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ASSAM ACT XXV OF 1953

THE ASSAM LOCAL SELF-GOVERNMENT ACT, 1953

(Passed by the Assembly)

(Received the assent of the President on the 18th August 1953)

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THE ASSAM LOCAL SELF-GOVERNMENT ACT, 1953

WHEREAS it is expedient to consolidate and amend the laws relating to Local Self-Government in Assam :
It is enacted as follows :—

CHAPTER I

PRELIMINARY

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Assam Local Self-Government Act, 1953.

(2) It extends to the territories for the time being administered by the State Government of Assam other than any place or town to which the Assam Municipal Act, 1923, or the Assam Rural Panchayat Act, 1948, has been or may hereafter be extended ; and

Assam Act
I of 1923.
Assam Act
XXVII of
1948.

(3) It shall come into force in any district, or part of a district, on such date as the State Government may by notification in the official Gazette direct.

(4) Notwithstanding anything contained in sub-section (2) the Local Board may construct and maintain, or contribute to the construction or maintenance of, any charitable institution or any educational, medical, veterinary, or other institution, which, in the opinion of the State Government, is for the public benefit, or any public work in any local area in which the Assam Municipal Act, 1923, or any part thereof or the Assam Rural Panchayat Act, 1948, is in force, or may hereafter be brought into force.

Assam Act
I of 1923.
Assam Act
XXVII of
1948.

Repeal and
Saving.

2. On and from the date on which this Act comes into force in any area, the Assam Local Self-Government Act, 1915 with all its amending Acts up-to-date, shall be repealed in the said area :

Assam Act
I of 1915.

Provided that (a) all Local Boards constituted under the said Act shall continue to function as if the Local Boards were constituted under this Act ; and

(b) all rules and bye-laws, orders and appointments made, notifications and notices issued, licenses and permits granted, taxes imposed or assessed, cesses, fees, tolls or rates levied, contracts entered into and suits instituted and proceedings taken under the said Act and in force immediately before the commencement of this Act shall continue to be in force and in so far as they are not inconsistent with this Act, they shall be deemed to have been respectively made, issued, granted, imposed or assessed, levied, entered into, instituted and taken under this Act until new provisions are made under the appropriate provisions of this Act.

Assam Act
XXVII of
1948.

Interpretation.

3. In this Act, unless there is anything repugnant in the subject or context,—

(1) "Local Board" means a Local Board established under this Act:

(2) "Notification" means a notification published in the official Gazette:

(3) "Subdivision" means and includes a subdivision created or maintained under the Code of Criminal Procedure, 1898, Section 8, or a district which has no such subdivision: V of 1898.

(4) "Local Authority" includes "Local Boards, Municipal Boards, Town Committees and Panchayats":

(5) "Prescribed" means prescribed by the State Government by rule made under this Act:

(6) "Sanitation" includes water-supply:

(7) "Salaried servant of Government" means a whole-time servant of the Government who receives his salary direct from any Government, and includes a manager of an estate under the Court of Wards and an officer whose services have been lent by any Government to a local authority but does not include a retired servant of Government in receipt of a pension:

(8) "Financial year" means the year commencing on the 1st day of April or on such other date as the State Government may by notification appoint:

(9) "Carriage" means any wheeled vehicles with springs or other appliances acting as springs, of a kind ordinarily used for the conveyance of human beings and includes bicycles and tricycles, but does not include perambulators, and in particular does not include any motor vehicle as defined in the Assam Motor Vehicles Taxation Act, 1936: Assam Act IX of 1936.

(10) "Cart" means any cart, hackery, or wheeled vehicle with or without springs which is not a carriage as defined in clause (9);

(11) "Infectious or contagious disease" means cholera, plague, small-pox, *kala-azar* or such other dangerous disease as the State Government may notify in this behalf; and

(12) "Corrupt practice" means any act deemed to be a corrupt practice under the provisions of Schedule I.

CHAPTER II

LOCAL BOARDS

Constitution of Local Board

Establishment of Local Boards.

4. The State Government may, by notification, establish a Local Board in any Subdivision or any part of a Subdivision to which this Act may hereinafter be extended.

The State Government may cancel or vary any such notification.

Constitution
of Local
Boards.

5. (1) Every Local Board shall consist of such number of members as the State Government may, by notification, fix in this behalf for each individual Board and all the members shall be elected except that not exceeding two members may be appointed by the Government to give representation to unrepresented interests.

(2) (a) The State Government may, by notification reserve, where necessary, for persons belonging to the Scheduled Castes and Scheduled Tribes a number of seats on a Local Board among the seats to which members are to be elected ;

(b) The number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to which the members of the Local Boards are to be elected as the population of the Scheduled Castes and Scheduled Tribes in the area under the Local Board bears to the total population in such area as determined by Government.

(c) The Scheduled Castes and Scheduled Tribes specified under Articles 341 and 342 of the Constitution of India respectively shall be deemed to be the Scheduled Castes and Scheduled Tribes within the meaning of this Act.

(3) The qualifications of members and of electors shall be prescribed by rule :

Provided that no person shall be eligible for election as member of a Local Board if such person :—

- (i) is not a person entitled to vote at the election of members of the Local Board, or
- (ii) is of unsound mind and stands so declared by a competent Court, or
- (iii) is an undischarged insolvent, or
- (iv) has during the three years immediately preceding the date of the election been convicted by a Criminal Court of an offence involving a sentence of transportation or imprisonment for a period of more than six months, or of an offence under Chapter IXA of the Indian Penal Code or of an offence punishable under section 135 or clause (a) of sub-section (2) of section 136 of the Representation of the People Act, 1951, or served any portion of a sentence on such conviction, or has been ordered by a Criminal Court, to furnish security for good behaviour under the Code of Criminal Procedure, unless such conviction or

Act XLV of 1860.

XLIII of 1951.

V of 1898.

order has been set aside or such offence pardoned by competent authority, or

(v) is a salaried servant of the Government or is an employee of a Local Authority, or

(vi) has during the three years immediately preceding the date of the election been found by a competent authority, to have resorted to corrupt practice resulting in the setting aside of his election to a Local or Municipal Board or to any Legislature in India,

and that in cases (iv) and (vi) the disqualification may be removed by an order of the State Government in this behalf:

Provided also that nothing in clause (iv) of the above proviso shall apply to persons convicted of offences not involving moral turpitude.

(4) The State Government may appoint servants of the Government as supernumerary members who shall have the right to attend and speak at all meetings of the Board, but not the right to vote. Such supernumerary members shall not be deemed to be members for the purpose of subsections (1), (2) and (3).

Proceedings
to set aside
an election.

6. If the validity of any election of a member is brought in question by an unsuccessful candidate or person qualified to vote at the election to which such question refers such person, may, at any time within twenty-one days after the date of the declaration of the result of the election, file a petition in the prescribed manner before the District Judge of the District within which the election has been or should have been held and shall at the same time deposit one hundred rupees in Court as security for the costs likely to be incurred:

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

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

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

Procedure
and powers
of Judge
holding
inquiry.

7. (1) Where a petition has been filed under section 6 the District Judge, or any Judicial Officer subordinate to him and not below the rank of a Subordinate Judge other than an officer exercising the powers of a Subordinate Judge *ex-officio* (hereinafter referred to in this Chapter as the Judge) to whom the District Judge may transfer the petition, may, after holding such inquiry as he deems necessary in accordance with the prescribed procedure and subject to the provisions of sections 8 and 9, pass an order confirming or amending the declared result of the election or setting the election aside.

(2) For the purposes of the said inquiry the Judge may summon and enforce the attendance of witnesses and compel them to produce documents or articles in their

possession and to give evidence as if he were a Civil Court, and may also direct by whom the whole or any part of the costs of such inquiry shall be paid and such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure, 1908. Act V of 1908.

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

(4) An appeal shall lie to the District Judge from any decision or order of a Subordinate Judge, and a decision or order of the District Judge, either when he has himself made the enquiry or on appeal, shall be final.

Setting aside
of election.

8. (1) If the Judge after holding an enquiry is satisfied that—

- (a) the election of a returned candidate has been procured or induced, or the result of the election has been materially affected, by a corrupt practice, or
- (b) the election has not been a free election by reason of the general employment of bribery or undue influence as defined in Chapter IXA of the Indian Penal Code, or by reason of any form of general intimidation, including any form of social boycott, or
- (c) the result of the election has been materially affected by any non-compliance with the provisions of this Act or the rules made thereunder or by any mistake in the use of any form prescribed for an election or by any error, irregularity or informality on the part of any officer charged with or carrying out any duty under this Act or rules made thereunder, or
- (d) the result of the election has been materially affected by the improper acceptance or refusal of a candidate's nomination,

he shall declare the election of such candidate to be void and if the election is set aside for any cause which is the result of acts mentioned in sub-clauses (a) and (b) above of a candidate or his agents may declare that candidate to be disqualified for the purpose of such fresh election as may be held under section 11.

(2) If, after any such inquiry, the Judge is of opinion that a returned candidate has been guilty by an agent (other than his election agent) or any other person of any corrupt practice which does not amount to any form of

XLV of
1860.

bribery other than treating as hereinafter explained or to the procuring or abetment of personation, and if the Judge is also of opinion that the candidate has satisfied him that—

- (a) no corrupt practice was committed at such election by the candidate or his election agent and the corrupt practices which were found by the Judge to have been committed were of a trivial, unimportant and limited character and were committed contrary to the orders and without the sanction or connivance of such candidate or his election agent, and
- (b) in all other respects the election was free from any corrupt practice on the part of such candidate or any of his agents,

then the Judge may find that the election of such candidate is not void.

Explanation.—For the purposes of this sub-section “treating” means the incurring in whole or in part by any person of the expense of giving or providing any food, drink, entertainment or provision to any person with the object, directly or indirectly, of inducing him or any other person to vote or refrain from voting or as a reward for having voted or refrained from voting.

Scrutiny of
votes and
declaration
in other
cases.

9. If, in any case to which section 8 does not apply, the validity of an election is in dispute between two or more candidates, the Judge, shall, after scrutiny and computation of the votes recorded in favour of each such candidate, declare the candidate who is found to have the greatest number of valid votes in his favour to have been duly elected :

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

Saving of
Act done by
a member
before his
election is
set aside.

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

Fresh elec-
tion when
election set
aside.

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

Bar to inter-
ference by
courts in
election
matters.

12. No election of a member shall be called in question in any Court except under the procedure provided by this Act, and no order passed in any proceeding under sections 6 to 9 (both inclusive), shall be called in question in any Court and no Court shall grant an injunction—

- (i) to postpone an election, or
- (ii) to prohibit a person, declared to have been duly elected under this Act, from taking part in the

proceedings of a Local Board of which he has been elected a member, or

(iii) to prohibit the members formally elected to a Local Board from entering upon their duties.

Taking of Oath.

13. Every person who is elected or appointed to be a member of a Local Board shall, before taking his seat, make, at a meeting of the Board, an oath or affirmation of his allegiance to the Constitution of India in the following form, namely :—

I, A. B. being a member of the.....Local Board do swear in the name of God (or solemnly affirm) that I will bear true faith and allegiance to the Constitution of India as by Law established and that I will faithfully discharge the duty upon which I am about to enter.

Power to appoint members if prescribed number not duly elected.

14. (1) If, within the time prescribed by rules made by the State Government, the electors fail to elect any member or members of any Local Board the vacancy or vacancies shall be filled by another election to be held on such date as may be appointed by the Deputy Commissioner by notification.

(2) If for any reason the vacancy or vacancies are not filled at such second election, the State Government may appoint a member or members to fill up the vacancy or vacancies; and any person so appointed shall be deemed to be a duly elected member.

Resignation of members.

15. A member may resign by intimating in writing his intention to do so to the Chairman who shall forthwith lay such intimation before the Board at a meeting and on such resignation being accepted by the Board, the member shall be deemed to have vacated his office.

Removal of members.

16. The State Government may remove any member of a Local Board,—

- (a) If he refuses to act, or becomes incapable of acting, or fails to make without reasonable cause within 6 months from the date of the first meeting of the Board the oath or affirmation required under this Act ; or
- (b) if without an excuse sufficient in the opinion of the State Government he absents himself from four consecutive meetings of the Board; or
- (c) if he becomes subject to any of the disabilities stated in clauses (ii), (iii) and (iv) of the proviso to section 5, sub-section (3); or
- (d) if during the five years immediately preceding the date of an election he has been, or if subsequent to his election he is—
 - (i) declared by notification to be disqualified for employment in the public service; or
 - (ii) debarred from practising as a legal practitioner by order of any competent authority; or
- (e) if subsequent to his election he is found by a competent authority to have resorted to corrupt practice resulting in the setting aside of his election to a Local or Municipal Board, or to any Legislature in India; or

(f) if after considering the recommendation of the Board his continuance in office is, in the opinion of the State Government, likely to bring the administration of the Board into contempt ; or

(g) if, being a legal practitioner, he appears against the Board in his professional capacity before any Court, in any case or suit instituted by or against the Board ; or

(h) if, within the meaning of section 101, he has knowingly acquired or continued to hold without the permission in writing of the State Government, directly or indirectly, any share or interest in any work done by order of the Local Board or in any contract with the Local Board ;

Provided that nothing in clause (d) (i) above shall apply to persons convicted of any offence not involving moral turpitude :

Provided further that in the case of clause (f) the member shall not be removed before he is given an opportunity of showing cause against the proposed action.

Filling up of casual vacancies.

17. (1) Where the place of an elected member becomes vacant by the resignation, removal, death or otherwise of the member a new member shall subject to the provisions of section 14 and sub-section (2) below, be elected in accordance with any rule to fill his place.

Power to leave casual vacancies unfilled in certain cases.

(2) Where a vacancy occurs in a Local Board by reason of the death, resignation, removal or otherwise and the term of office of that member would, in the ordinary course of events, have terminated within six months of the occurrence of the vacancy, the State Government may direct that the vacancy be left unfilled until the next general election.

(3) An act of the Board, or its officers, or of the Board in a meeting, shall not be deemed to be invalid by reason only of the fact that the number of members at the time of such act was less than the number fixed by notification under section 5, sub-section (1).

Term of office of members.

18. (1) All elected and appointed members shall hold office for a term of 4 years commencing on the 1st of April following the quadrennial election and ending on the 31st of March. Elections shall be held every four years :

Provided that a member elected and appointed to fill a casual vacancy shall hold office for the remainder of the term of the member whom he replaces :

Provided also that the term of office fixed under this section shall be held to include any period which may elapse between the expiration of the said period and the date of the first meeting of the Board newly constituted at which a quorum shall be present. When a Board is thus duly constituted, the old Board shall stand dissolved.

(2) The term of office of supernumerary members appointed under sub-section (4) of section 5 shall terminate on the same date as that prescribed in sub-section (1) of this section for elected members, provided that the term of office of any supernumerary member may be terminated at any earlier date by the order of the State Government.

(3) An outgoing member, if otherwise qualified, may be re-elected.

Incorporation of Local Board.

19. Every Local Board shall be a body corporate by the name of "The Local Board of —[name of sub-division]" and shall have perpetual succession and a common seal, with power to acquire and hold property, both movable and immovable, and, subject to rule, to transfer any such property held by it, and to contract and do all other things necessary for the purposes of this Act, and may sue and be sued in its corporate name.

Chairman and Vice-Chairman

Election of Chairman.

20. (1) The members of a Local Board shall at a meeting elect one of the elected members to be Chairman and the member so elected shall become Chairman.

In any case in which the State Government appoints a Chairman under the provisions of this Chapter, such person, if not already a member of the Board, shall upon appointment become a member in addition to those notified under sub-section (1) of section 5.

Tenure of office of Chairman.

(2) Every Chairman, whether appointed or elected, shall hold office for four years from the date of his appointment or election, or until the Board is newly constituted, whichever is earlier:

Provided that the term of office fixed under the sub-section shall be held to include any period which may elapse between the expiration of the said period and the appointment or election of a Chairman of the Board newly constituted.

(3) At the meeting held for the election of a Chairman under this section, the Chairman and the Vice-Chairman of the old Board shall formally tender resignation of their offices. The Deputy Commissioner and the Sub-divisional Officer, as the case may be, shall appoint a member of the Board to preside at the meeting, or may whenever he considers necessary vary the original or any subsequent order of appointment, provided always that the person appointed is not a candidate for the office of Chairman or Vice-Chairman. The President shall first

make the oath (or affirmation) as prescribed in section 13 himself, and then administer the oath (or affirmation) to the other members present whether there is a quorum or not. In the event of there being an equality of votes in the case of election of the Chairman the decision shall be by the drawing of lots. On the election of the Chairman, the President shall vacate the chair for the newly elected Chairman.

Resignation of Chairman. (4) A Chairman of a Local Board wishing to resign may forward his written resignation to the Board and to the State Government through the Deputy Commissioner. On his resignation being accepted by the Board at a meeting and on the election or appointment of a successor such Chairman shall be deemed to have vacated this office.

Vice-Chairman. 21. (1) Every Local Board shall elect one of its members to be Vice-Chairman.

(2) Where any Local Board fails to elect a Vice-Chairman within the time fixed by rule the State Government may appoint a Vice-Chairman.

(3) Every Vice-Chairman, whether appointed or elected, shall hold office for four years from the date of his appointment or election or until the Board is newly constituted, whichever is earlier:

Provided that the term of office fixed under this sub-section shall be held to include any period which may elapse between the expiration of the said period and the appointment or election of a Vice-Chairman of the Board newly constituted.

(4) A Vice-Chairman of a Local Board may resign by notifying in writing his intention to do so to the Board; and on such resignation being accepted by the Board he shall be deemed to have vacated his office.

Removal of Chairman and Vice-Chairman. 22(1) The State Government after giving an opportunity to explain, may remove the Chairman or Vice-Chairman from his office if he is persistently omitting or refusing to carry out or disobeying the provisions of this Act and the rules thereunder or any lawful orders issued thereunder or he becomes incapable of so acting or is declared insolvent or is convicted by a Criminal Court for any offence involving moral turpitude.

(2) A Chairman or a Vice-Chairman of a Local Board may at any time be removed from office by a resolution of the Board in favour of which not less

than two-thirds of the total number of members of such a Board have given their votes at a meeting specially convened for the purpose ;

Provided that in such meeting—

- (a) the Vice-Chairman shall preside if the resolution relates to the removal of the Chairman ;
- (b) the Chairman shall preside if the resolution relates to the removal of the Vice-Chairman ;
- (c) a member duly elected at the meeting shall preside if the resolution relates to the simultaneous removal of both the Chairman and the Vice-Chairman.

On failure to elect Chairman, State Government may appoint.
 23. Where any Local Board fails to elect a Chairman within the time fixed by rule, the State Government may appoint a Chairman.

Leave of absence to Chairman and Vice-Chairman.
 24. (1) A Local Board may grant leave of absence to its Chairman or Vice-Chairman for any period not exceeding three months in any one year :

Provided further that if a Chairman or Vice-Chairman who has been granted leave for the maximum period of three months overstates his leave he shall be deemed to have vacated his office and the acting Chairman or Vice-Chairman, as the case may be, shall continue to act for him till the vacancy has been filled up by appointment or by a fresh election at the next meeting of the Board.

(2) The provisions of sections 20, 21 and 22 relating to the appointment, election and removal of a Chairman or Vice-Chairman shall, so far as they are applicable, be deemed to apply to the appointment, election and removal of a Chairman or Vice-Chairman appointed or elected to act in any vacancy caused by the grant of leave under this section.

Conduct of Business

Record and publication of proceedings.
 25. (1) Minutes of the proceedings at each meeting of a Local Board shall be drawn up and recorded in a book to be kept for the purpose and shall be signed by the Chairman of the meeting, and shall be published in such manner as the State Government may direct, and shall at all reasonable times and without charge, be open to the inspection of any person resident within, or owning or holding land within, the jurisdiction of the Local Board.

(2) A copy of the proceedings at each meeting of a Local Board shall, within seven days from the date of the meeting, be forwarded to the State Government and another copy sent to the Deputy Commissioner.

Requisition meeting.
 26. The Chairman, or, in his absence, the Vice-Chairman shall call a meeting of a Local Board on a requisition signed by not less than one-third of the members of the Board.

If the Chairman or the Vice-Chairman fails to call a special meeting within 21 days from the date of the receipt of any such requisition, the meeting may be called by the persons who signed the requisition.

Appoint-
ment of
Committees.

27. (1) Subject to such conditions as the State Government may prescribe by rule, a Local Board may appoint, from among its members, or if it so desires, from among its members and the residents of the subdivision not being members of the Board, Committees to assist it in the discharge of any specified duties or class of duties devolving upon the Board under this Act within the whole or any portion of the subdivision and may delegate to any such Committee all or any powers of the Board which may be necessary for the purpose of rendering such assistance, or withdraw all or any of such powers.

(2) All the proceedings of any Committee shall be subject to confirmation by the Board unless this condition is specially abrogated by the Board for any Committee:

Provided that, if the Chairman concurs in any action recommended by a majority of the members of any Committee, whether or not he is a member of such Committee, and considers that inconvenience would result from delay in taking such action, he may take such action without waiting for confirmation by the Board of the proceedings of the Committee, but if the Board do not confirm the proceedings of the Committee, such steps shall be taken to carry out any orders passed by the Board as may still be practicable.

Formation of
joint Com-
mittees.

(3) Any Local Board may join with any other local authority or with any Cantonment authority or with more than one such local authorities or Cantonment authorities, in constituting out of their respective bodies a joint-Committee, consisting of not more than two members from each of such bodies, for any purpose in which they are jointly interested, and in delegating to any such joint Committee any power which might be exercised and which can be lawfully delegated by either or any of the local authorities or Cantonment authority concerned.

Such joint Committee may from time to time make rules as to the proceedings of any such joint Committee and as to the conduct of correspondence relating to the purpose for which such joint Committee is constituted:

Provided that if any difference of opinion arises between the local authorities, it shall be referred to the State Government whose decision shall be final.

Establishment

Appoint-
ment and
pay of esta-
blishment.

28. (1) Every Local Board, subject to the provisions hereinafter contained, may, from time to time, determine and appoint the establishment to be employed by it, and may fix the salaries and allowances to be paid to such establishment:

Provided—

(a) that in any one financial year, the aggregate salaries and allowances payable by any Local Board in respect of its Public Works establishment shall not exceed such limit as the State

Government may, from time to time, by rule prescribe ;

- (b) that the Local Board shall conform to any rules made regarding the qualifications of candidates for employment ; and
- (c) that no appointment of a Board Engineer or of a Health Officer shall be created or abolished without the approval of the State Government, and that every nomination to, and dismissal from, such appointment or alteration in the pay of such appointments shall be subject to confirmation by the State Government.

Right of appeal.

(2) Consequent on disciplinary action against him every employee of a Local Board shall have the right of appeal to the Board from the orders of the Chairman or Vice-Chairman ; and in the case of orders involving dismissal or removal, original or appellate, an appeal to the Government in the Local Self-Government Department may be filed.

Gratuity.

(3) A Local Board may, from time to time, with the approval of the State Government, make rules for gratuities or pensions to be granted and paid out of its Fund to its establishment.

Provident Fund.

(4) A Local Board may, with the sanction of the State Government, make rules :—

- (a) for the creation and management of a Contributory Provident Fund for its establishment ;
- (b) for compelling members of its establishment to make contribution to such Fund ;
- (c) for making contribution to the Fund by the Board at such rates and subject to such conditions, as may be prescribed, out of the Local Fund ; and
- (d) for the payment of moneys out of such Provident Fund.

Appointment of a Board Engineer or other establishment by two or more local authorities conjointly.

29. Subject to rule, a Local Board may, from time to time, conjointly with one or more local authorities appoint a Board Engineer or any other establishment and provide for the payment of their salaries and for their control with such contribution from the local authorities as the State Government may determine.

VALIDITY OF ACTS AND PROCEEDINGS

Presumptions and Savings.

30. (1) No disqualification, or defect in the election of a person acting as a member of a Local Board or a committee or a joint committee appointed under this Act or as the President of a meeting of the Board or of such committee or joint committee shall be deemed to vitiate any act or proceeding of the Board or of the committee or the joint committee, if the majority of the persons present at the time of the act being done, or proceedings being taken, were

qualified and duly elected or appointed members of the Board or the committee or the joint committee.

(2) Until the contrary is proved, any document or minute which purports to be the record of the proceedings of the Board or committee or joint committee shall, if substantially made and signed in the manner prescribed for the making and signing of the record of such proceedings, be deemed to be a correct record of the proceedings of a duly convened meeting held by a duly constituted Board or committee or joint committee, whereof all the members were duly qualified.

(3) The powers of the Board or of any committee or joint committee may be exercised notwithstanding any vacancy in their number.

(4) Accidental omission to serve notice of a meeting on any member of a Board or committee or joint committee shall not affect the validity of a meeting of the Board or of the committee or joint committee.

CHAPTER III

FINANCE OF LOCAL BOARDS

31. (1) Every Local Board shall submit through the Deputy Commissioner to the State Government, on or before the day prescribed—

- (a) a statement of the requirements and an estimate of the probable expenditure of the Local Board for the ensuing financial year,
- (b) a report of its proceedings, and
- (c) an account of its receipts and expenditure for the past financial year,

and from time to time such other reports and accounts as the State Government may require.

(2) Where the Deputy Commissioner is not Chairman of the Board, he shall, on or before the day prescribed, signify in writing to the Board his approval or disapproval of the statement of requirements and estimate; and if he disapproves of the statement of requirements and estimate on the ground that the expenditure on salaries, works or other objects proposed therein appears to be insufficient or excessive, or that any particulars contained therein appear to be erroneous, defective or improper, he shall state the nature of his objection.

(3) Every objection signified by the Deputy Commissioner, under sub-section (2), shall be considered by the Board which may modify the statement of requirements and estimate or signify in writing its reasons for

adhering to such statement and estimate ; and the Deputy Commissioner shall thereupon forward the statement of requirements and estimate to the State Government, with his remarks thereon.

(4) The State Government may—

- (a) approve of the estimate as it stands, or
- (b) approve of it after making such alterations therein as it may think fit, or
- (c) return it to the Local Board for any such alterations,

and when the alterations referred to in clause (c) have been made, the estimate shall be resubmitted to the State Government :

Provided that the State Government shall not make and shall not require the Local Board to make, otherwise than with its consent, any such alterations as will have the effect of raising the total of such estimate above the total of the sum estimated to be at the disposal of the Local Board for expenditure during the financial year :

Provided further that when the budget estimate is not passed by Government before the end of the financial year preceding the year to which the budget relates, the budget estimates as approved by the Board shall be deemed to be the estimate for that financial year until the sanction of Government is received.

Revision and amendment of estimate. 32. Subject to rule, any estimate prepared and approved as provided by section 31 may be amended or revised at any time by the Local Board with the approval of the State Government.

LOCAL FUND

Constitution of Local Fund. 33. (1) There shall be formed, for every subdivision in which this Act is or may be in force, a fund, to be called the "Local Fund".

(2) There shall be placed to the credit thereof—

- (a) all sums levied by, or accruing within the subdivision to, the Board ;
- (b) all receipts in respect of any schools, hospitals, transport services, bazars, bridges, pounds, buildings, institutions or works, constructed by or vested in the Board under Chapter IV ;
- (c) all proceeds from tolls on bridges, road-ways or foot-ways levied under section 46 ;
- (d) such sums as may be allotted to the Board from the Consolidated Fund of the State by the State Government for any purpose ;

- (e) such sums as may be contributed to the Board by local authorities or private persons ;
- (f) all proceeds from taxes levied under sections 58, 62 and 64 ;
- (g) all sums received by the Board in respect of any property under its control not being the property of Government ;
- (h) all sums received under any loan raised under section 34 ; and
- (i) all sums received on account of fees on boats including steam boats and other vessels, mooring within the jurisdiction of the Local Board.

(3) The Local Fund shall be vested in the Board, and the balance standing at the credit of the Fund shall be kept in such custody as the State Government may direct.

Local Boards may raise loans and may form a sinking fund.

34. It shall be lawful for a Local Board, subject to the provisions of any law relating to the raising of loans by local authorities for the time being in force, from time to time, to raise loans for the purpose of carrying out any of the provisions of this Act, and to guarantee the payment of interest on such loans, and to form a sinking fund.

Application of Local Fund.

35. The Local Fund shall be applicable to the following objects in the following order, namely :—

- (a) to the payment of interest upon loans raised under section 34 and to the formation of a sinking fund when required ;
- (b) to the payment of such interest as the Board may, under this Act undertake to pay on capital expended on the construction of any works which may directly improve the means of communication within the subdivision or between such subdivision and other subdivisions ;
- (c) to the payment of the salaries, pensions and allowances of the establishment employed by the Board or on its behalf for the purposes of this Act, of any gratuities granted under section 28 (3), and of any grants made for supplementing contributions by members of any such establishment to any Provident Fund in accordance with section 28 (4), and, when the Government undertake to pay the salaries or the leave and pension and other allowances of any such establishment, to the payment to the Government of a whole or a portion of the salaries or allowances as the State Government may direct ;
- (d) to the payment from time to time of extraordinary pensions and gratuities to the families of the deceased employees or to employees

who have been disabled or crippled by accidents in the course of employment and in the case of the accidental death of an employee in the course of his employment, for the grant and payment to his heir and next of kin of any gratuity which would have been payable to such employee had he survived in accordance with rules made by a Local Board with the approval of the State Government ;

- (e) to the payment of expenses incurred by the Board in the performance of the duties imposed, or in the exercise of the powers conferred, under Chapter IV ;
- (f) to the payment of—
 - (i) expenses incurred by the Local Board subject to any rules framed by the State Government, in the acquisition by purchase or otherwise of lands and buildings, and in the construction and maintenance of buildings for offices and out-offices of the Board, or for the residence of any member of the establishment employed by the Board ; and
 - (ii) advances granted to members of the establishment, employed by the Board or on its behalf for the purpose of enabling them to acquire or construct residences for themselves, and for purchasing means of conveyance ;
- (g) to the payment of any expenses that may be incurred through the default of the Board in carrying out any of the duties imposed on it under this Act ;
- (h) to the payment, at such rates as the State Government may direct, of the travelling expenses incurred by members of the Board, including the Chairman, if a non-official and the Vice-Chairman, in attending meetings of the Board or meetings of committees, and in performing journeys for carrying out the objects of the Act in such cases as the State Government may, by general or special order, direct ;
- (i) to the payment of expenses of any of the poor inhabitants of the subdivision for journeys to and from any hospital established in any part of India for the treatment of special diseases and of their subsistence thereat ;
- (j) to the payment of expenses incurred by the Board in the construction and maintenance of means of transport within the jurisdiction of the State Government, or in making a contribution for the maintenance, of a steamer service on waters other than National Waterways ; and

- (k) to the payment of expenses incurred by the Board in the performance of the duties imposed, or in the exercise of the powers conferred by or under this Act, or of any other expenses not mentioned in the foregoing sub-clauses which the Board want to incur by way of advance or otherwise, within or without the subdivision, which the Board may do so with the sanction of the State Government and the Board may thereupon declare the same to be an appropriate charge on the Local Fund.

CHAPTER IV

DUTIES AND POWERS OF LOCAL BOARDS

Public Works

Property of
existing
Board.

36. From and after the establishment of a Local Board all roads, bridges, channels, buildings, tanks and other property, movable or immovable, held by, or under the control of, the Local Board existing when this Act comes into force shall, for the purposes of this Act be under the control and administration of the Board unless already vested in any Panchayats under the Assam Rural Panchayat Act, 1948.

Assam
Act XXVII
of 1948.

Government
may place
other pro-
perty under
Local
Board.

37. It shall be lawful for the State Government from time to time to direct that any road, bridge, channel, building or other property, movable or immovable, which is vested in the State Government and which is situated within the subdivision shall, with the consent of the Local Board, and subject to such exceptions and conditions as the State Government may make and impose, be placed under the control and administration of the Local Board for the purposes of this Act.

Vesting in
Board of
Works.

38. Every road, building or other work constructed or any land purchased or acquired under the Land Acquisition Act, 1894 by a Local Board from the Local Fund shall vest in such Board.

Act I of
1894.

Taking over
and repair-
ing private
works.

39. (1) A Local Board may agree with the person in whom the property in any road, embankment, bridge, tank, ghat, well, channel or drain is vested to take it over, after such agreement, and thereupon may declare, by notice in writing affixed thereon or near thereto, that such road, embankment, bridge, tank, ghat, well, channel or drain has been transferred to the Board.

(2) From and after the affixing of such notice as aforesaid, the road, embankment, bridge, tank, ghat, well, channel or drain shall vest in the Board, and shall be repaired and maintained out of the Local Fund.

Construction, repair and maintenance of roads, embankments, bridges, water-channels and other works of communication.

40. Every Local Board shall, subject to rule, provide—

- (a) for the repair and maintenance of roads, embankments, bridges, water-channels and other works for directly improving communications which are vested in or under the control and administration of, the Board under this Act, or towards which the Board has agreed to contribute ; and
- (b) for the construction, repair and maintenance of new roads, embankments, bridges, water-channels and any other works for directly improving communications within the subdivision or between the subdivision and other subdivisions, of which the Board decides to assume charge or control or towards which the Board has agreed to contribute.

Power to turn, divert, or permanently close any road.

41. (1) The Local Board may turn, divert, discontinue or permanently close any road which is under the control and administration of, or is vested in, the Board.

The Local Board may close temporarily any public road or part of a public road for the purpose of repairing such road, or for the purpose of constructing or repairing any sewer, drain, culvert or bridge, or for any other public purpose :

Provided that the Board so closing any such road shall be bound to provide reasonable means of access for persons occupying holdings adjacent to such road :

Provided also that the power to divert, discontinue or close permanently any road shall only be exercised by the Board at a meeting.

(2) Whenever, owing to such repairs or constructions, or from any other cause, any such road or part of such road shall be in a state which is dangerous to passers-by, the Board shall cause sufficient barriers or fences to be erected for the security of life and property, and shall cause such barriers or fences to be sufficiently lighted from sunset to sunrise.

Prohibition of use of Public road by a class of animals or vehicles.

42. (1) The Local Board may make bye-laws, prohibiting or regulating the driving, riding or leading of animals or vehicles of any particular kind or the driving of carts or carriages exceeding a prescribed weight along any public road. In particular the Board may prescribe the kind and width of tyres which may be used on the wheels of any cart or carriage on any public road.

(2) Any person who disobeys a bye-law made under the provisions of sub-section (1) shall be liable to a fine not exceeding twenty rupees.

Removal of branches of trees which overhang roads,

43. The Local Board may, by a written notice, require the owner or occupier of any holding which is adjacent to a road to cut and remove, within a period to be specified in the notice, any bamboos or the branches of any trees

in the holding which overhang the road or any uprooted trees in such holding which lie on the road. If the owner or the occupier, on being served with the notice, fails to comply with the requisition contained in the notice, the Chairman of the Board or any person authorised by him in that behalf may enter into or upon the holding, with or without assistants or workmen, in order to cause the branches or uprooted trees to be cut and removed, and the Board may recover all reasonable expenses incurred by it on such account from the said person as if the same were an arrear of assessment imposed under the Village Chaukidari Act, 1870, or an arrear of land revenue recoverable under the Assam Land and Revenue Regulation, 1886.

VI of 1870
(B. C.)
I of 1886.

Pena'y for
encroac h-
ment on
road, etc.

44. Any person who, without the permission of the Local Board, encroaches upon any road or upon any public drain, sewer, aqueduct, water course or ghat by making any excavation, or by erecting any wall, fence, rail, post, projection or other obstruction, or by depositing any movable property, shall, for every such offence, be liable to a fine not exceeding fifty rupees, and in the case of continuing offence to a further fine of twenty rupees for every day during which the offence is continued.

Powers of
Board in
relation to
certain
works.

45. (1) Every Local Board, with the previous sanction of the State Government, may—

- (a) either singly or in combination with any other Local Board or other local authority, construct and maintain within, or partly within and partly without, the local area for which it is established, means of transport within the jurisdiction of the State Government, or make a contribution for the maintenance of a steamer service or other means of transport mentioned above ;
- (b) guarantee the payment from the Local Fund of such sums as it shall think fit as interest on capital expended on other works which may directly improve the means of communication within the subdivision or between the subdivision and other subdivisions :

Provided that no application for the said sanction in regard to the matters specified in sub-clauses (a) and (b) shall be made unless it is authorised by a resolution which has been passed at a meeting specially convened for the purpose, and in favour of which a majority of not less than two-thirds of the members of the Local Board voted.

(2) Every Local Board may undertake on behalf of the Government concerned, and upon such conditions as may be agreed on, the construction, repair and maintenance of any public building or other work which is vested in such Government :

Provided that the cost of such construction, repair and maintenance shall be defrayed by the Government concerned.

Tolls on Bridges, etc.

Powers of a
Local Board
to establish
Toll-bars
and levy
Tolls.

46. (a) The Local Board, with the previous sanction of the State Government, may establish a toll-bar—

- (i) on any bridge in the subdivision which has, before or after the date of the commencement of this Act, been constructed or purchased out of the Local Fund, or to the cost of the construction or purchase of which contribution has, before or after the said date, been made out of the Local Fund ; or
- (ii) on any roadway or footway of a railway bridge which has, before or after the said date, at the instance of the Local Board and out of the Local Fund, been so constructed or widened as to allow the passage of persons, vehicles or animals ; or
- (iii) on any roadway which has, before or after the date of the commencement of this Act, been constructed out of the Local Fund, or to the cost of the construction of which contribution has, before or after the said date, been made out of the Local Fund ; or
- (iv) at any place in the subdivision, adjacent to any bridge referred to in clause (i) or clause (ii), at which tolls may conveniently be levied ;

and may levy tolls at such toll-bar on persons, vehicles and animals passing over such bridge, roadway or footway :

Provided as follows :—

No toll-bar shall be established, or tolls levied, otherwise than for the purpose of recovering—

- (a) the expenses incurred by the Board in constructing, purchasing, contributing to or widening such bridge, roadway or footway ;
 - (b) the expenses incurred by the Board in paying compensation to the owner of any private ferry for the partial or complete loss of income from such ferry, when such loss results from the construction of such bridge or the construction or widening of such roadway or footway ;
 - (c) interest on such expenses, at the rate of six per centum per annum ; and
 - (d) the capitalised value of the estimated cost to the Board of maintaining such bridge, roadway or footway and of renewing it, if it requires periodical renewal.
- (b) In the case of any toll-bar established under subsection (a) (iii) above, no tolls shall be imposed on pedestrians.
- (c) No toll-bar shall be established or tolls levied, on, or in respect of, any bridge, roadway or footway the cost or estimated cost of which

as indicated in clauses (a), (b) and (d) of the above provision was or is less than ten thousand rupees.

Lease of toll-bar. 47. The Local Board may grant a lease, for any period not exceeding three years, of any toll-bar established under section 46.

Procedure where two or more local authorities have contributed towards cost of bridge, etc. 48. When two or more local authorities having jointly constructed, purchased or contributed towards the cost of the construction or widening of a bridge, roadway or footway have received sanction under section 46 to the establishment of a toll-bar, tolls shall be levied or granted in lease by such Local Board as the State Government may, in its order according to sanction, direct; and the proceeds of such tolls, or of the lease thereof, shall be adjusted between the Boards according to rules made in this behalf by the State Government.

Exemptions from payment of tolls. 49. (1) The following persons and things shall be exempted from payment of tolls at any toll-bar established under section 46, namely:—

(a) Government Stores and persons in charge thereof;

(b) Police officers and other public officers travelling on duty, members and officers of the Local Board so travelling, persons in the custody of any of the officers aforesaid, property belonging to or in the custody of any of the officers aforesaid, and vehicles and animals employed by any of the officers aforesaid for the transport of such persons or property;

(c) conservancy carts and other vehicles and animals belonging to the Board, and persons in charge thereof; and

(d) any other class of persons or things which may be exempted by order of the Board.

(2) In granting a lease of any toll-bar the Board may stipulate that any servants and property of the Board and any other persons and things shall be exempted from payment of tolls thereat.

(3) Nothing in this section shall be deemed to affect Act II of the provisions of the Indian Tolls (Army and Air Force) 1901. Act, 1901.

Power of Local Board to construct temporary roads and bridges and levy tolls. 50. Notwithstanding anything contained in Section 46, it shall be lawful for a Local Board with the sanction of the State Government to construct a temporary fair-weather road or bridge, across any river, channel or dried up portion of a river bed, and to levy such toll on persons, vehicles and animals passing over such roads or bridges as may be necessary to defray the expenses of the construction thereof and the incidental charges in connection therewith.

Rates of tolls. 51. (1) When it has been determined that tolls shall be levied at any toll-bar established under section 46, the Local Board shall, from time to time, make and publish

an order specifying the rates at which, subject to the approval of the State Government, the toll shall be levied.

(2) A table of such tolls, legibly printed or written in English and the Vernacular of the district, shall be affixed in some conspicuous position near every such toll-bar, so as to be easily readable by all persons required to pay the tolls.

(3) In default of compliance with sub section (2), the toll collector or the lessee of the toll-bar, as the case may be, shall be liable to fine which may extend to fifty rupees, and to a further fine which may extend to ten rupees for each day after the first during which the default continues.

Power to compound for tolls. 52. Every Local Board or the lessee of any toll-bar may compound with any person for a certain sum to be paid by such person for himself or for any vehicles or animals kept by him in lieu of the rates specified under section 51.

Power of a toll collector or lessee in case of refusal to pay toll. 53. Any toll collector or a lessee of a toll-bar established under section 46 may refuse to allow any person to pass through the toll-bar until the proper toll has been paid.

Penalty for refusing to pay toll. 54. Whoever, having rendered himself liable to the payment of toll, refuses to pay the toll, shall be liable to fine which may extend to fifty rupees.

Police officers to assist. 55. When resistance is offered to any person authorised under this Chapter to collect tolls, any police officer whom he may call to his aid shall be bound to assist him; and such police officer shall, for that purpose, have the same powers as he has in the exercise of his ordinary police duties.

Penalty for taking unauthorised tolls. 56. If any person authorised under this Chapter to collect tolls demands or takes any higher tolls than the tolls authorised under this Chapter, he shall be liable to fine which may extend to fifty rupees, and in default of payment, to imprisonment for a term which may extend to one month.

Local Board to publish expenses of toll-bars. 57. (1) When a toll-bar has been established and tolls have been levied under section 46 in respect of any bridge, road-way or foot-way the Local Board shall, at the end of each financial year, publish, by causing to be affixed at its office, an abstract account showing—

(a) the amount of the expenses incurred by the Board in constructing, purchasing, contributing to or widening the bridge, road-way or foot-way;

(b) the amount of the expenses incurred by the Board in paying compensation to the owner of any private ferry for the partial or complete loss of income from such ferry, when such loss results from the construction of such bridge or the construction or widening of such road-way or foot-way;

- (c) the amount of interest which has accrued or due on such expenses ;
- (d) the capitalised value of the estimated cost of maintaining the bridge, road-way or foot-way and where it requires periodical renewal, of renewing it ; and
- (e) the amount which has been received from the profits of the said toll-bar since its establishment.

(2) When such expenses, interest and capitalised value have been recovered as aforesaid, such toll-bar shall forthwith be removed and tolls shall no longer be levied in respect of such bridge, road-way or foot-way.

Imposition of taxes

Tax on carriages and carts.

58. The Local Board may, from time to time, at a meeting convened expressly for the purpose, of which due notice shall have been given, impose within the local limits of its jurisdiction a tax on carriages and carts.

Owner to take out a license for carriage or cart.

59. (1) When it has been determined that a tax shall be imposed under the preceding section, the Local Board at a meeting shall make an order that the owner of every carriage or cart of a kind specified in the order shall pay such tax as may be fixed in the order for each half year or a year beginning on the 1st April and take out a license for that half year or a year. No such carriage or cart shall be used within the local limits of the jurisdiction of the Board unless the owner thereof has paid such tax and taken out a license.

The Board shall cause such order to be published in the prescribed manner at least one month before the beginning of the half year or a year in which it shall take effect and shall specify the tax, not exceeding such amounts as may be prescribed by rule, which shall be charged in respect of different classes of such carriages or carts :

Provided that the Board may permit the owner of any such carriage or cart which is casually brought within the local limits of the Board's jurisdiction to keep or use the same without a license for such period not exceeding 40 days in the year as may be fixed by the Local Board.

But no license shall be required in respect of—

- (a) carriages or carts belonging to Government, Local Board, Municipal Board, Town Committee or Panchayat, or for keeping which for the execution of their duty an allowance is made by the Government, or by any of the above local authorities to any of their officers ;
- (b) carriages or carts kept for sale by any *bona-fide* dealer in such carriages or carts and not used for any other purpose.

Tax so fixed to continue until altered.

(2) Any order of the Local Board imposing taxes under the preceding section shall continue in force until rescinded and the taxes shall be charged at the rates specified in the date published as aforesaid unless and until the Local Board at a meeting, held not less than one month before the

end of each half year or a year, make and publish an order specifying any different taxes which shall be charged for the ensuing half year or a year.

Licenses (3) The owner of every carriage or cart shall forward how to be obtained. to the Board, within the first month of each half year or a year, a statement in prescribed form duly signed and dated by him, containing particulars of carts and carriages and shall at the same time pay to the Board the tax which he is liable to pay in respect of such carriage or cart during the half year or a year.

Proportionate tax on carriages or carts acquired during year. (4) If any person acquires possession, at any time after the commencement of any half year or a year, of any carriage or cart specified above in respect of which no license has been given for such half year or a year, he shall forward a statement as above required within one month of the date on which he may have acquired possession thereof, and shall pay such amount of tax as shall bear the same proportion to the whole tax for the half year or a year as the unexpired portion of the half year or a year bears to the half year or a year; and such amount shall be calculated from the date on which such person may have acquired possession as aforesaid.

On payment of tax, Board to give a license and a token. (5) On receiving the amount of the tax as aforesaid, the Local Board, or some person authorised by it in that behalf, shall give to the person paying the same a license and a token of registration number for every carriage or cart for the period in respect of which the amount is received.

Such license shall be for the half year or a year.

The token delivered shall be displayed in or on the carts or carriages in a conspicuous manner.

Carriage, etc., liable to tax although the owner be absent. (6) Whenever the owner of any carriage or cart liable to pay the said tax is not resident within the limits of the subdivision of the Local Board to which the tax is due, the person in whose immediate possession the carriage or cart is for the time being kept shall take out a license for the same.

Penalty. (7) Whoever keeps, or is in possession of, any carriage or cart without the license required by any of the three preceding sub-sections shall be liable on conviction before a Magistrate to a fine not exceeding four times the amount payable by him in respect of such license, inclusive of the amount so payable.

Seizure and sale of unauthorised carts. (8) (i) If any person owns, keeps or is in possession of any carriage or cart and plys the same for which no license has been taken as required by the foregoing sub-sections, the Local Board or any person authorised by it in that behalf, may seize and detain such carriage or cart and after seizure may leave in proper *zimma* (provided the same be not employed at the time of seizure in the conveyance of any

passengers or goods) ; and police officers shall, on requisition by the Local Board, or of any servant of the Local Board, duly authorised in that behalf, assist in such seizure and detention.

(ii) After such seizure, the Local Boards shall forthwith issue a notice in writing that after thirty days from the date of seizure they will sell such carriage or cart by auction at such time and place as they may state in the notice, and, if the full tax and all expenses occasioned to the Local Boards by such seizure and detention of the carriage or cart have not been paid within the period mentioned in the notice, the Local Boards may sell the carriage or cart in the manner specified in the notice and realise from the sale proceeds the tax and all such expenses.

(iii) The surplus sale proceeds, if any, shall be credited to the local fund, and may be paid on demand to the owner or in the absence of the owner to any person who establishes his right thereto to the satisfaction of the Local Board or in a Court of competent jurisdiction :

Provided that if, at any time before the sale is concluded, the person whose carriage or cart has been seized shall make payment to the Local Board, or to the person authorised by it to sell the carriage or cart, of the amount of the tax and all the expenses incurred by the Local Board, the Board shall forthwith release the carriage or cart so seized.

(iv) Notwithstanding anything contained in this sub-section, the surplus of the sale proceeds of a carriage or cart seized under this sub-section may be utilised for the payment of any fine imposed under the last preceding sub-section ; and any carriage or cart which has been seized under this sub-section may also be sold for the realization of such fine.

List of car-
riages and
carts.

(9) The Local Board shall, from time to time, cause to be prepared and entered in a Register to be kept by it and to be open to the inspection of any person interested therein, a list of the carts and carriages liable to pay the tax or take out a license indicating therein the carts and carriages in respect of which the tax for the current half year or a year has been paid and the names of persons to whom licenses for such carts and carriages have been issued.

Refund of
tax in cer-
tain cases.

(10) On proof being given to the satisfaction of the Local Board that a carriage or cart for which a license has been taken out for a half year or a year, has ceased to be used or kept for use, within the subdivision during the course of that half year or a year, the Local Board shall order a refund of so much of the tax for the half year or a year as shall bear the same proportion to the whole tax for the half year or a year as the period during which such carriage or cart has not been so kept or used in the subdivision bears to the half year or a year ; but no such refund shall be allowed unless notice be given to the Local Board within one month of the time when such carriage or cart ceased to be so kept or used, and except for

special cause shown, the Local Board shall pass no order for refund until after the close of the half year or a year in respect of which the refund is claimed.

Board may compound with livery stable-keeper.

60. (1) The Local Board, at their discretion, may compound for any period not exceeding one year, with livery stable-keepers and other persons keeping carriages or carts for hire, for a certain sum to be paid for carriages or carts so kept by such person in lieu of the license fees specified in any order made by the Local Board.

Power to inspect, stable etc., and to summon persons liable to the payment of fee.

(2) The Local Board, or any person authorised by them in that behalf, may at any time enter and inspect any stable or coach house, or any place wherein they may have reason to believe that there is any carriage or cart liable to the license fee, for which a license has not been duly taken out.

And the Local Board may summon any person whom they have reason to believe to be liable to the payment of any such fee, or any servant of such person, and may examine such person or servant as to the number and description of the carriages or carts in respect of which such person is liable to pay license fees.

Prohibition of double tax.

61. Nothing contained in this Act, in the Assam Municipal Act, 1923 or in the Assam Rural Panchayat Act, 1948, shall be deemed to authorise two or more local authorities to levy between them, more than one tax for the same period in respect of any carriage or cart, and in the event of any dispute arising as to which of several local authorities is to levy the tax or as to how the tax levied is to be apportioned between several local authorities, the question shall be referred to the State Government whose decision shall be final.

Assam Act I of 1923.
Assam Act XXVII of 1948.

Power to prohibit use of unlicensed markets.

62. (1) The Local Board may, at a meeting convened expressly for the purpose of which due notice shall have been given, order that within the jurisdiction of the Local Board, no land shall be used as a market otherwise than under a license to be granted by the Board, other than lands used as markets established by, vested in or placed under its control or administration.

Power to grant license and to impose tax on market.

(2) On the issue of an order as in sub-section (1), the Board at a meeting may grant within the local limits of its jurisdiction a license for the use of any land as a market and impose an annual tax thereon and such conditions as prescribed by rules.

Owner to take out a license.

(3) When it has been determined that a tax shall be imposed under the preceding sub-section, the Local Board at a meeting shall make an order that the owner of any land used as a market specified in the order within the local limits of the Board's jurisdiction shall take out a license and cause such order to be published in the manner prescribed.

Such order shall be published at least one month before it shall take effect and shall specify the taxes not exceeding such amounts as may be prescribed by rule, which shall be charged for the financial year.

Taxes so fixed to continue unaltered.

(4) Taxes so fixed by any order of the Local Board under the last preceding sub-section shall continue in force until the Board at a meeting held not less than one month before the end of the financial year make and publish an order specifying any different taxes within the limit prescribed by rule, which shall be charged for the ensuing financial year.

Payment of tax.

(5) Upon the imposition of such tax by the Local Board the owner of any land used as market shall pay to the Local Board taxes specified in the order and within one month of such order.

On payment of tax the Board to give a license.

(6) On receiving the amount of taxes as aforesaid the Local Board or any one in its behalf shall give to the person paying the same a license for the period in respect of which the amount is received.

Suspension or cancellation of license.

(7) The Local Board may at a meeting cancel or suspend a license granted under such order for failure of the licensee to comply with the conditions of license or with any provision of this Act or rules made thereunder.

Penalty for using unlicensed market.

(8) Whoever, being the owner or occupier of any land, uses or permits the same to be used as a market without a license under sub-sections (5) and (6) above shall be liable to a fine not exceeding two hundred rupees for every such offence, and to a further fine not exceeding forty rupees for each day during which the offence is continued after conviction on such offence.

Power to close unlicensed markets.

(9) The District Magistrate or the Subdivisional Officer as the case may be, on the application of the Board, may order any land in respect of which a conviction shall have been obtained under the last preceding sub-section, to be closed as a market-place, and thereupon may make order to prevent such land being so used; and every person who shall sell or expose for sale any article intended for food or drink or any livestock or other merchandise on any land which shall have been so closed, shall be liable, for every such offence to a fine not exceeding ten rupees.

Private markets to be properly drained, etc.

(10) Every owner, occupier or farmer of a market within the limits of a Local Board, shall cause such drain to be made therein as shall be considered sufficient by the Board and shall take all necessary steps to keep such market in a clean and wholesome state and shall cause supply of sufficient water for the purpose as well as for drinking purpose.

(11) If any such owner, occupier or farmer of a market after notice in writing given to him by the Board that such market is defective in any of the particulars specified in sub-section (10) and requiring him to remedy the defect specified within not less than thirty days, makes default therein, he shall be liable to a fine not exceeding twenty rupees for every day during which such default is continued after the expiration of the period mentioned in such notice.

(12) If the owner, occupier or farmer of a market makes default as aforesaid, the Board may enter into possession of the market and execute such of the works of improvement mentioned in sub-section (10) as it deems fit, and may receive all rents, tolls and other dues in respect of the

market and retain possession thereof for recovery of the sum expended by it on the works of improvement :

Provided that the Board shall vacate the market if it appears that the sum expended by it on the works of improvement has been realised, and that the surplus, if any, remaining after the payment of the expenses incurred, shall be paid on demand to any person who establishes his right to the satisfaction of the Board or in a Court of competent jurisdiction.

Imposition
of tax.

63. (1) With the previous sanction of the State Government, the Local Board may, from time to time at a meeting convened expressly for the purpose of which due notice shall have been given, impose within the local limits of its jurisdiction, any tax.

(2) 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.

Tax or
license fee
on miscella-
neous items.

64. (1) Every Local Board may, from time to time at a meeting convened expressly for the purpose, of which due notice shall have been given, impose within the local limits of its jurisdiction a tax or license fee in spite of provisions in other Acts in this behalf on :—

- (1) Cinema Halls ;
- (2) Circuses ;
- (3) Professional Variety Shows ;
- (4) Tea Stalls ;
- (5) Hotels ;
- (6) Sweetmeat Stalls ;
- (7) Oil and Rice Mills ;
- (8) Collection of bones and hides ;
- (9) Brick Kilns
- (10) Timber Depôt } on other than Government
land ;
- (11) Quarry on lands belonging to a Local Board ; and
- (12) Scrap metal dumps.

(2) The Local Board may make bye-laws for the purpose of imposition of the tax or license fee which in no case must exceed Rs. 50 (fifty) per annum or Rs. 10 (ten) per day on casual basis as the case may be except that in the case of Cinema Halls, Circuses and Oil and Rice Mills, the fee shall not exceed Rs.200 per annum or Rs.25 per day on casual basis.

Pounds

Function in
regard to
pounds.

65. Every Local Board shall, in regard to the establishment, maintenance and management of pounds, perform such functions as may be transferred to it by notification under section 31 of the Cattle Trespass Act, 1871. Act I of 1871.

Education

Schools,

66. (1) Subject to rule, every Local Board may contribute towards, or be charged with, and be responsible for :—

- (a) the establishment, maintenance and management of all middle vernacular schools under public management within the subdivision.

- (b) the whole or any part of the cost of construction and repairs of all buildings connected therewith ; and
 - (c) subject to the provisions of sections 28 and 29, the appointment and payment of all teachers and assistant teachers thereof.
- (2) Subject to rule as aforesaid, the Board may, with its consent, be charged with and made responsible for, the establishment, maintenance and management of any other schools or class of schools other than Primary Schools within the subdivision, or may make grants-in-aid to any such schools whether they are under public or private management.
- (3) Subject to rule as aforesaid, the Board may award stipends or scholarships.

Medical

Public charitable dispensaries and hospitals. 67. (1) The State Government may, with the consent of the Board, by notification, direct that any public charitable dispensary or hospital within the subdivision shall be placed under the control and administration of the Local Board.

(2) From and after the publication of the notification referred to in sub-section (1), the Board shall, subject to rule, be charged with the control and administration of the dispensary or hospital and the construction, repair and maintenance of all buildings connected therewith.

Other dispensaries or hospitals, asylums, poor houses and medical relief.

68. Subject to rule every Local Board may—

- (a) establish and maintain, within the subdivision, dispensaries, hospitals, asylums and places for the reception of the sick or destitute, or contribute towards the cost of the establishment and maintenance of such institutions ;
- (b) with the previous sanction of the State Government, contribute such annual or other sum as may be agreed on towards the cost of the establishment or maintenance of any dispensary, hospital, asylum or place for the reception of the sick or destitute, which is situated outside the subdivision, but is, or may be, ordinarily used by inhabitants of the subdivision ;
- (c) provide for the payment of allowances to medical practitioners for professional services rendered to the establishment employed by the Board ;
- (d) provide medicines or medical assistance for the poorer inhabitants of the subdivision or take such measures as may appear to it to be necessary during the prevalence of diseases in the subdivision ; and
- (e) provide for the employment of medical practitioners.

Infectious and Contagious Diseases

Power to
close market.

69. (1) The Local Board may, with a view to preventing the spread of any infectious or contagious disease, order that, for a specified time, any market or shop within the jurisdiction of the Local Board shall be closed, or forbid any person to attend any such market or shop.

(2) Such order shall be publicly notified in such manner and at such places as the Local Board shall direct, and notice thereof shall be served on the owner, occupier or farmer of the market or shop.

(3) After complying with the notice, the owner, occupier or farmer of the market or shop or any person interested may appeal to the Deputy Commissioner, if he considers the notice to be unreasonable, and the order of the Deputy Commissioner shall be final.

(4) When an order has been notified under sub-section (2), and has not been set aside under sub-section (3), any owner, occupier or farmer of a market or shop who neglects to close the market or shop shall be liable to a fine which may extend to five hundred rupees; and any person who attends such market or shop in contravention of the terms of the order shall be liable to a fine which may extend to fifty rupees.

Power to
close school.

70. (1) The Board may, by notice, require the manager of any school situated within the jurisdiction of the Local Board for a specified time with a view to preventing the spread of disease or any danger to health likely to arise from the condition of the school, either to close the school or to exclude any scholars from attendance; and the manager shall comply with the notice.

(2) After complying with the notice, the manager may appeal to the Deputy Commissioner, if he considers the notice to be unreasonable, and the order of the Deputy Commissioner shall be final.

(3) Any manager who fails to comply with the notice under sub-section (1) shall be liable to a fine which may extend to fifty rupees.

Explanation.—"Manager" shall include Head Master, Secretary or other person directly managing the school.

Disinfection
of buildings
and articles.

71. (1) If the Local Board is of opinion that the cleansing or disinfecting of a building or any part thereof, or of any article therein, which is likely to retain infection, will tend to prevent or check the spread of any disease, it may, by notice, require the owner or occupier to cleanse or disinfect the same in the manner and within the time prescribed in such notice.

(2) If—

(a) within the time specified as aforesaid from the receipt of the notice the person on whom the notice is served fails to have the building or part thereof or the article disinfected, or

(b) the occupier or owner, as the case may be, gives his consent:

the Board may, at the cost of such owner or occupier,

cause the building or part thereof and articles to be cleansed and disinfected :

Provided that the Board may in its discretion pay the whole or any part of such cost.

Information to be given of infectious diseases.

72. Any person who being a medical practitioner or a person openly and constantly practising the medical profession, and in the course of such practice becoming cognizant of the existence of any infectious or contagious disease in any dwelling other than a public hospital, fails to give information forthwith to such officers as the Local Board may direct, or gives false information, respecting the existence of such disease, shall be punishable with fine which may extend to fifty rupees.

Removal to hospitals of patients suffering from infectious diseases.

73. In any Local Board to which this section may at any time be extended by the State Government, when any person suffering from any infectious or contagious disease is found to be—

- (a) without proper lodging or accommodation, or
- (b) living in a serai or other public hostel, or
- (c) living in a room or house which neither he nor any one, of whom he is a dependant, either owns or pays rent for,

the Local Board, by any person authorised by it in this behalf, may on the advice of any medical officer of rank not inferior to that of an Assistant Surgeon I, remove the patient to any hospital or place at which persons suffering from such disease are received for medical treatment, and may do anything necessary for such removal.

Vaccination

Maintenance of vaccinators.

74. Subject to rule, every Local Board shall provide for the appointment, pay and management of all public vaccinators within the subdivision, and may provide for the promotion of free vaccination.

Sanitation

Duties and powers in regard to sanitation.

75. Subject to rule, every Local Board shall, as far as possible,—

- (1) provide for the sanitation, conservancy and drainage of the subdivision ; and
- (2) have the control of all the drains and other conservancy works within the subdivision which are not under the control of any other local authority or any servant of the Government as such.

For this purpose the Board shall have the power to incur such expenditure as may be necessary.

Water supply.

76. (1) A Local Board may provide any place within the subdivision with a proper and sufficient supply of water and for this purpose may construct, repair and maintain water works, wells or tanks and do any other necessary acts.

(2) All rivers, streams, channels, water-courses, tanks, springs and wells situated within the subdivision are not

being the property of any private person or under the control or administration of any other local authority or any servant of the Government as such shall, for the purposes of this Act, be under the control and administration of the Board.

(3) The Board may, by an order published at such places and in such manner as it may think fit, set apart convenient tanks, springs, wells or part of rivers, streams, channels or water-courses, situated within the subdivision for the supply of water for drinking or for culinary purposes:

Provided that where the tanks, springs, wells or parts of rivers, streams, channels or water-courses are the property of any private person or under the control and administration of other local authority or any servant of the Government as such, no such orders, shall be made without the consent of such owner, local authority or servant of the Government.

Power to require unwholesome tanks, pools, etc., to be cleansed or drained.

77. (1) Subject to rule, the Local Board may require, by written notice, the owner or occupier of any land, within thirty days or such longer period as the Board may fix, either to re-excavate or fill up with suitable materials at his option, or to cleanse any well, water-course, private tank or pool therein and drain off and remove any waste or stagnant water which may appear to be injurious to health or offensive to the neighbourhood:

Provided that if, for the purpose of effecting any drainage under this section, it should be necessary to acquire any land not being the property of the person who is required to drain his land or to pay compensation to any other person, the Board shall provide such land and pay such compensation.

(2) If the person or persons required to execute the work fail, within the time specified in any requisition as aforesaid, to begin to execute such work and thereafter diligently to continue the same to the satisfaction of the Board until it is completed, the Chairman of the Board or any person authorised by him in that behalf may, after giving one week's notice of his intention by a notification to be posted upon or near the spot, enter upon the land and perform all necessary acts for the execution of the work.

(3) The Board may, unless reasonable cause to the contrary is shown, recover from such person such portion of the costs of such cleansing or draining as may be approved by the Board as if the same were an arrear of the assessment imposed under the Village Chaukidari Act, 1870, or, where the aforesaid Act is not in force, as if the same were an arrear of land revenue recoverable under the Assam Land and Revenue Regulation, 1886.

VI (B. G.)
of 1870.

1 of 1886.

Cleansing of buildings or lands.

78. (1) Subject to rule, the Local Board may require by written notice the owner or occupier of any building which, in its opinion, is in a filthy or unwholesome state, or of any land which is in such state or which is overgrown

with lantana, ageratum, wild bhang or other noxious vegetation, to cleanse, clear, or otherwise put such building or land in a proper state within a time to be specified in such notice which shall not be less than thirty days.

(2) If any person on whom notice has been served under sub-section (1) fails to comply with the requisition contained in the notice, the Board shall, unless reasonable cause to the contrary is shown, cause the building or the land to be cleansed, and the Chairman of the Board or any person authorised by him in that behalf may, subject to such conditions as the State Government may impose by the aforesaid rules, enter into or upon the building or land, with or without assistants or workmen, in order to make any inspection or execute the work.

(3) The Board may, unless reasonable cause to the contrary is shown, recover from such person such portion of the cost of such cleansing as may be approved by the Board as if the same were an arrear of the assessment imposed under the Village Chaukidari Act, 1870, or where the aforesaid Act is not in force, as if the same were an arrear of land revenue recoverable under the Assam Land and Revenue Regulation, 1886. VI (B.C) of 1870. I of 1886.

Procedure if
person re-
quired to
execute work
objects.

79. (1) The person or persons required to execute the work or do anything under the preceding section may, instead of executing the work or doing the thing required, prefer an objection in writing to the Board against such requisition within ten days of the service of the notice containing the requisition.

(2) If the objection allege that the cost of executing the work or doing the thing required will exceed one hundred rupees, such objection shall be heard and considered by the Board at a meeting, unless the Chairman or Vice-Chairman shall certify that such cost will not exceed one hundred rupees, in which case the objection shall be heard and considered by the Chairman or Vice-Chairman.

(3) After such objection has been heard and considered as aforesaid, the Chairman shall, if the objection be not allowed, submit the proceedings to the Deputy Commissioner for order, and the order of the Deputy Commissioner shall be final.

(4) Where an objection has been preferred under this section, the period specified in the requisition for the execution of the work or the doing of the thing required shall, for the purposes of preceding section be deemed to run from the date on which the order of the Deputy Commissioner disallowing the objection is communicated to the person or persons concerned.

Liability to
pay expenses
which may
be contested
in Civil
Court,

80. Any owner or occupier of land may contest his liability to pay any expenses under section 78 or may contest the amount which he has been called upon to pay, in a Civil Court of competent jurisdiction :

Provided that the fact of such action having been instituted shall be no bar to the recovery of the said amount under the provisions of this Act.

Appoint-
ment of
Health Offi-
cers and
Sanitary
Inspectors.

81. The State Government may require a Local Board, after considering any cause that the Board may show to the contrary,—

- (a) to appoint such Health Officers and Sanitary Inspectors as it may think necessary on such salaries as it may fix ; or
- (b) to employ such servants of the Government as Health Officers and Sanitary Inspectors as it may think necessary.

Miscellaneous

Miscellaneous
powers of Local
Board.

82. Subject to rule, every Local Board may,—

- (a) establish and maintain, within the subdivision, staging bungalows and serais for the use of travellers, at such places, and charge such fees for the use of such bungalows and serais, as it thinks fit ;
- (b) establish and maintain veterinary dispensaries for the reception and treatment of horses, cattle and other animals, and charge such fees for the use of such dispensaries as may be approved by the State Government or with the previous sanction of the State Government contribute such sum as may be agreed upon towards the cost of such dispensaries ;
- (c) provide for the employment of qualified persons to prevent and treat disease of horses, cattle and other animals ;
- (d) provide for the establishment and maintenance of bazars, and charge such fees in connection therewith as it thinks fit, and prescribe the weights and measures to be used in such bazars ;
- (e) offer rewards, upon such scale as may be approved by the State Government for the destruction of unclaimed or diseased dogs and noxious animals within the subdivision ; and
- (f) take such measures as it thinks fit for the relief of distress within the subdivision.

Contribu-
tions by
Boards

83. With the approval of the State Government every Local Board may make annual or other contribution to any other Local Board or other local authority or to any public institution including libraries or reading rooms.

CHAPTER V

Control

Control over
proceedings
of Local
Boards.

84. (1) The State Government, and acting under the orders of the State Government, the Deputy Commissioner, shall see that the proceedings of Local Boards are in conformity with law.

(2) The State Government may, by order in writing, annul any proceeding which it considers not to be in conformity with law, and may do all things necessary to secure such conformity:

Provided that no such order shall be made without giving the Board an opportunity of expressing its views on the matter.

Access to
records.

85. Every Local Board shall at all times permit the Deputy Commissioner and any officer of the Government authorised for the purpose by the State Government by a general or special order to have access to all its books, proceedings and other records.

Inspection.

86. The Deputy Commissioner and any officer of the Government authorised for the purpose by the State Government by a general or special order may, at all times, enter upon or into and inspect, or cause any other person to enter upon or into and inspect—

- (a) any immovable property in the occupation, or
- (b) any work in progress under the orders, or
- (c) any institution under the control and administration of any Local Board.

Inspection
of Local
Board works
and registers
by mem-
bers.

87. With the previous sanction of the Chairman or in his absence the Vice-Chairman, any member of a Board may inspect any work, or institution, constructed or maintained, in whole or in part at the expense of the Board, and any register books, accounts or other documents belonging to, or in the possession of, the Board.

Inspector of
Local
Works.

88. (1) The State Government may appoint a servant of the Government to be Inspector of Local Works for one or more subdivisions.

(2) The Inspector of Local Works shall—

- (a) inspect and advise with regard to all public works under construction or repair vested in, or under the control and administration of, any Board within his charge; and
- (b) perform such duties and exercise such powers as may be assigned to him by rule.

(3) In particular and without prejudice to the powers referred to in sub-section (2), clause (b), the Inspector of Local Works may at all times enter upon or into and inspect, or cause any other person to enter upon or into and inspect, any immovable property in the occupation, or any work in progress under the orders of any Local Board within his charge, and every such Board shall furnish such statements, estimates and reports as he may require.

(4) A report of every inspection made under this section shall be prepared, and a copy thereof shall be forwarded direct to every Board concerned.

(5) Every Board within the charge of an Inspector of Local Works shall, in all matters of professional detail, be guided by his report.

Suspension
of action
of Local
Boards.

89. The State Government or the Deputy Commissioner after hearing the Chairman may, by order in writing, suspend the execution of any resolution or order of any Local Board or the doing of any act which is about to be done, or is being done, by such Board if, in its or his opinion, the execution of the resolution or order or the doing of the act, is likely to cause injury or annoyance to the public, or to any class or body of persons, or to lead to a breach of the peace.

Powers in
case of
default or
emergency.

90. (1) On receipt of a complaint or a report from Local officers, where the State Government is satisfied, after such enquiry as it thinks fit, that a Local Board has made default in performing any duty imposed on it by or under this Act, it may, by order in writing, fix a period for the performance of such duty.

(2) Where such duty is not performed within such period, Government may appoint some fit and proper person to perform it.

(3) Where, in any case of emergency, the Deputy Commissioner is of opinion that the immediate execution of any work, or the immediate doing of any act, which a Local Board is empowered to execute or do, is necessary for the service or safety of the public and the Board fails to execute or do it without any reasonable excuse, he may appoint some fit and proper person to execute the work or do the act immediately.

(4) Where any person is appointed under sub-section (2) or sub-section (3), the State Government or the Deputy Commissioner, as the case may be, may direct that the expense of performing the duty, executing the work or doing the act, together with reasonable remuneration if any to the person so appointed, shall forthwith be paid by the Local Board concerned.

(5) Where such expense and remuneration if any are not so paid, the State Government or the Deputy Commissioner, as the case may be, may direct the person having the custody of the balance of the Local Fund to pay the expense and remuneration, or as much thereof as is possible from that balance; and such person shall make payment accordingly.

Report of
certain action
by Deputy
Commissioner under
sections 89
and 90.

91. (1) Where the Deputy Commissioner—

(a) suspends the execution of any resolution or order, or the doing of any act under section 89, or

(b) appoints any person, or directs the payment of any expense or remuneration, under section 90, sub-section (3), or sub-section (4),

he shall forthwith submit to the State Government, a copy of the order, with a statement of his reasons for making it, and with any explanation which the Local Board concerned may wish to offer.

(2) The State Government may confirm, modify or rescind any order submitted under sub-section (1).

Supersession
or dissolution
of Local
Board.

92(1). Where a Local Board—

- (a) is not competent to perform, or persistently makes default in performing, the duties assigned to it by law, or
- (b) exceeds or abuses its power so assigned to it, the State Government may, after giving the Local Board an opportunity for submitting an explanation in regard to the matter, by notification, stating the reasons for its order, supersede such Board for the remainder of the term of the Board :

Provided that instead of superseding the Local Board under this section, the State Government may, after consideration of any explanation as aforesaid by notification, specifying the reasons for so doing, direct the Local Board to be dissolved and reconstituted as soon as possible, the necessary elections of members to be made in accordance with the provisions of this Act and the rules made thereunder ; and from the date on which the results of such new elections are published in the official Gazette, all members constituting the former Board, shall, unless they are re-elected, vacate their offices :

Provided further that the tenure of office of the Chairman of the former Board shall continue and he shall carry on the routine matters on behalf of the Board until the Board is reconstituted and a new Chairman is elected or appointed.

(2) Where a Local Board is superseded under sub-section (1)—

- (a) all members constituting such Board shall, from the date of the notification, vacate their offices ;
- (b) all duties and powers assigned to the Board shall be performed and exercised by such person or persons as the State Government may appoint in that behalf from time to time ; and
- (c) all property vested in the Board shall, during such period be vested in the State Government.

(3) On expiration of the period of supersession, the Board shall be re-constituted, and the persons who vacated their offices under sub-section (2), clause (a), shall be eligible for re-election.

Dispute between
Local
Authorities.

93. If a dispute arises between two or more Local Boards or between a Local Board or any other Local authority or authorities, the matter shall be referred to such authority as the State Government may direct and the decision of such authority shall be final and conclusive.

CHAPTER VI

RULES AND BYE-LAWS

Power of the
State Gov-
ernment to
make rules.

94. (1) The State Government may make rules for the purpose of carrying out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing powers, such rules may—

- (i) determine the mode and time of election of members of Local Boards, and Committees, the

qualifications or disqualifications and registration of voters and candidates and generally regulate all elections under this Act ;

- (ii) regulate minimum number of meetings to be held annually by Local Boards, and Committees, the conduct of proceedings including the manner in which notices of a meeting shall and in which a vote may, be given, the fixing of a quorum, the due record and publication of proceedings and the language in which business shall be transacted ;
- (iii) fix the time within which a Vice-Chairman of a Board shall be elected ;
- (iv) regulate the powers of Local Boards to transfer property ;
- (v) regulate the powers of Local Boards to enter into contracts and do other things necessary for the purposes of their constitution and the mode of executing contracts ;
- (vi) determine the intermediate offices, if any, through which correspondence between Boards and Committees or members of Boards and Committees and the State Government or its officers shall pass ;
- (vii) prescribe the qualifications of candidates for employment under sections 28, 29, 66 and 81 and declare what circumstances shall be a disqualification for continuance of employment under these sections ;
- (viii) prescribe the procedure to be employed in the appointment of the superior staff employed by Local Boards and regulate the performance and exercise of the duties and powers of such staff ;
- (ix) prescribe the procedure to be followed in the appointment of Board Engineers or Health Officers and regulate the performance and exercise of the duties and powers of such Officers ;
- (x) prescribe where two or more local authorities combine to appoint a Board Engineer and other joint establishment, if any, under section 29, the machinery by which the appointments shall be made, and services of the Board Engineer and other joint establishment shall be allotted among the different Boards and determine the authority who will adjust disputes between local authorities relating to the appointment, promotion, dismissal and duties of the Board Engineer and any other joint establishments, and make such orders as may be necessary in cases of emergencies and in all matters concerning the relations of such officers with local authorities by which they are employed :

- (xi) regulate, where two or more local authorities act in combination under section 29, the formation of a joint establishment, and provide for the control of such establishment by the local authorities concerned and for all other necessary matters connected therewith ;
- (xii) prescribe the proportion of the pay and allowances of servants of the Government employed by a Local Board which shall be borne by the Board and provide for the control of such officers ;
- (xiii) prescribe the time for holding meetings and the day for submitting statements, estimates and reports or accounts under section 31 ;
- (xiv) prescribe forms for statements, registers, estimates and accounts and regulate the keeping, checking and publication of such accounts, and the manner of periodical audit ;
- (xv) prescribe the conditions subject to which an estimate may be amended or revised under section 32 ;
- (xvi) provide in the case of Local Boards for the retention of adequate working or closing balances ;
- (xvii) regulate the submission for approval of plans, designs, specifications and estimates of works ;
- (xviii) prescribe, for the purposes of section 46, the mode of ascertaining the capitalised value of the estimated cost to the Local Board of maintaining bridges, road-ways or foot-ways, and of renewing any bridge, road-way or foot-way which requires periodical renewal, and the mode of determining what classes of bridges, road-ways or foot-ways require periodical renewal ;
- (xix) regulate the method of displaying the token under section 59(5) ;
- (xx) regulate the maintenance and management of schools under section 66 and the grant of stipends or scholarships ;
- (xxi) regulate the control and administration of dispensaries, hospitals, asylums and places for the reception of the sick or destitute, the construction or repair of buildings connected therewith, the payment of allowances to medical practitioners for professional services rendered to the establishments employed by the Board, the supply of medicines and medical assistance to the poorer inhabitants of the local area for which any Local Board has been established, and the measures to be taken during the prevalence of disease ;
- (xxii) regulate the establishment and maintenance of veterinary dispensaries, the employment and

payment of qualified persons to prevent and treat diseases of horses, cattle and other animals, and the measures to be taken during the prevalence of cattle diseases ;

- (xxiii) regulate, consistently with the provisions of the Bengal Vaccination Act, 1880, as locally in force, the appointment, pay and management of public vaccinators, and the promotion of vaccination under section 74. Bengal Act
V of 1880.
- (xxiv) regulate the duties and powers of Local Boards in regard to sanitation ;
- (xxv) provide for the protection from pollution of such tanks, springs, wells or parts of rivers, streams, channels or water-courses as are set apart under this Act, for drinking or culinary purposes ;
- (xxvi) prescribe the conditions subject to which the Local Board may take action under section 78 requiring the owner or occupier of any building or land to cleanse, clear or otherwise put it in a proper state ;
- (xxvii) regulate the establishment and maintenance of staging bungalows, and serais, the establishment and maintenance of bazars, the relief of distress and the carrying out of any work likely to promote the health, comfort or convenience of the public ;
- (xxviii) provide for the maintenance of private bazars in a sanitary condition ;
- (xxix) regulate the duties and powers of the Inspector of Local Works appointed under section 88 ;
- (xxx) prescribe the conditions subject to which a member of a Local Authority may undertake or execute any work in a fiduciary capacity ;
- (xxxi) afford guidance to Local Boards when suits or other proceedings are threatened or have been instituted by or against them in Civil Courts ;
- (xxxii) prescribe the maximum amount of tax which may be levied by the Board under sections 59 and 62 ;
- (xxxiii) generally provide for the guidance of Local Boards and servants of the Government in all matters connected with the carrying out of the provisions of this Act, and for settling their relations to one another.

(3) Every rule made under this section, shall be published in such manner as the State Government may direct and shall thereupon have the force of law.

(4) In making rules under this section, the State Government may direct—

- (i) that a breach of any provision, so far as it prohibits corrupt practices at elections shall be punishable with a fine not exceeding five hundred rupees ; and

- (ii) that a breach of any rule under sub-section (2), clauses (xxv) and (xxviii) shall be punishable with fine not exceeding five rupees and, in the case of a continuing breach, with a further fine not exceeding one rupee for every day during which the breach is continued after the offender has been convicted of such breach.

Power of Local Boards to make bye-laws. 95. (1) Every Local Board may make bye-laws for carrying out all or any of the purposes of this Act.

(2) Every bye-law made under this section shall, when confirmed by the State Government, have for such time as it may direct the same force as if it had been enacted in this Act.

(3) In making a bye-law under sub-section (1), the Board may provide that a breach of the same shall be punishable with fine which may extend to fifty rupees, and, in case of a continuing breach, with a further fine which may extend to four rupees for every day during which the breach is continued after the offender has been convicted of such breach.

Power of Local Boards to make subsidiary rules. 96. Subject to the approval of the State Government every Local Board may, by subsidiary rules, consistent with this Act, and with any rules made thereunder by the State Government, provide for—

- (a) the time and place of its meetings, the business to be transacted at meetings, and the manner in which notice of meetings shall be given ;
- (b) the duties, appointment, leave, leave allowances and punishment (including suspension and removal) of its officers and servants ;
- (c) the custody of the common seal and the purposes for which it shall be used ;
- (d) the division of duties among its members ;
- (e) the powers to be exercised by the Chairman, Vice-Chairman or Committees, to whom particular duties have been assigned ;
- (f) the persons by whom receipts shall be granted for money received under this Act ;
- (g) the conditions under which any officer or servant of a Local Board who is appointed to any office under the Government, may, on his retirement from the service of the Government, receive a gratuity in respect of his service as an officer or servant of the Local Board ; and

(h) other similar matters including pensions.

Previous publication of rules and bye-laws. 97. The power conferred by sections 28(3), 28(4), 94 and 95 to make rules and bye-laws shall be subject to the condition of previous publication, and consultation with the Local Boards.

Prosecution. 98. A prosecution for breach of any bye-law made under section 95 shall not be instituted except on complaint made by the Local Board or by some person authorised by it in this behalf.

CHAPTER VII

MISCELLANEOUS PROVISIONS

Recovery of taxes and demands not otherwise provided for. 99. The Local Board may recover any tax leviable or demand payable under this Act, or under any rule or bye-law made thereunder, the recovery of which is not otherwise provided for, as if the same were an arrear of land revenue recoverable under the Assam Land and Revenue Regulation, 1886.

Liability of members of Local Board. 100. (1) A person shall not be liable for the loss, waste or misapplication of any money or other property belonging to a Local Board unless such loss, waste or misapplication is a direct consequence of his neglect or misconduct while a member of such Board.

(2) Where any such loss, waste or misapplication is the direct consequence of neglect or misconduct of any person as aforesaid, a suit for compensation in respect thereof, may be instituted against him by the Board with the previous sanction of the State Government.

Penalty on member, officer or servant being interested in contracts made with a Local Board. 101. If any member of a Local Board or any officer or servant maintained by or employed under a Local Board has, directly or indirectly, any share or interest in any work done by order of the Board of which he is a member or by which he is maintained, or under which he is employed, or in any contract with or under such Local Board, he shall be liable on conviction before a Criminal Court to a fine which may extend to five hundred rupees:

Provided that the penalty herein prescribed shall not be deemed to apply by reason only of a person—

- (a) having a share in any joint stock company which shall contract with or be employed by or on behalf of, the Local Board; or
- (b) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Local Board may be inserted; or
- (c) holding a debenture or being otherwise concerned in any loan raised by, or on behalf of, the Local Board:

Nevertheless, it shall not be lawful for a person having any share or interest, such as is described in clauses (a) and (b) to act as a member of the Local Board in any matter relating to a contract or agreement between the Local Board and such company or the manager or publisher of such newspaper:

Provided further that nothing in this section shall apply to any member of a Local Board who, subject to rule, undertakes or executes on behalf of that Board, any work in a fiduciary capacity without deriving therefrom any pecuniary profit:

Provided further that nothing in this section shall apply to any member of a Local Board, who, being a member of the legal profession, is employed by the Board to give legal advice or to conduct any case on behalf of the Board and receives fees for such work.

Compensation.

102. Every Local Board may pay compensation out of the Local Fund, to any person sustaining any damage by reason of the exercise of any of the powers conferred by this Act.

Notice of suit.

103. (1) A suit shall not be instituted against any Local Board or against any member of the Board or against any officer or servant of the Board or any person acting under its direction, for anything done under this Act until the expiration of one month after a notice in writing has been delivered or left at the office of such Board and also, where it is intended to institute the suit against any officer or servant of the Board or any person acting under its direction, at the place of abode of such officer, servant or person.

(2) Every notice under sub-section (1) shall state—

(a) the cause of action,

(b) the name and place of abode of the intending plaintiff, and

(c) the relief which he claims,

and the plaint shall contain a statement that such notice has been duly delivered or left.

(3) Every suit of the nature referred to in sub-section (1) shall be instituted within a period of three months from the date on which the cause of action arose.

(4) Where any such suit is instituted in contravention of sub-sections (1) to (3) or where, before such institution, sufficient amends have been tendered, the suit shall be dismissed.

CHAPTER VIII

AMENDMENT OF THE NORTHERN INDIA FERRIES ACT, 1878

Amendment of Act XVII of 1878.

1. After section 7 of the Northern India Ferries Act, 1878, the following shall be inserted, namely:—

“7A. The State Government may direct that any public ferry wholly or partly within the area subject to the authority of a Local Board in the State be managed by that Board, and thereupon that ferry shall be managed accordingly.”

Further amendment.

2. In section 6 of the said Act, after the words “Section 7”, the following shall be inserted, namely:—
“and section 7A”.

SCHEDULE I

[SECTION 3(12)]

Corrupt Practices

The following shall be deemed to be corrupt practices for the purposes of this Act:—

(a) A gift, offer or promise by a candidate or his agent or by any other person with the connivance of a candidate or his agent, of any gratification to any person whomsoever with the object, directly or indirectly, of inducing—

- (i) a person to stand or not to stand as, or to withdraw from being a candidate, or
- (ii) an elector to vote or refrain from voting at an election or as a reward to—
 - (a) a person for having so stood or not stood or for having withdrawn his candidature, or
 - (b) an elector for having voted or refrained from voting.

Explanation.—For the purposes of this clause the term “gratification” is not restricted to pecuniary gratification or gratifications estimable in money, and includes all forms of entertainment and all forms of employment for reward; but it does not include the payment of any expenses *bona fide* incurred at or for the purpose of any election.

Undue influence. (b) (1) 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, by any of the means hereafter specified, with the right of any person to stand or not to stand or to withdraw from standing as a candidate, or with the free exercise of the franchise of an elector.

(2) The means above alluded to are—

- (a) any violence, injury, restraint, or fraud and any threat thereof;
- (b) any threat to a person or inducement to a person to believe that he or any person in whom he is interested will become or be rendered an object of divine displeasure, spiritual censure, social ostracism and ex-communication or expulsion from any caste or community;

(c) any threat of social boycott;

but do not include any declaration of public policy or promise of public action.

Personation.

(c) (i) 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 who has voted once at an election for a voting paper in his own name at the same election.

(ii) 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 after he has already voted at such election.

Publication of false statements.

(d) 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 or in relation to the candidature or withdrawal of any candidate, which statement is reasonably calculated to prejudice such candidate's election.

(e) Any act specified in the clauses above, 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.

Receipt of gratification.

(f) The receipt of, or agreement to receive, any gratification, whether as a motive or a reward--

(a) by a person to stand or not to stand as, or a withdraw from being a candidate ; or

(b) by any person whosoever for himself or any other person for voting or refraining from voting, or for inducing or attempting to induce any elector to vote or refrain from voting or any candidate to withdraw his candidature.

Payment for conveyance.

(g) Any payment or promise of payment to any person on account of the conveyance of any elector to or from any place for the purpose of recording his vote :

Provided that nothing contained herein shall prevent a conveyance being hired by an elector, or by several electors at their joint cost, for the purpose of conveying him or them to or from the poll.

Issue of circulars, etc., without name.

(h) The issuing of any circular, placard or poster having reference to the election which does not bear on its face the name and address of the printer and publisher thereof.