution.

(5) No order passed under this section by the Commissioner or any officer or person subordinate to him shall be called in question in any Court.

152L. Offences and Penalties :-

(1) Whoever,

(a) not being a registered dealer under section 152F falsely represents he is or was a registered dealer, at the time when he sells or buys or imports or delivers goods, or

(b) knowingly furnishes a false return, or

(c) knowingly produces before the Commissioner false bill, cash memorandum, voucher, declaration, certificate or other document for any purpose referred to in section 152J, or

(d) knowingly keeps false accounts of the value of the goods bought or imported or sold or delivered by him in contravention of section 152-I, or

(e) knowingly produces false accounts, registers or documents or knowingly furnishes false information, or

(f) issues to any person, a certificate required under relevant

provisions of the rules or a false bill, cash memorandum, voucher or other document which he knows or has reason to believe to be false, or

(g) wilfully attempts in any manner whatsoever to evade any cess leviable under this Chapter, or

(h) wilfully attempts in any manner whatsoever to evade any payment of any cess, penalty, interest or sum forfeited under the provisions of this Chapter, or

(i) aids or abets any person in commission of any act specified in clauses (a) to (h), or

(j) fails without sufficient cause to furnish any information as required by the rules, or

(k) fails without sufficient cause to furnish any return as required by the rules, by the date and in the manner prescribed, or

(l) fails to pay any cess as required by this Chapter, or

(m) fails without sufficient cause to comply with any requirements made to him under section 152J, or

(n) obstructs any officer making any search or seizure under section 152J, or

(o) without sufficient and reasonable cause contravenes provisions of sections 152F, 152G, 152H or 152I. shall, on conviction be punished with imprisonment for a term which may extend to two years or with fine.

(2) Whoever commits any of the acts specified in sub-section (1) and the offence is a continuing one under any of the provisions of the subsection (1) shall, on conviction, be punished with daily fine which shall not be less than rupees one hundred during the period of the continuance of the offence, in addition to the punishment provided under this section.

(3) Notwithstanding anything contained in sub-section (1) no person shall be proceeded against under that sub-section for the acts referred to therein if the total amount of cess evaded or attempted to be evaded is less than rupees two hundred during the period of a year.

(4) Where a dealer is accused of an offence specified in sub-section

(1), the person deemed to be the manager of the business of such dealer shall also be deemed to be guilty of such offence unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission thereof.

(5) No prosecution for an offence under this section shall be instituted in respect of same facts on which a penalty has been imposed by the Commissioner under any provisions of this Chapter.

152M. Disclosure of information by Commissioner, Municipal officer or servant :-

(1) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Chapter or the rules, or in any record of evidence given in the course of any proceedings under the provisions of this Chapter (other than proceedings before a Criminal Court), or in any record of any assessment proceeding, or any proceeding relating to the recovery of a demand. prepared for the purpose of this Chapter shall, save as provided in sub- section (3), be treated as confidential.

(2) If, save as provided in sub-section (3), any servant of the Corporation discloses any of the particulars referred to in sub-section (1), he shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine or with both.

(3) Provisions of this section shall not apply to disclosures made for the purpose prescribed by rules.

152N. Compounding of offences :-

(1) The Commissioner may, either before or after the institution of the proceeding for any offence punishable under section 152L, accept from any person charged with such offence, by way of composition of the offence, a sum not exceeding ten times but not less than four times of the cess which would have been payable.

(2) On payment of such sum as may be determined by the Commissioner under sub-section (1), no further proceeding shall be taken against the accused person in respect of the same offence.

152O. Indemnity :-

No suit, prosecution or other legal proceedings shall lie against any

servant of the Corporation for anything which is in good faith done or intended to be done under the provisions of this Chapter.]

CHAPTER 12

Drains and Drainage-Municipal Drains

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 drain, 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 any 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 of 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 objection 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 [State] Government or to such officer of the [State] Government as the [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 [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 proposal.

(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

(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 therefor, 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 [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 subsection (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 subsection (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

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 purposes of out fall or distribution of sewages, 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 :-

(1) The Commissioner may enlarge, alter 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, cleaning 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. Power to connect drains of private streets with municipal drains :-

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 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 place 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 proposed 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 provided, 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 subsection (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 made 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 or premises to carry drains 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 allow.

(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 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 can be shall be done, and the owner or occupier of 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 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 land 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 situated within hundred feet of a 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 as the Commissioner may consider suitable:

Provided that, where any premises have already been drained under municipal requirements and have to be re-drained, no such requisition shall be made without the previous sanctions 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 of 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 are 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.

165. Commissioner may enforce drainage of undrained premises not situate within a hundred feet of a municipal drain :-

(1) Where any premises are, in the opinion of the Commissioner, without sufficient means of effectual drainage, but no 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 same 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 all 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 bye-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 bye-laws without such consent, discharge into the municipal drains any trade effluent proceeding from those premises.

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 situate 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 proportion as the Commissioner may think 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 (Y) 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 is sufficient for the effectual drainage of the said premises and is 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 rain water only, or for unpolluted sub-soil water only, or for both rain water and unpolluted sub-soil water only and by written notice require the owner or occupier of the premises to make an entirely distinct drain for rain water 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) of 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 expenses 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 clause (b) of sub-section (1) may embrace any detail specified in clause (a) or

clause (b) of 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, or 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 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 to vest in the Corporation.

171. New building not to be erected without drains :-

(1) It shall not be lawful newly to erect any building, or to re- erect any building, or to occupy any building newly erected or 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 or 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, cleaning 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 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, cleaning 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 subsection (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 rain water 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 reply 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 [State] Government shall think fit to disallow.

177. Provision of means for disposal of sewage :-

The Commissioner may, for the purpose of receiving, treating,

storing, disinfesting, 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 an arrangement with any person for any period not exceeding twenty years, for the removal or disposal of sewage within or without the City.

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 bye-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.

179. Water-closets and other accommodation in buildings newly erected or re-erected :-

(1) It shall not be lawful to erect or to re-erect or convert within the meaning of section 253 and building for, or intended for human habitation, 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.

[Provided that it shall be lawful with the permission of the Commissioner to erect, re-erect or convert any building as aforesaid without water-closet or privy accommodation on any plot of land not exceeding one thousand square feet situated in such area or

areas as the Commissioner with the previous sanction of the Standing Committee, having regard to the relatively undeveloped and rural character thereof, considers it unessential to provide for such water-closet or privy accommodation.]

(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 subsection (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.

(4)[Where permission to erect, re-erect or convert any building without water-closet or privy accommodation in any area is given under the proviso to sub-section (1), the Commissioner shall provide and maintain privies and latrines in proper and convenient places in that area or in the vicinity thereof within such period as the State Government may, in consultation with the Commissioner, determine in this behalf.

(5) If the Commissioner fails to provide privies and latrines within the period determined as aforesaid, the State Government may provide for such privies and latrine, and direct that the cost thereof shall be paid out of the Municipal Fund and thereupon, the provisions of section 449 shall apply to the recovery of such cost as they apply in relation to the recovery of expenses incurred in pursuance of an order as is mentioned in subsection (2) of section 448].

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.

181. Drains, etc., not belonging to Corporation to be subject to inspection and examination :-

(1) All drains, ventilation shafts and pipes, cesspools, 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 passed 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 rules of any analysis of 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, cesspool, 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 bye-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, cesspool, 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 bye-laws or any other 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 repairs, 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) section 186, to remove any projection over the same, or

(ii) to renew, repair, cover, recover, trap, ventilate, flush, pave and pitch or take such other order to keep with 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 bye-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 for the 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 :-

(1) 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 (1) 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;

186. Prohibition of acts contravening the provisions of the Act, rules or bye- laws or done without sanction :-

(1) No person shall --

(a) in contravention of any of the provisions of this Act or rules or bye-law 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, cesspool, 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, cesspool, 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 rules or bye-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, cesspool, 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 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 any 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 give 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 the owner of such building or work shall be deemed to have been responsible for carrying out all such requisitions 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 fittings 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, floor, 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 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 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 order 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 post 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 residents of such portion of the City.

(2) For the purpose of carrying out the obligation imposed by subsection (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, and maintain in good repair, alter, improve and extent 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 of 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 appointed by 1[State] Government :-

Any person appointed by the [State] Government in this behalf shall at all reasonable times have liberty to enter upon and inspect any municipal water- works.

191. Power of access to Municipal water-works :-

The Commissioner and any person appointed by the [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.

192. Power of carrying water- mains etc :-

(1)For the purposes of carrying, renewing and repairing water mains, pipes and ducts within and without the City, the Commissioner shall have the same powers and be subject to the same restrictions, as he has and is subject to the provisions hereinbefore contained for carrying, 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 hydrant-key to be deposited at each place within the City where a municipal fire-engine 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 reservoir from which a supply of water is derived for a municipal water work;

(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 whatsoever, 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 or percolate or drain into or upon any municipal water-work or to be brought there into 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 there into 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 other 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 provide 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 on only for his personal or domestic purpose 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 or 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 the 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 :-

(1) 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 fraudulent 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-Construction, Maintenance and Improvement of Streets

202. Vesting of public streets in the Corporation :-

(1) All streets within the City being or which at any time become public streets, except streets, which on the appointed day vested in the [Government] or which after the said day may be constructed and maintained by an authority other than the Corporation, and the pavements, stones and other materials thereof shall, vest in the Corporation and be under the control of the Commissioner.

203. Powers 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 leveled, metalled or paved, channelled, altered and repaired, as occasion shall require; he 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 land 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 [State] Government.

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 use 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 expense of the Corporation, and that such street shall become, on completion, a 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 [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 locations 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 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.

207. Power to adopt, construct or alter any subway, 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 protected sub-way, bridge via duct or arch, and the approaches thereto, and may accordingly adopt and maintain such sub-way, bridge, via duct 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 bridge, via duct or arch or for the purchase or acquisition of any adjoining land required for the foundation and support thereof or for the approaches thereto, either

208. Power to prohibit use of public streets for certain kinds to 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 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 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) 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 a Standing Committee.

(b) No person shall construct or reconstruct any boundary-wall of 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, re-construct 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 therefore 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 to 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 the 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 the 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 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 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 [Government].

213. Acquisition of open land or of land occupied by platforms, etc., within the regular line of a street :-

(1) 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, the Commissioner may, after giving to the owner of the land or building not less than seven clear days' written notice of his intention so to do, 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 [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 [State] Government].

214. Acquisition of the remaining part of building and land after their portions within a regular line of the street are required :-

(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

(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 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 sections 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 betterment 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 layout lands for buildings and for private streets :-

(1) 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, or

(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, along with 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 land 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 of planting and rearing of trees beside 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 abut 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 clauses (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 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 trees to be planted 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 in either side of such street shall be fixed and determined by the Commissioner subject to such general directions of 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 bye-law.

221. Land not to be appropriated for building and private streets not to be laid out until expiration of notice nor otherwise than in accordance with Commissioner's 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 not 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 subsection (1) of section 220;

(b) after the expiry of the period of one year specified in subsection (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 on or before such day as shall be specified in such notice by a 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 unauthorized 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 owner 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 [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 Corporation 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 of the greater part thereof shall, by notice in writing to the Commissioner, object thereto.

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 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, or obstruct in any way the safe or convenient passage of the public along any street, or

(b) jut or project into 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 of 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, 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 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 previously 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 re-erected or put 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, sunshade, 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 structures 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 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 :-

The Commissioner may, without notice, cause to be removed,-

(a) any wall, fence, rail, post, step, booth or other structure whether fixed or movable and whether of a permanent or a temporary nature, or any fixture which shall be created 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 street or in any public street in contravention of the provisions of this Act and any vehicle, package, box, board, shelf or any other thing in or on which such article is placed.

232. Power to require removal of any structure or 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 the tethering of animals in the 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 :-

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 on any street on occasions of ceremonies and

festivals.

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 streets 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,

(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 purpose 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; or

(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 clause (c) of subsection (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 :-

Any 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 permission granted 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 whom, under any other lawful authority, opens or breaks up the soil or pavement of any street, for the purpose of executing any wo'rk, 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).

243A. Provisions for parking or halting places or lots and fees or charges therefor :-

(1) The Commissioner may, in consultation with the Commissioner of Police, or where there is no Commissioner of Police, the police officer who ranks highest in the hierarchy of police officers in the Corporation area, from time to time earmark such places as he thinks fit to be the parking or halting places or lots for vehicles on any part of the public street or public place.

(2) The Commissioner may charge such fee or charge from any person for use of such place or lot by him for parking or halting a vehicle for each day or part thereof, subject to such terms and conditions as he may think fit, with the approval of the Corporation.]

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 [Where a sky-sign is a [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 to the sky-sign be made except for the purpose of making it secure under the direction of the City Engineer;

(b) any change is made in the sky-sign, or any part thereof;

(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 be 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 this section or after permission for the erection, fixing or retention thereof for any period shall have expired or become void, the Commissioner may by written notice, require the owner or occupier of the land, building or structure, upon or over which the sky-sign is erected, fixed or retained, to take down and remove such sky-sign.

245. Regulation and control of advertisement :-

(1) The Commissioner may, by notice in writing, require the owner or the person in occupation of any land, building, wall, hoarding or structure to take down or remove, within such period as is specified in the notice, any advertisement upon such land, building, wall, hoarding or structure.

(2) If the advertisement is not taken down or removed within such period, the Commissioner may cause it to be taken down or removed, and the expenses reasonably incurred on the taking down or removal thereof shall be paid by such owner or person.

(3) [Except in cases of posters depicting any scene from a cinematographic film, stage play or other stage performance, the

provision of this section] shall not apply to any advertisement which, -

- (a) is exhibited within the window of any building;
- (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;
- (c) relates to the business of any railway administration;
- (d) is exhibited within any railway station or upon any wall or other property of a railway administration, except any portion of the surface of such wall or property fronting any street

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 "handrail, 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

(3) The Commissioner may, by written notice, require the person aforesaid to remove any hoard or fence so put up.

247. Commissioner to take proceedings for repairing or enclosing dangerous place 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. 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.

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 buildings vesting in the Corporation;

(b) procure, erect and maintain such a number of lamps, lamp-posts and other appurtenance 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 thereat:

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.

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, lamp-post or lamps-iron set up in any public street or 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, stag, 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 wilfully extinguish the light or damage and any appurtenance of any such lamp.

252. Persons accidentally breaking lamps etc., to repair the damage :-

If any person shall, through negligence or accident, break any lamp setup 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 or any street, he shall pay the expenses of repairing the damage so done by him.

CHAPTER 15

Building Regulations - Notices regarding Erection, etc., of Buildings

253. Notice to be given to Commissioner of intention to

erect a 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 bye-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-fourth of the superficial area of the external walls above the level of the plinth has been pulled down;

(iii) any frame building of which more than three quarters of the number of posts of 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 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 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 a 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 or 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 re-erection 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, or

(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 re-construction 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

(i) 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-law 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 bye-laws and shall be accompanied by such documents and plans as may be 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 non- compliance with requisition made by the 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.

257. Supervision of buildings and works :-

(1) 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 bye-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 of work commenced contrary to rules or bye-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 bye-laws, the Commissioner, unless he deems it necessary to take proceedings in respect of such building or work under section 254, 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 authorized 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 authorized 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 of works commenced contrary to Act may be cut into and laid open or purposes 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 provisions of this Act or of any rule or bye-laws, or that anything required by any such provision, rule or bye-law to be done has been omitted to be done: and if, on inspecting such building or work, it is found that 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 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 or work 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 bye-law and that nothing required by any such provision, rule or bye-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 provision 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 provisions of this Act or of any rule or bye-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 bye-law to be amended or to do anything which by any such provision, rule or bye-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 a bye-law 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) the 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 or bye-laws :-

(1) If any hut or shed erected or constructed before the appointed day is contrary to the provisions of any rules or bye-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 a sufficient cause why such hut or shed should not 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 shutter or roof or other structure and anything affixed to or projecting from or raising or any building, wall, parapet or other structure) is in a ruinous condition or likely to fall, or in any way dangerous to any person occupying, resorting to or passing by such structure or any other structure or place in the neighbourhood thereof the Commissioner may, by written notice, require the owner or occupier of such structure to pull down, secure, remove or repair such structure or thing or do one or more of such things and to prevent all cause of danger therefrom.

(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 subsection (1) can pull down, secure to 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, authorize 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 his purpose, after giving to the owner of the premises reasonable written notice of his intention so to do, to enter upon the said premises with assistants and workmen, at any time between sunrise and sunset, and to execute the necessary work.

(c) 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.

265. Periodic inspection of buildings :-

(1) It shall be incumbent on the owner of every building to maintain every part thereof and everything appurtenant thereto in such repair as to prevent its 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 bye-laws.

(3) The owner shall within two months of the inspection under subsection (2) undertake 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 bye-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 on the repairs satisfactorily.

(4) A report of every inspection made under sub-section (2) shall forthwith be submitted to the Commissioner by the person who 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.

267. Power 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 re-entry 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 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 conditions 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 as 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 of 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 the 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 semi-detached buildings or both and that the land appurtenant to each such building shall be of such 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 [State] Government.

(5) The [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 [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.

CHAPTER 16

Improvement Schemes

270. Commissioner to make draft improvement scheme :-

(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 human 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 neighbouring 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 provide 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 re-construct 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 to be made for any area for which a housing scheme has been sanctioned under the provisions of the Bombay Housing Board Act, 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 the 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 subsection (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 the streets;

(iii) the laying of such storm-water drains and sewers as may be required for the efficient draining and sewerage of streets so formed or altered;

(iv) the lighting of streets so formed or altered;

(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) the 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 sections to be displaced in the execution of the scheme.

Provided that no neighbouring land shall be included in an improvement scheme unless previous notice of such inclusion has been given in the manner provided in item (ii) 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 a result of such execution, be increased in value, the scheme may, in lieu of providing for the acquisition of such land, provide for the levy of a betterment charge as hereinafter provided in respect of the increase in value thereof.

(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 neighbouring and other parts of the City.

272. Procedure on completion of the scheme :-

(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 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 he objects to such acquisition or levy, to state his reasons in writing within thirty days from the date of 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.

(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 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 subsection (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 the Corporation after lapse of two years from the date of modification :-

(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 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 Commission 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.

(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 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 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.

275. Standing Committee after publication and service of notices to forward the scheme to the 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 on 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 modifications as it thinks fit, submit the scheme together with any objection, representation or suggestion to the Corporation for its approval.

276. Corporation to consider the 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) As soon as the Corporation has approved the scheme, the Commissioner shall apply to the [State] Government] on behalf of the Corporation for sanction to the scheme.

(2) If the Corporation declines to approve the scheme, Commissioner shall forthwith draw 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 notification relating to the scheme published under section 270 and 272 shall be deemed to be cancelled.

(3) An application to the [State] Government under sub-section (1) for sanction under sub-section (1) 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 modification 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 objections, in respect of the acquisition of their land or of 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.

278. On receipt of sanction declaration to be published giving particulars of land to be acquired and on publication of such declaration the Commissioner to be authorised to execute the scheme :-

(1) (a) On receipt of the sanction of the [State] Government the Commissioner shall forward to [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 scheme 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 [State] Government and shall state the limits within which the land proposed to be acquired is situate, the purpose for which it is needed, its approximate area, and the place where a plan of the land may be inspected. (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 or the Corporation, as the case may be, that an 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 sub-section, 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 [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.

279. If the 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 fail 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-sections (2) to (5) of section 274 shall be followed.

280. Method of calculation of betterment charge :-

Where an improvement scheme has provided for the levy of betterment charge pursuant to sub-section (2) of section 271, such betterment charge shall be an amount equal to one-half of the increase in value of the land including the buildings, if any, thereon and shall be calculated upon the amount by which the value of the said land on completion of the execution of the scheme exceeds the value of the said land at the time of the publication of the notification made under section 272.

281. Procedure of determining charge :-

(1) When it appears to the Commissioner that an improvement 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 amount of betterment charge leviable in each case shall be

determined in accordance with section 280 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 (3) of section 272, a notice, which shall state-

(a) the date declared by the Standing Committee under sub-section (1) as 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 person concerned a notice stating the amount so determined.

(5) With effect from the date of service of the notice under subsection (4) and subject to the decision upon any reference made to the District Court as hereinafter provided in sub-section (6), the amount of the betterment charge 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 be improvement expenses under section 442.

(6) If any person is dissatisfied with the betterment charge determined by the officer appointed by the [State] Government, under sub-section (2), the Commissioner shall, upon the application of such person at any time within one month from the date of the service of a notice under sub-section (4), refer the case for the determination of the District Court whose decision thereupon shall be final.

(7) If no application for determination by the District Court is made as provided in sub-section (6), the determination of the amount of

betterment charge by the officer appointed by the [State] Government in this behalf shall be final.

282. Extent to which Land Acquisition Act shall apply to acquisition of land otherwise than by agreement. I of 1894

:-

The Land Acquisition Act, 1894, hereinafter 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 the [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 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 (1) of section 270 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 shall be deemed to be the date of the publication of the declaration under section 6 of the Land Acquisition Act:

Provided that where land is acquired under section 273 or subsection (3) of 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) 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.

(5) 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 severed 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 or 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.

283. Special provisions as to compensation :-

In determining the amount of compensation to be awarded for any land or building acquired under this Act, 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 the building;

(2) when any addition to, or improvement of, the land or building has been made after the date of the publication 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 (2), (5) and (6) of this section;

(4) if in the opinion of the Court the rent of the land or building has been enhanced by reason of its being used for an illegal purpose, or being so overcrowded as to be dangerous or injurious to the health of the inmates, the rental shall not be deemed to be greater than the rent 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:- For the purposes of this sub-section overcrowding shall be interpreted as in 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) compensation may be awarded if the Court thinks fit in respect

of the severance of any part of a building proposed to be acquired in addition to the value of such part.

284. Collector to take possession after making an award and transfer land to Corporation :-

When the Collector has made an award under section 11 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.

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, 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, accountments, 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. Power 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 aid the fire brigade, shall be deemed to be damaged 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. Reports 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-Scavenging and Cleansing

290. Commissioner to provide for cleaning 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 the 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 [State] Government thinks fit to disallow

293. Provision may be made by Commissioner for collection, 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, etc 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 instruction to which large number 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. Scavengers 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 as 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. Building or rooms in buildings unfit for human habitation :-

(1) If, for any reason 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 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 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 or owners of such building or room shall, so far as may be necessary to prevent nuisance, keep the building or the room or rooms clean and wholesome.

(6) The provisions of sub-sections (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 notice issued under sub-section (1) of the said section.

299. Power to require repair of insanitary buildings :-

(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 in which such building has been erected whether as owner of the land, mortgage, lessee, or otherwise.

300. Power to order demolition of insanitary building :-

(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 the works or the future use of the building, 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 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 the purpose and with the previous approval of the Standing Committee, cancels the undertaking.

(4) If no such undertaking as is mentioned in the last foregoing subsection 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, the Commissioner may, with the previous approval of the Standing Committee, forthwith 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 located 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) of this section 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 work necessary to render it so fit and the value which it is estimated that the building will have when the works are completed.

301. Procedure where demolition order made :-

(1) When a demolition order under section 300 has become operative, the owner 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 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 realized 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 is more than one owner, shall be paid in such proportion as the Commissioner may decide.

(3) Any person aggrieved by the decision the Commissioner under sub-section (2) may, within a period of one month, appeal to the Judge.

302. Building rendered fit not to be deemed unfit for ten years if not conforming to regulations made subsequently :-

Where in pursuance of a notice under sub-section (1) of section 299, 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 buildings :-

(1) The Commissioner may serve upon the owner the building which appears to him to be an obstructive building notice of the time (being sometime 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 part thereof shall be demolished, and that the building or such part 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 buildings it-

- (a) stops or impedes ventilation or otherwise makes or conduces to make such other buildings to be in 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 buildings 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 interests 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 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 buildings or part thereof, and shall pay compensation as provided for in sub-section (6).

(5) The provisions of sub-sections (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 under sub-section (2) of section 303.

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 buildings 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 specified properties.

(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 sections 175 and 176 of the Indian Penal Code.

(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 be within a period of one month to the Judge against an order of the Commissioner under sub-section (4).

306. Appeal against demolition orders :-

(1) 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 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 expired term does not exceed three years.

307. Overcrowded dwellings :-

(1) Where it appears 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 [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 made 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.

308. Insanitary huts and shed :-

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 animals shall die or in or upon which the carcass 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 carcass 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.

310. Place for public bathing, etc., to be fixed by the Commissioner, and regulation of use of such places :-

(1)The Commissioner may from time to time

(a) set apart portions of the river or other suitable places vesting in the Corporation for use by the public for bathing, for washing animals or for washing or for drying clothes;

(b) specify the times at which and the sex of persons by whom, such places may be used;

(c) prohibit, by public notice, the use by the public for any of the said purposes of any place not to set apart;

(d) prohibit by public notice, the use by the public of any portion of the 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 purposes; 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 of the provision of this Act, no person shall-

(a) bathe in or near any lake, tank, reservoir, fountain, cistern, duct, standpipe, stream or well or on any part of the 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 thereunto 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 the 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 the 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, cistern, duct, standpipe, stream or well.

313. Factory etc to be newly established without permission of the Commissioner :-

(1) 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 workplace 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 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. incase 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.

319. Commissioner may take special measures on outbreak of any dangerous disease :-

(1) In the event of 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 that ordinary provisions of this Act and the rules or of any other law for the time being in force are insufficient for the purpose, may, with the sanction of the [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. as are specified in the rules and he shall deem necessary to prevent the outbreak of such disease or the spread thereof.

(2) The Commissioner shall forthwith report to the Corporation any measures taken and any orders made by him under sub-section (1)

320. Places for disposal of the dead to be registered :-

(1) Every owner or person having the control of a place 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 the 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 to in sub-section (2).

(5) If the Commissioner is not satisfied with the plan or statement of 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 such 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 the closing of any

place for disposal of dead :-

(1) If, from information furnished by competent persons and other 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, who shall forward the same, with its opinion, for the consideration of the [State] Government.

(2) Upon receipt of such opinions, the [State] Government after such further inquiry, if any, as it shall deem fit to cause to be made, may, by notification 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 [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.

324. State Government may sanction the reopening of places which have been closed for the 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 the 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 [State] Government.

(2) Upon receipt of such opinion, the [State] Government after such further inquiry, if any, as it shall deem fit to cause to be made, may, by notification published as provided in Section 323, direct that such place be reopened reopened for the disposal of the dead. Every order so made shall be noted in the register kept under section 320.

325. Burials within places of worship and exhumations not to be made without the permission of the Commissioner :-

(1) No person shall, without the written permission of the Commissioner under sub-section (2)-

(a) make any vault or grave or internment within any wall, or underneath any passage, porch, portico, plinth or verandah or any place of worship.

(b) make any internment 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* 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 order as the [State] Government may from time to time make in this behalf.

326. Acts prohibited in connection with the 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 take such precautions to prevent risk of infection or injury to 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) built 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, reopen, for the internment of a corpse or 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, fail to burn or cause the same to be burnt within six hours from the time of 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

Maintenance and Regulation of 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. Provisions 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 new municipal market or a new municipal slaughter-house or stock-yard or of extending or improving any existing municipal market, or slaughter-house and may from time to time build and maintain such municipal markets and slaughter houses, 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 or slaughter houses, stock-yards and provide and maintain in such municipal markets such buildings, places, machines, weights, scales and measures for weighing and measuring goods sold therein as he shall think fit.

(2) Municipal slaughter-houses, stock-yards may be situate within or, with the sanction of the [State] Government] without the City.

329. Municipal markets and slaughter - houses and stock-yards may be closed :-

The Commissioner may, with the sanction of the Corporation and of the [State] Government, 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 new private markets and of private slaughterhouses :-

(1) The Corporation shall from time to time determine whether the establishment of new private markets or establishment 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 new 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 or live-stock or shall establish or maintain 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 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 and slaughter houses and stock-yard :-

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 or slaughter house, or stock-yards and for the right to expose goods for sale in a municipal market, and for weighing 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, stockard 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 stock-yard or from any municipal market or premises used 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, stockyard market or premises and which has not been within such slaughter house, 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 by-laws or standing orders :-

(1) The Commissioner may expel from any municipal market, or slaughter-house or stock-yard any person, who or whose servants has been convicted of contravening any rule, bye-law or standing order in force in such market, slaughter-house or stock-yard 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, bye-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 lessee 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 and preserved meat.

336. Commissioner may enter any place where slaughter of animals or sale of flesh contrary to the provisions of this Act is suspected :-

(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, com, bread, flour, dairy produce and any other articles 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. Unwhole some 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 some 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 338 :-

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.

CHAPTER 20

The Operation of the Undertaking and the Construction and Maintenance of Works

341. Provisions of this Chapter when applicable :-

The provisions of this Chapter shall apply in the event of 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 out of the City, -

(a) construct or acquire Transport Undertakings, 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, 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 licence granted to the Corporation thereunder, by the Transport Committee with the approval of the Corporation.

(2)[A printed list in Marathi or English of all the fares and charges levied for the time being under this section shall be exhibited in a conspicuous place inside each vehicle used by the Transport Undertaking for the conveyance of the public.

(3) The fares and charges levied under this section shall be paid to such persons, at such places upon or near the prescribed route of the transport service, and in such manner, as the Transport Committee shall, by notice to be annexed to the aforesaid list,

appoint.

(4) 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 knowingly and willfully proceeds in any such vehicle beyond that distance and does not pay the additional fare for the additional distance or attempts to avoid payment thereof, or any person knowingly and willfully refuses or neglects, on arrival at the point up to which he has paid his fare, to quit such vehicle, he shall, on conviction, be punished with fine which may [fifty rupees]. Such person shall (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 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), be liable to pay on demand of any officer or other servant of the Transport Undertaking duly authorised in this behalf by the Transport Manager, an excess charge of a sum not exceeding [fifty rupees] as the Transport Manager, with the approval of the Transport Committee, may determine in this behalf.

(5) If a passenger liable to pay the excess charge determined under the last preceding sub-section fails or refuses to pay the same on demand being made therefore, the Transport Manager or any officer or other servant duly authorised under that sub-section may apply to a Judicial Magistrate for the recovery of the sum payable as if it were a fine, and that Magistrate, if satisfied that the sum is payable, shall order it to be so recovered and, on recovery, to be paid to the Transport Manager.

(6) It shall be lawful for every municipal servant appointed under this Chapter and all person 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 under sub-section (4) 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 Judicial Magistrate with the least possible delay.

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 maximum 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 [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.

(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.

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 provision shall have effect, namely :-

(a) the Transport Manager may dispose of by sale, hire or otherwise, any movable 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 [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 as 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 movable 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 periods exceeding one year, or sell or grant a lease in perpetuity of any immovable property belonging to the

(d) with the sanction of the Corporation , the Transport Manager may lease, sell or otherwise convey any property, movable or immovable, belonging to the Corporation.

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

(a) no new permanent office of which the minimum monthly salary exclusive of allowances exceed two hundred rupees shall be created without the sanction of the Corporation and no new office with a minimum monthly salary, exclusive of allowances, of five hundred rupees or more or with a maximum monthly salary exclusive of allowances of eight hundred rupees or more shall be created without the sanction of the [State]Government;

(b) the Corporation may by resolution direct that the scales of pay of any specified classes or grades of officers or servants shall to 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.

Explanation:- An increase in the salary of any permanent officer shall be deemed, for the purpose of sub-section (2), to be the creation of a new office if, by reason of such increase, the minimum monthly salary, exclusive of allowances, exceeds two hundred

rupees or amounts to five hundred rupees or more, as the case may be, or the maximum, monthly salary, exclusive of allowances amounts to eight hundred rupees or more.

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 exceeding two hundred rupees for a period of not more than six months and no such post 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, exceeding two hundred rupees 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.

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 salary, exclusive of allowances, is less than two hundred rupees and in the Transport Committee in all other cases.

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 money 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, [or any other scheduled bank] [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.

[Provided further that the amount of money to be paid into an 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.]

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 banker 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 and portion of the Transport Fund, and any money 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 money 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 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 provision 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, buildings, and other properties had not vested in the corporation

(c) the payments 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 contribution to provident funds, pensions, gratuities and compassionate allowances payable under this provisions of this Chapter or of the regulations of any statement framed under this Act for the time being in force;

(e) the payment of all expenses and cost incurred by the Transport Manager in the exercise of any power or the discharge of any duty conferred or imposed upon him for the purposes of, or in connection with. Transport Undertaking under the provisions of this Act or of any other enactment, including money 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 Transport Manager ex-officio in any proceedings 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 money :-

(1) Surplus money at the credit of the Transport Fund which cannot immediately or at any early date be applied to the purposes of this Act or of any loan raised for the purposes of the Transport Undertaking may be, from time to time, deposited at interest in the Imperial Bank of India [or any other scheduled bank] [or an approved co-operative bank] [or be invested in public securities];

[Provided that the amount of money to be deposited in an [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.

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

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 subsection (1) shall be in respect of each official year such sum as the Corporation, before their 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 percent 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 [[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

(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 amount 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 improvements in the services, amenities and facilities provided for the public by the Transport Undertaking.

(4) The amount 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.

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 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 reports and statement by the Transport Committee, a copy of the report together with a copy of the Committee 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

Registration of Births and Deaths

363. Appointment of Registrars :-

(1) The Medical Officer of Health shall be the Registrar General of the City for the purpose of registering birth and deaths.

(2) The Commissioner may, in consultation with the Registrar General -

(a) divide the City into such and so many division as he may from time to time think fit;

(b) nominate for each such division a municipal officer to be the Registrar of birth 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 Registrars of each division.

(2) The Commissioner shall specify the forms of the registrars required to be maintained under sub-section (1) and the manner in which such registers shall be maintained.

365. Registrars 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 division 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 or the Registrar 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 is 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 newborn child to be given :-

In case of any new-born 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 or the particulars required to be registered concerning the birth of such child as the information 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, or 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 baptized 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 fees not exceeding one rupee.

CHAPTER 22

Licences and Permits

372. Grant of licenses to Architects or Engineers Structural Designers, Plumbers and Clerks of Works :-

(1) The Commissioner may grant to any person he thinks fit a 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 the by-laws except upon the ground that the applicant is unfit, through in competency, 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 charge 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, appliances 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 article 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 buildings 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 four-footed 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 carrier.

(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 subsection (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 subsection (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 is granted by 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 any time 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 of 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 :-

Wherever 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.]

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 slaughterhouse 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 requirements 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 unauthorized private markets :-

(1) 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, cut or peeled fruit and 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 licensed eating house or sweetmeat shop.

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 purpose 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.

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 permission may be given for any purpose, such licence or written permission shall specify the period for which, and the restrictions and conditions 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 frauds, 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 licence 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 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 licence or permission.

CHAPTER 23

Power of entry and Inspection

387. Power of entry and inspection :-

(1) The Commissioner may enter into or upon any premises, with or without assistants or workmen, which he is empowered by or under the provision 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, 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 shall have power to enter and inspect any place or article in the following cases, namely :-

(a) any stable, garage, coach house 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 sections 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 works 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 at least 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.

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 buildings 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 spraying 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;

(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;

(l) 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 or 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 [State] Government compensation shall be payable by the [State] Government

390. Commissioner to determine compensation :-

Subject to the provision of this Act, the Commissioner or such other officer as may be authorised by him in this behalf shall, after holding such enquiry 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 section, sub-section or clauses. shall be punished, for each such offence, with fine which may extend to the

amount mentioned in that behalf in the second column of the said Part.

(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. continues to contravene the said provision or to neglect to comply with the said requisition or fails to remove or rectify any work or thing done in contravention of the said provision, as the case may be, or fails to vacate any premises shall be punished, for each day that he continues so to offend, with fine which may extend to the amount mentioned in that behalf in the second column of the said part.

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 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 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

(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, 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.

(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 a 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, as the case may be.

394. Punishment for offences of preparing false election rolls :-

Any officer or servant of the corporation who knowingly prepares 1[or deletes or adds to or amends an entry in the list of voters] at ward elections which is incorrect or false shall, on conviction, be punished with imprisonment of either description for a 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 a 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.

396. Punishment for breach of section 61 or 62 :-

Whoever acts or abets the commission of an act which is in contravention of the provision 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 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 two hundred and fifty rupees, whichever may be greater.

399. General penalty :-

Whoever contravenes any provision of this Act or rule, bylaw, regulation, standing order, license, 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 offence, with fine" which may extend to one hundred rupees and with further fine which may extend to twenty rupees for every day in 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 his 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 to a company, or 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 offence.

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 therefore.

CHAPTER 26

Proceedings before Judge, District Judge and Magistrate

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 Court a sum of five hundred rupees in cash or Government

Securities or equivalent value at the market rate of the day as security for any costs which the applicant may be ordered to pay to other parties to the said application.

(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.

(5)[If an application is made under section 16 that any particular candidate other than the candidate declared to have been elected shall be deemed to have been elected, then the returned candidate or any other party may give evidence to prove that the election of the person in whose favour such declaration is sought would have been void, if he had been

(i) that in fact any 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 after 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.

404. Disqualification for election as councillor for certain election offences :-

Procedure in election inquiries.

(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 [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.

405. Reference 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 provision 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 [shall be entertained] unless -

(a) it is brought within fifteen days after the accrual 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 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 rateable value, upto the date of filing, the appeal has been deposited by the appellant with the Commissioner.]

(3)[In the case of any appeal entertained by the Judge, but not heard by him, before the date of commencement of the Maharashtra Municipal Corporations (Amendment) Act, 1975, the Judge shall not hear and decide such appeal unless 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, as the case may be, upto the date of filing the appeal has been deposited by the appellant with the Commissioner, within thirty days from the date of publication of a general notice by the Commissioner in this behalf in the local newspapers. The Commissioner shall simultaneously serve on each such appellant a notice under sections 473 and 474 and other relevant provisions of this Act, for intimating the amount to be deposited by the appellant with him.

(4) As far as possible, within fifteen days, from the expiry of the period of thirty days prescribed under sub-section (3), the Commissioner shall intimate to the Judge the names and other particulars of the appellants who have deposited with him the required amount within the prescribed period and the names and other particulars of the appellants who have not deposited with him such amount within such period. On receipt of such intimation, the Judge shall summarily dismiss the appeal of any appellant who has not deposited the required amount with the Commissioner within the prescribed period.

(5) In the case of any appeal, which may have been entertained by the Judges before the date of commencement of the Act aforesaid or which may be entertained by him on and after the said date, the Judge shall not hear and decide such appeal, unless the amount of the tax

407. Cause of complaint when to be deemed to have accrued :-

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 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 a tax not covered by clause (b) above on the day when payment thereof is demanded or when a bill therefore is served.

408. Arbitration :-

Where any appeal against the rateable value or tax fixed or charged under this Act is pending and all the parties interested agree that any matter in difference between them shall be referred to arbitration, they may, at any time before a decision is given in such appeal, apply in writing to the Judge for an order of reference on such matter and on such application being made to the provisions of the * Arbitration Act, 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.

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, 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 District 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 District Court.

411. Appeals to the District Court :-

An appeal shall lie to the District Court, -

(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

(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 District Court unless it is filed within one month from the date of the decision of the Judge.

412. Costs of proceedings in appeal :-

The costs of all proceedings in an 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 Provincial Small Cause Courts Act, 1887.

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 district 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 value or tax.

414. Appeals to the Judge :-

Appeals 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 n 300:

Provided that the Judge shall not accept from an appellant upon whom such a notice as is mentioned in sub-section (1) of section 300 was served an undertaking to carry out any work unless the appellant complied with the requirements of sub-section (2) of that section.

(2) An appeal shall lie to the District Court from a decision of the Judge on an appeal under this section, within one month of such decision, when the rateable 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 District 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 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 District Court, become operative, as from the date of the final determination of the appeal.

(5) 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 District Court is given, or in a case where no appeal is brought to the District Court, upon the expiry of the period within which such an appeal might have been brought, or in a case where no appeal lies to the District Court, on the date when the decision of the Judge is given.

416. Appeals against decision of the Judge regarding payment of expenses for works executed :-

(1) An appeal shall lie to the District 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 District 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 District 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 District Court and, after the decision, shall proceed to recover only such amount, if any, as shall

thereby be determined to be due.

416A. Fees in appeals before District Court :-

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 District Court under sections 411, 415 or 416:

Provided that the District 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 District Court is settled by agreement of the parties before the hearing, half the amount of the fees paid up shall be repaid by the District Court to the party by whom the same may have been paid.]

417. Remedy of owner of building or land against occupier who prevents his complying with any provision 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 by-law 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 proceedings 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 the Provincial Small Cause Courts-Act, 1887, 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 the Provincial Small Cause Courts, Act, 1887:

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.

419. Fees in proceeding before the Judge :-

(1) The [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 proceeding 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 in which the value of the claim or subject-matter is capable of being estimated in money, exceed the fees for the time being levied, under the provisions of the Provincial Small Cause Courts Act, 1887, in cases in which the value of the claim or subject matter is of like amount.

(2) The [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 therefore under clause (a) of subsection (1) has been paid.

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 upto that time shall be repaid by the Judge to the parties by whom the same have been respectively paid.

422. Appointment of Magistrate of .the First Class :-

(1) The [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 bylaw 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 Magistrate 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 [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 [State] Government by the Corporation, who shall also pay to the [State] Government such contributions towards the pension, [State] Government:

Provided that the [State] Government may, with the concurrence of the Corporation, direct that in lieu of the amount payable under this section the Corporation shall pay to the [State] Government annually, on such date as may be fixed by the [State] Government in this behalf, such fixed sum as may be determined by the [State] Government in this behalf.

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 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 r 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 summons 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.

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, all offences against the Act, or against any rule, regulation or by-law 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 complainant when the complaint is presented in

writing.

428. Limitation time within which complaints of offences 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 complain 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 sections 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 complainant such reasonable costs of and relating to the said complaint and order as the said Magistrate shall determine, inclusive of compensation for the complainant'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 sections 156, 157, 175, 176, 177, 249 or 292 to receive damages for the same.

432. Appeal to the Sessions Court from order passed under section 431 :-

(1) An appeal shall lie to the Sessions Court from an order passed by a Magistrate under section 431 within one month of the date thereof.

(2) The Sessions Court may, when disposing of an appeal under subsection (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 Session Courts, as if they were a fine imposed by himself.

(3) When an appeal has been preferred to the Sessions 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 Session s Court, or, if the order of the Magistrate has not been disturbed by the Sessions Court, the to his order.

(4) The Sessions 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.

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 bylaw, if the name and address of such person be unknown to him, and if such person, on demand decline to give his name and address or gives a name and address which such officer has reason to believe to be false.

(2)[No person so arrested shall be detained in custody after his true name and address are ascertained or, without the order of the [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].

434. Code of Civil Procedure to apply :-

(1) Save as expressly provided by this Chapter the provisions of the Code of Civil Procedure, 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 District Court.

(2) All other matters for which no specific provision has been made under this Act shall be governed by such rules as the [State] Government may from time to time make after consultation with the High Court.

435. Limitation :-

(1) In computing the period of limitation prescribed for an appeal or application referred in this Chapter, the provisions of sections 5, 12 and 14 of the Indian Limitation Act, 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 District Judge. IX of 1887 :-

(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 the Provincial Small Cause Courts Act, 1887.

(2) All orders of the District Judge shall be executed as if they were the decrees of the District Court.

437. Criminal Procedure Code to apply to all inquiries and proceedings before Magistrates., V of 1898 :-

The provisions of the Code of Criminal Procedure, 1898, shall, so far as may be, apply to all inquiries and proceedings under this Act before the Magistrate.

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 (2) 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 subsection (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

439. Expenses recoverable under the Act to be payable on

demand, and if not paid on demand may be recovered as arrears 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-sections (4) and subsection (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 things done to, upon or in connection with, some building or land or of some measure taken with respect to some buildings 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 therein, 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 and 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 movable 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:

Provide 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 or 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 person 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 effect 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 per cent 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 on 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 interval, as will suffice to discharge such expenses, together with interest thereon at such rate not exceeding six per cent 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 continued 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 fourths 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 deduct from the rent so payable by him such proportion of three-fourth 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 construed 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 expense together with interest thereon, the owner or occupier of the premises on which they are charged 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 movable 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 :-

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, the occupier may execute required work and recover expenses from the owner. 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 due has been ascertained 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

recovered by a suit brought against the person liable for the same in any Court of competent jurisdiction.

CHAPTER 28

Control

448. Power of [State] Government to require performance of duties in default of any municipal authority :-

(1) If it shall at any time appear to the [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 [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 [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 [State] Government shall think fit, on the Commissioner, requiring cause to be shown by such order should not be made, nor until the cause, if any, so shown has been considered by the [State] Government.

(2) If the duty is not performed within the period prescribed in any order made under sub-section (1) the [State] Government may appoint some person to perform the same and may direct that the expense of performing such duty, together with such reasonable remuneration to the person performing the same as the [State] Government shall determine and the cost of the proceedings under this section shall be paid out of the Municipal Fund.

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 [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 [State] Government.

(2) If, within fourteen days from the delivery of any such requisition, the same is not complied with, the [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 to be so paid by it out of the Municipal Fund.

450. Power to [State] Government to call for extracts from proceedings. etc. :-

(1) The [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 [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.

451. Power of [State] Government to suspend or rescind any resolution or order, etc.,² of Corporation or other authority in certain cases :-

(1) If the State Government is of opinion that the execution of any resolution or order of the Corporation or any other authority or that the doing of any act which is about to be done or is being done by or on behalf of the Corporation or such authority is in contravention of or in excess of the powers conferred by or under this Act or 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 any class or body of persons, or is likely to lead to abuse or misuse of or to cause waste of municipal funds against the interests of the public, the State Government may, by order in

(2) On receipt of a copy of the order as aforesaid, the Corporation or Commissioner or Transport Manager may, if it or he thinks fit,

make a representation to the State Government against the said order.

(3) The State Government may, after considering any representation received from the corporation or Commissioner or Transport Manager and where no such representation is received within a period of thirty days, either cancel, modify or confirm the order made by it under sub-section (1) or take such other action in respect of the matter as may in its opinion be just or expedient, having regard to all the circumstances of the case. Where any order made under sub-section (1) is confirmed the State Government may direct that the resolution or order of the Corporation or its authority in respect of which suspension order was made under sub-section (1), shall be deemed to be rescinded.

(4) Where any order is made by the State Government under subsection (3), it shall be the duty of every Councillor and the Corporation and any other authority or officer concerned to comply with such order.

452. Power of State Government to dissolve Corporation :-

(1) If at any time upon representation made or otherwise it appears to the [State] Government that the Corporation is not competent to perform, or persistently makes default in the performance of, the duties imposed upon it by or under this Act or any other law for the time being in force or exceeds or abuses its powers, the [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 therefore, in the Official Gazette [dissolve the Corporation with effect from the date to be specified in the order.

(2) [With effect from the date specified in the order passed under subsection (1) or with effect from the date on which the Corporation stands dissolved under the proviso to article 243-ZF]:-

(a) [* * * * *]

(b) [* * * * *]

(c) [all powers and duties of the Corporation, the Standing Committee, the Transport Committee and all other committees constituted under the Act, shall, during the period of dissolution be exercised and performed by such Government Officer or Officers as

the State Government may, from time to time, appoint in this behalf;]

(d)[on dissolution of the Corporation all the property vested in the Corporation shall vest in the State Government.]

(e) the person or persons appointed under clause (c) may delegate his or their powers and duties to an individual of a Committee or subcommittee.

(f)[The Government Officer or Officers appointed under clause (c) and the individual or the members of the Committee or subcommittee referred to in clause (e) shall receive such remuneration from the Municipal Funds as the State Government may from time to time determine.

(3)[* * * *]

(4) The Corporation shall be [re-constituted by election of councillors at general ward elections within the time specified for the purpose in clause (b) of section 6B]:

Provided that the person or persons appointed under clause (c) of sub-section (2) shall continue to exercise the powers and perform the duties of the Corporation, the Standing Committee and, as the case may be, the Transport Committee until the first meeting of the Corporation constituted by the election of councillors as aforesaid shall have been held.

452A. Power of State Government to appoint Government officer or Officers to exercise powers and perform functions and duties of Corporation :-

(1) For every Municipal Corporation deemed to have been constituted or constituted for a larger urban area under sub-section (1) or sub-section (2) as the case may be, of section 3, the State Government may

Provided that an Administrator appointed by the State Government before the 31st May 1994 under the provisions of this Act, as it existed immediately before the 31st May 1994, for a Municipal Corporation deemed to have been constituted for a larger urban area under sub-section (1) of section 3 who is in office on the said date, shall be deemed to be the Government officer appointed under this sub-section to exercise all the powers and perform all the functions and duties of the said Corporation under this Act.

(2) The officer or Officers appointed under sub-section (1) shall hold office until the first meeting of the Corporation or for a period of six months from the date of specification of an area as a larger urban area, under sub-section (2) of section 3, whichever is earlier:

Provided that the Administrator deemed to have been appointed as the Government Officer under sub-section (1) shall hold office until the first meeting of the Corporation.

(3) The officer or officers appointed or deemed to have been appointed under sub-section (1) shall receive from the Municipal Fund such pay and allowances as may be determined, from time to time, by the State Government.]

CHAPTER 29

Rules, By-laws, Regulation and Standing Orders

453. Rules in Schedule to be part of the Act :-

The rules in [Schedule D] as amended from time to time shall be deemed to be part of this Act.

454. Alteration of and additions to Schedule :-

The Corporation may add to [Schedule D] rules not inconsistent with the provision of this Act (which expression shall in this section be deemed not to include the said Schedule) to provide for any matter dealt with or for any of the purposes specified in the said Schedule; and may subject to the same limitations, amend, alter or annual any rule in the said Schedule:

Provided that if any rule regulating the punishment of an offence is altered or amended the punishment awarded under such altered or amended rule shall not exceed the maximum, provided in section 468.

455. Power to make rules subject to 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 [State] Government and to the condition of the rules being made after previous publication.

(2) All rules made under section 454 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.

456. . :-

(1) The [State] Government may at any time require the Corporation to make rules under section 454 in respect of any purpose or matter specified in section 457:

(2) If the Corporation fails to comply with such requisition within such reasonable time as may be fixed by the [State] Government, the [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 this Act.

456A. **Special power of State Government to make rules :-**

(1) Notwithstanding anything contained in sections 454 and 456, the State Government may, by notification in the Official Gazette, make rules consistent with the provisions of this Act generally to carry out all or any of the purposes of this Act. Such rules may provide for charging of fees for any of the purposes of this Act.

[Provided that, no rules in respect of any matter relating to the preparation of electoral rolls and conduct of elections shall be made without consultation with the State Election Commissioner.]

(2) All rules made under this section shall be subject to the condition of previous publication.

(3) Every rule made under this section shall be laid as soon as may be after it is made, before each house of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the Official Gazette, the rules shall from the date of publication of such notification have effect only in such modified form or be of no effect, as the case may be, so however that nay such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.]

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)[* * * * *]

(b)[the maintenance of the municipal election roll and the preparation, publication and sale of copies thereof:]

(c) the nomination of candidates, the form of nomination papers, objections to such nominations, and the taking and return of deposits from and to candidates;

(d) the date, time and place of ward elections and the management of contested ward elections;

(e)[* * * * *]

(f) the mode of voting and the form of ballot paper;

(g) the counting of votes, the declaration of results and the procedure in case of equality of votes or in the event of a Councillor being elected to represent more than one ward;

(h) the custody and disposal of papers relating to ward elections;

(i) any other matter relating to ward elections for which it may be expedient to provide.

(2) Proceedings of Corporation and Committee 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 regulations of 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 subcommittees;
- (i) the payment of conveyance charges to the Chairman and members of the Transport Committee for attendance at meetings there;
- (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 reductions in or transfers from on 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 construction, 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-closets, privies, urinals, bathing places or washing places.

(9) Water Supply - The terms and conditions of the supply of water to buildings or other premises.

(10) Streets -

(a) The information and documents to be furnished in connection with the lay-out of lands for buildings and private streets;

(b) the definition of sky-signs;

(c) the naming or numbering of streets and public places and the numbering of [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 conditions;

(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 licensable trade or occupation or for the storage of any licensable article;

(k) the prevention and regulation of the discharge of smoke, steam, fumes and noxious vapours;

(l) the prohibition and regulation of the use of whistles, trumpets and noise producing instruments operated by any mechanical means;

(m) measure 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 certificate regarding the cause of death to medical practitioners.

(17) General - Any matter which is or may be prescribed to be provided by rules.

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 their supply and use of water;

(3) regulating the maintenance, supervision and use of public and private cart-stands 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 scaffoldings 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;

(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 sites, prescribing the minimum size of such sites, either generally or for specified areas and prescribing set-backs 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 are or 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 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 subscribed;

(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 dwelling 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 insect 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 milch-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 milch animal is affected with any contagious disease and prescribing precautions to

be taken for protecting milch-cattle 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 measure;

(26) securing the efficient inspection of markets and slaughterhouses and of shops in which articles intended for human food are kept or sold;

(27) the control and supervision of butchers carrying on business with in the City Or at a municipal slaughter-house out of 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 a 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 conditions, due regard being had to the religious usages 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 lane 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.

459. Commissioner to lay draft bylaws 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 bylaws :-

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 pursue 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 [State] Government :-

No by-law made under section 458 shall have any validity unless and until it is confirmed by the [State] Government.

462. By-laws confirmed by [State] Government to be published in the Official Gazette :-

When any by-law has been confirmed by the [State] Government it shall be published in the Official Gazette, and thereupon shall have the force of law.

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 fees 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 resorts, markets, slaughter-houses and other works or places affected thereby, as the Commissioner thinks fit, and the said copies shall from time be renewed by the Commissioner.

(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 words "Commissioner" the word "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 [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 mean time no such representation is received, after the expiry of the prescribed period the [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 [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.

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 or 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, subjects 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 thereof;

(l) 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 standard 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 revenues of the Corporation;

(d) regulating the grant of permission by the Commissioner for the notification 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 [State] Government

(b) regulations under [Clause(c) of sub-section (2)] shall be made in consultation with the Chief Auditors 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 Transport Fund the provisions of sub-section (1) and of clause (c) of sub-section (2) shall apply as if the words "Standing Committee" the words "Transport Committee" had been substituted.

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 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 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 fire brigade on the occasion of a fire;

(D)

(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 in the public without lawful excuse or from withholding from sale of any articles in which he normally deals;

(d) for keeping every market-building, market-place, slaughterhouse 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 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) requesting 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 subsection (1) shall be valid unless it is approved by the Standing Committee and confirmed by the [State] Government, and no order made by the Commissioner under clause (B) or paragraph (e) of clause (C) of subsection (1) shall be valid unless it is approved by the Standing Committee. 1This word was substituted for the word "Provincial" by the Adaptation of Laws Order. 1950.

467. Posting of standing orders and table of stallage 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 market-building, market place, slaughter-house or stock-yard.

468. Penalty for breach of rules, by-laws, regulations or standing orders :-

In making rules under section 454 or by-laws, regulations or standing orders, the [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.

CHAPTER 30

Miscellaneous-Public Notices and Advertisements

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 anything 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 that Committee.
- (c) when the authority concerned is the Commissioner, the Transport Manager or any municipal officer, by 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, summons 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 document 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 owner 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 owner or occupier 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 of any of the owner or occupier; 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 section 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 facimile of the signature of the Commissioner or of such municipal officer, as the case may be, stamped thereupon.

(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 or 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.

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 unauthorized 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 requisition 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, bylaws, 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 provision 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 actions 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

interests 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 subsection (2) of section 402, sub-section (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 any thing 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 instituted 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.

482. Councillors etc., to be deemed to be public servants.
XLV of 1860 :-

(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.

(2) For the purposes of sub-section (1) the word "Government" in the definition of "legal remuneration" in section 161 of the Indian Penal Code shall be deemed to include the Corporation.

483. Co-operation of Police, etc :-

(1) The District Magistrate and the District Superintendent of the 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, 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 of 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, by-law 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 documents 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,

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 Transport Committee who is not a Councillor or against the Commissioner, the Transport Manager or any municipal officer or servant 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 expiry of one month next after notice in writing has been, in the case of the Corporation, left at the chief municipal office 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 costs.

(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 of certain provisions of Bombay Land Revenue Code, 1879. Bom V of 1879 :-

Notwithstanding the provisions of sections 48, 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 to 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 of 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 have 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 providing the facts entitling any person to relieve 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 money 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 Bom II of 1901. Bom XVIII of 1925, Bom VI of 1933 :-

The Bombay District Municipal Act, 1901, the Bombay Municipal Boroughs Act, 1925, and the Bombay Village Panchayats Act, 1933, shall cease to apply, except as hereinafter provided, to any area included in the City.

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 :-

The Poona City and Poona Suburban Municipal Boroughs (Appointment of Municipal Commissioner)Act, 1948, is hereby repealed.

493. Transitory provisions :-

The provisions of Appendix IV shall apply to the constitution of the Corporation and other matters specified therein.

SCHEDULE A

Articles liable to payment of cess

SCHEDULE A		
(See section 152A)		
Articles liable to payment of cess		
Serial No.	Description of Goods	Maximum Rates of cess leviable
(1)	(2)	(3)
	Class I, Articles of food and drink	
1	Grain, flour, pulses and cereals of all sorts including parched gavar, soyabean, parched grain, and paddy.	1 per cent ad valorem
2	(a) Sugar	1 per cent ad valorem
	(b) Gur of all sorts	
3	Wines and spirits and beer	1 per cent ad valorem
4	Ghee	4 per cent ad valorem
5	Vanaspati and hydrogenated oils	4 per cent ad valorem
6	Tea, Coffee and Coffee seeds	1 per cent ad valorem
7	Saffron	1 per cent ad valorem
	Edible-bacon and hams, table butter, butter other than table butter, margarine, dried or preserved fruits and nuts excluding fresh fruits and betel nuts, canned fish, cheese, confectionery, jams and jellies, milk condensed and preserved, icecream, all sorts of farinaceous foods, pickles. Cocoa, cocoa beans and chocolates, biscuits and cakes,	

8	lard or edible animal fat, mawa. milk cream chakka. Fruit juices, syrups and all beverages, glucose, destrose or any fruit sugar, preserved provisions, baking or curry powder, saccharin, all kinds of food colours and essences, glucose of all other kinds, malt extract, honey, papad, potato wafers, meat fresh or preserved for whatever use and all kinds of food or drink not specifically provided for excepting whole milk or toned milk or skimmed milk powder.	7 per cent ad valorem
9.	Dates dry	4 per cent ad valorem
10	Dates wet	4 per cent ad valorem
	Class II Animals	
11	Sheeps, goats, lambs and kids	1 per cent ad valorem
12	Oxe, cows, buffaloes, calves and horses	1 per cent ad valorem
13.	Pigs	1 per cent ad valorem
	Class III - Articles used for Fuel, Lighting, Washing and Industrial use	
14.	Charcoal, coal and coke	1 per cent ad valorem
15.	Crackers, fireworks and their components, calcium cargide and safety fuses.	7 per cent ad valorem
16	Chandeliers, globes, chimneys, electric bulbs and articles for electric or gas lighting	6 per cent ad valorem
17	Soap of all kinds, boot and metal polish	3 per cent ad valorem
18	Potash, ritha, soda, alum, saline substances, Shikakai, washing soda, caustic soda, refined salt, patre, phenyle and substances used in washing clothes, floor and utensils.	4 per cent ad valorem
19	Oil seeds of inedible oils	4 per cent ad valorem
20	Inedible vegetable oils	4 per cent ad valorem
21	Methylated and denatured spirits and industrial alcohols	6 per cent ad valorem
22	(a) Mineral oils of all sorts, diesel oil, petrol, aviation spirit, all kinds of lubricating oils, white oil, spindle oil, furnance oil, petroleum products including natural gas and liquefied petroleum gas, mava oil, sevasol, solvent oil, other fuel oils, oils used as insecticides, natural gasoline, paints	per cent ad valorem

	solutions and compositions, turkey red oil and by products of mineral oils (but nothing hereinbefore contained shall include kerosene and crude oil).	
	(b) Crude Oil	1 per cent ad valorem
	(c) Grease and petroleum jelly	4 per cent ad valorem
	Class IV - Articles used in construction of structures and Articles made of Wood and Cane. Buildings, Roads and Other	
23.	Cement of all sorts	1 per cent ad valorem
24.	Coaltars asphalt, bitumen flooring stone, manganese, emery stone or power, chalk powder, stone chips, Agra stone, stone for building, clinker and coalash	4 per cent ad valorem
25.	Glazed bricks, tiles marble pieces, fire bricks, bricks, all kinds of roofing tiles, flooring tiles, china mosaic chips, mosaic marble, mosaic or terrazzo tiles, earthen pipes, china pipes, cement pipes and asbestos cement sheets.	4 per cent ad valorem
26	Paints distemper and colour washes used for painting buildings, varnish, boiled lines oil, turpentine, zinc oxide and red oxide.	4 per cent ad valorem
27.	Yellow earth and earth of any other kind except red earth.	4 per cent ad valorem
28	Glass, glassware, chinaware, enamelware, all kinds of crockery used for construction or decoration of buildings and sanitary fittings, metal valves, brass cocks and their fittings.	4 per cent ad valorem
29	Roofing felt	2 per cent ad valorem
30	Timber, bairies, cane and articles made of any of them, doors, windows, frames, furnitures, pets, staircases, sandal wood and articles made of such wood.	6 per cent ad valorem
31.	Plywood, soft boards, hard boards masonite or any other kind of wood of whatever composition prepared by artificial process and article made thereof.	6 per cent ad valorem
	Class V- Perfumes, Toilet Requisites, Colours and Household Goods	
32.	(a) Hair oil, perfumed oils, perfumery of all kinds, scents, attars, scented material, aromatic chemicals, toilet incense sticks, toilet requisites of all kinds, shaving cream, shaving sticks, tooth powder, tooth paste, pomade, comb, brushes, looking glasses, hairpins, breeches, garters and	4 per cent ad valorem

	suspenders. (b) Scissors, razors, safety razors, blades, knives, pen knives, spoons, forks, cutlery of all kinds, needles of all sorts, locks and keys, stoves and petromax and their parts and accessories and hardware articles.	4 per cent ad valorem
	(c) Laces, tapes, rings of wood and metal, embroidery articles, celluloid and celluloid articles, beads of all sorts, imitation pearls, articles of imitation jewellery, plastic and plastic goods, plastic powder, bakelite and bakelite goods.	4 per cent ad valorem
33	(a) Imitation ornaments	6 per cent ad valorem
	(b) Toys of all kinds	3 per cent ad valorem
34.	Crockery of all sorts	2 per cent ad valorem
35.	Glass and glassware including bangles, bottles, articles of china and porcelain wares and earthen wares (excluding articles used for construction or decoration of buildings).	2 per cent ad valorem
	Class VI -Tobacco Requisites	
36.	Cigar and Cigarette holders, smoking pipes, cigarette paper, tobacco cases, pouches, cigarette and cigar cases, hukka and smoking requisites and cigarette lighters.	6 per cent ad valorem
	Class VII - Piece goods, cotton yarn, and threads of all sorts and starching and sizing materials, leather and articles of leather and rubber goods.	
37.	Piece goods of wool, silk linen, hemp, artificial and synthetic materials and articles made up Purely or partly of any of the above material not otherwise specified, 100 per cent cotton fabrics, readymade garments made out of 100 per cent cotton fabrics, hosiery goods made out of 100 per cent, cotton fabrics, sanitary towels, napkins, disposable baby-diapers, cotton beds and pillows and surgical cotton.	2 per cent ad valorem
38.	Cotton ginned or unginned	4 per cent ad valorem
39.	cotton waste, yarn waste, and hard waste	4 per cent ad valorem
40.	Raw or unspun wool hemp jute, coconut and other fibers and rope and articles made thereof.	2 per cent ad valorem
41.	Yarn and threads of all sorts	per cent ad valorem
42	Starches of all sorts, sargo, rice and flour, arrowroot a tapioca and its flour, tamarind	4 per cent ad

	powder, farina starches and sizing materials, tallow, sizing oils and such substitutes.	2 per cent ad valorem
43.	Hides and skins	2 per cent ad valorem
44.	Leather including harness, saddles, bags, boxes shoes, chappels, slippers sandals, straps and all articles made of leather Rubber tyres and tubes.	2 per cent ad valorem
46	(a) Rubber, rubber goods, gatta, purcha and articles made thereof (wholly or partly) rubber solution and latex.	1.5 per cent ad valorem
	(b) Raw Rubber	1.5 per cent ad valorem
	Class VIII - Metals and articles made of metals.	
47.	Iron and Steel.	4 per cent ad valorem
	(a) Pig iron	
	(b) Blooms, billets and slabs	
	(c) Structural - (i) joints, (n) Channels, (iii) angles, equal or unequal, (iv) bulbs or toe. (v) light rails, (vi) fish plate for light rails, (vii) shell, steel ingots blooms, billets and bars, (viii) black or galavanised sheets, plain or corrugated, (ix) plats, ordinary mild steel; including boiler and high tensile ship buildings or bullet proof, (x) bars and rods, (xi) bolts, nuts, washers rivers and such other articles, (xii) wire barbed, telegraph or other kind of black galavanised, (xiii) wire nails, (xiv) spring steel, vehicular or flat bars, (xv) hoops and strips, and (xvi) pipes.	
48.	Iron and steel Scrap	4 per cent ad valorem
49.	Iron and Steel any other articles manufactured from iron or steel other than cutlery, hardware and machines or machines parts not specifically provided for.	4 per cent ad valorem
50.	Machinery and their components and spares (a) (i) Electric machinery for generation, transmission and distribution and motors and generators and their compontents and spares, (ii) Electric goods including cells batteries and copper strips, horn electric. (iii) Electric fittings and material, (iv) Electrical domestic appliances (v) Electrical machinery of all kinds, control, sets,	2 per cent ad valorem

	switch-gear, generators, alternators and dynamos, motors transformers and turbo generating sets	
	(b) Agricultural machinery and parts.	
	(c) Oil engines., diesel engines, steam engines, petrol and gas engines and machines worked by hydraulic pressure and their parts.	
	(d) Tools of all kinds, (e) Printing press machines and spares.	
	(f) Any other machinery, its components and spares not specifically provided for	
51	Vehicles-	
	(a) Motor cars, motor cycles, chassis and lorries	4 per cent ad valorem
	(b) Bicycles, perambulators, carriages, all kind I of vehicles and their components and spares.	1 per cent ad valorem
52	Instruments, apparatus, application and part Thereof	4 per cent ad valorem
	(a) Sewing machines, clocks and watches and typewriters and their spares	
	(b) Radio, radiograms, television set or apparatus, loudspeakers and gramophones , amplifiers, wireless goods, video cassette recorders video cassette players, their components and spares.	
	(d) Cine projection machinery, their components spares and material used therein.	
	(e) Surveying apparatus.	
	(f) Scientific appliance	
	(g) Optical goods, their spares and accessories, surgical instruments and hospital requirement including their spares and accessories.	
	(h) Mill and gin stores including crucibles, cotton ropes and spares.	
	(i) All kinds of apparatus, appliances and spares.	
53.	Non-ferrous metals that is to say brass, copper, un, aluminium., lead, zinc, germansilver, stainless steel their alloys., wire-wares and sheets, ignots and circles etc.	4 per cent ad Valorem
	IX - Miscellaneous class	
54.	Dyes tans indigo and all colouring matter including printing paste, inks and industrial paints	1 per cent ml valorem
55	Paper-	7 per cent ad valorem
	(a) Newsprints	

	(b) Card boards, straw-boards, grey boards and mill-boards	7 per cent ad valorem
	(c) All kinds of paper of whatever composition and thickness	1 per cent ad valorem
56.	Lac and cork and articles made thereof	2 per cent ad valorem
57.	Sculptured articles of wood, stone clay or metal. Other articles and earthenware	4 per cent ad valorem
58.	Hinaware, porcelain ware and electric insulators I not otherwise specified.	2 per cent ad valorem
59.	a) Cinema films, all film raw	7 per cent ad valorem
	b) Cinema Films processed and reels	1 per cent ad valorem
60.	Olasses	1 per cent ad valorem
61.	11 articles other than those specified in the preceding entries of this Schedule.	2 per cent ad valorem

SCHEDULE B

Articles free from payment of cess

SCHEDULE - B

See section 152 C(1)

Articles free from payment of cess.

Serial No.	Articles
(1)	(2)
1	Books and periodicals including almanacs, panchangs and time-tables for passenger transport services, catalogues, all publications which publicise goods, services and articles for commercial purposes, race cards, account books, diaries, calendars, office files and documents, answer books (blank or used) tags, wedding cards, greeting cards, invitation cards, post cards picture post cards, cards for special occasion visiting cards, photo albums, stamp albums made of paper playing cards and newspapers.
2	Poultry, eggs and flesh of poultry.
3	Cattle-feed including fodder and concentrates meant exclusively for cattle cotton seeds, oil cake and feed supplements.
4	Chillies, turmeric, dhania, methi or suva, whole of powdered, tamarind seeds whole of separated.
5	Coconut in shell, separated kernal of coconut an copra.
6	Bidi leaves.
7	Electricity.
8	Fertilizers and manures including chemical manures.
9	Firewood bamboo and articles made of bamboo except toys

9	Firewood, bamboo and articles made of bamboo except toys.
10	Fish, fresh and dry, and fish oils.
11	Fresh flowers, fresh vegetables, potatoes, sweet potatoes, elephant's foot (Yam) ginger, onions, garlic, fresh fruits and betel nuts
12	Life saving drugs.
13	Pan, tambul, vida or pattl, prepared from betel leaves.
14	Plantain leaves, palas leaves, patraval, dron.
15	Salt.
16	Silk worm eggs and silk worm cocoons.
17	Slates and slate pencils, chalk-sticks and crayons, exercise and drawing books, lead pencils, orreries and their parts, fountain pens, ball pens, stylograph pens, propelling pencils and refill.
18	Sugarcane.
19	Water-mineral, medicinal, distilled or demineralised water, water for injection and plain acqua excluding aerated water.
20	Oil seeds of edible oils and edible oils.
21	Flower seeds, fruit seeds, vegetables seeds, seeds of lucerene and other fodder grass, seeds of the canna. Hemp, bulb corns, hizomes, suckers, and tubers (including edible tubers), bud grafts, cuttings grafts, layers, seedlings and plants.
22	Poultry feed and concentrates exclusively meant for poultry or other birds.
23	Safety matches (excluding matches ordinarily used as fire works)
24	Medicines excluding tooth powder or tooth paste, Cosmetics, toilet requisites and soaps, whether used as medicine or otherwise, blood and herbal drugs.
25	Sports goods, gymnasium goods, marbles, pebbles and musical instruments.
26	Insecticides excluding oils used as insecticides, pesticides, fungicides and weedicides.
27	Aeroplanes of all kinds including helicopters and components, parts and accessories of any of them,
28	Ice and dry ice.
29	Mica graphite and activated earth.
30	Fowls of all sorts, ducks and birds.
31	Human hair and animal hair.
32	Mercury.
33	All animals, wild beasts, domestic pets except those to which entries 11, 12 and 13 of Schedule A apply.
34	Animal bones, horns and hooves.
35	Currency notes and coins.
36	Bee wax, baby berry wax and wax excluding petroleumwax.
37	Brooms.
38	Vitamins.
39	Whole milk, topped milk and skimmed milk powder and curds

39	whole milk, condensed milk and skimmed milk powder and curds.
40	Kerosene.
41	Red earth

SCHEDULE C

List of goods on which cess shall not be payable to the Corporation

[See section 152 C (2)]

SCHEDULE C

[See section 152 C (2)]

List of goods on which cess shall not be payable to the Corporation

Provided that all land buildings, situated in the areas specified in the said List I, the annual rateable value of which does not exceed rupees fifty, shall be exempted from the levy of the general tax during the period from the 1st March 1956(both inclusive)

(1) Bona-fide personal luggage of passengers arriving by the air, sea, river, rail or road and articles for their private and personal use, which have already been in use at the time of import.

(2) Machines worked by manual power for bona-fide use of educational institutions

(3) Camp equipment of Government officers on tour.

(4) Necessaries (not being articles of food and drink) equipment and clothing procured by the officers in command of troops for the direct and exclusive use of their men and camp followers, if and when accompanied at the time they enter the cess limits by a certificate of the officer commanding that they are so intended.

(5) Goods entering the cess limits either in exhibition train itself, or for being placed in any exhibition to be held in the cess limits but not for sale; in the latter case on the production of certificate to that effect from the Secretary or the Manager managing the said exhibition.

(6) Bona-fide commercial samples meant for free distribution and not meant for transfer or sale so certified by the importer.

(7) Goods imported by rail, sea or air and rebooked and exported without being removed from the premises of the railway, docks, bunders, wharfs and airports.

(8) Goods imported in accordance with the orders of a Court of law in connection with its official use.

(9) Used furniture tents, chholddaries, crockery, utensils, lamps, bailies hired for parties, marriage ceremonies and public functions outside the cess limits which were so taken outside with the written permission of a Cess Authority and which are accompanied by the said written permission, while re-entering the cess limits.

(10) Machinery, instruments and other articles and their components parts which were taken outside the cess limits for the purposes of repairs or processing, if imported with the written permission of a Cess Authority and are accompanied by the said written permission, while re-entering the cess limits.

(11) Free gifts of any goods received as aid or relief supplied from any foreign Government or its recognised agency operating in India.

Explanation:-I - For the purpose of this entry "recognised agency" means an agency specified as such by the State Government by an order published in the Official Gazette.

Explanation:-II - If any doubt arise as to whether any particular gift is eligible for exemption under this rule or not, the matter shall be preferred to the State Government, whose decision shall be final.

(12) All contraceptives, drugs or appliances used for Family Planning purposes,

(13) (i) Cotton, hand spun yarn and khadi cloth.

(ii) Woollen hand spun yarn and hand woven cloth, including Ghongadis,

(iii) Hand spun and reeled silk yam and hand woven silk cloth, including tassar yam and cloth.

(iv) Village industries products.

Explanation:- The exemption from payment of cess duty under this entry shall be given subject to the condition that the goods are certified by the Maharashtra State Khadi and Village Industries Board, or the Khadi and Village Industries Commission.

(14) Empty Treasure Boxes supplied by the Reserve Bank of India to its Agency Banks for packing the Government Treasure for dispatch to Agency Banks or to the Head office of the Bank.

(15) Concessional quality white printing paper supplied by the Government of India.

(16) Locally manufactured article consigned from within the limit of the City but returned to the consignor within six months from the date of their export on account of the refusal of the consignee to accept the same either wholly or partly subject to the furnishing of adequate documentary evidence.

(17) (i) Flat plate solar collectors.

(ii) Concentrating arid pipe type solar Collector

(iii) Solar-cookers

(iv) Solar waterheaters and systems

(v) Air/gas/fluid heating systems

(vi) Solar crop driers and systems

(vii) Solar stills and deslination systems.

- (viii) Solar pumps based on solar thermal and solar photovoltaic conversion.
- (ix) Solar power generating systems.
- (x) Solar photovoltaic modules and panels for water pumping and other applications.
- (xi) Wind mills and any specially designed devices which run on wind mills.
- (xii) Any special devices including electric generators and pumps running on wind energy.
- (xiii) Biogas plants and biogas engines.
- (xiv) Agricultural and municipal waste conversion devices producing energy.
- (xv) Equipment for utilizing ocean waves and thermal energy.
- (18) Cotton yarn used for handlooms and handloom cotton cloth.
- (19) Films imported by educational institutions recognised by the Government for the purpose of free education to students.
- (20) Bona-fide luggage and kit belonging to a travelling circus, or to a travelling company, performing Dramas, Lok Natyas or Tamashas and which is to be used for the performance of the Dramas, Lok Natyas or Tamashas, as the case may be.
- (21) (a) Bread (Handmade);
- (b) Ganesh idols made of either clay or plaster of paris, brought at the time of Ganesh chaturthi.

SCHEDULE D
SCHEDULE D