



The Cess Act, 1880

Act 9 of 1880

Keyword(s):

Annual Value of any Land, Commissioner, Cultivating Raiyat, Despatch, Estate, Holder of an Estate or Tenure, Holding, Immovable Property, Land, Part, Tenure, Collector, Collector of the District, The Settlement Officer, Zilla Parishad Fund

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Bengal Act IX of 1880

[THE CESS ACT, 1880.]

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Constitution and Application of the District Road Fund.

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AMENDED	..	<ul style="list-style-type: none"> Ben. Act II of 1881. Ben. Act VII of 1881. Ben. Act V of 1908. Ben. Act I of 1914. Ben. Act V of 1915. Ben. Act XIV of 1932. Ben. Act XI of 1934. Ben. Act III of 1939. Ben. Act IX of 1946. West Ben. Act XII of 1947. West Ben. Act XXXV of 1963. West Ben. Act XXIII of 1964. West Ben. Act XXXII of 1973. West Ben. Act XXXV of 1981. West Ben. Act XXXII of 1984.
REPEALED IN PART AND AMEND	..	<ul style="list-style-type: none"> Ben. Act III of 1885. Ben. Act I of 1903. Ben. Act IV of 1910. Ben. Act I of 1939.
ADAPTED	..	<ul style="list-style-type: none"> (a) The Government of India (Adaptation of Indian Laws) Order, 1937. (b) The Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948. (c) The Adaptation of Laws Order, 1950.

[13th October, 1880.]

An Act to amend and consolidate the Law relating to rating for the Construction, Charges and Maintenance of District Communications and other Works of Public Utility, and of Provincial Public Works.

WHEREAS it is expedient to amend and consolidate the law relating to rating for the construction, charges and maintenance of district roads and other means of communication, and of provincial public works, within the territories administered by the Lieutenant-Governor of Bengal², and to the levy of a road cess and a public works cess on immovable property situate therein, and to the constitution of local committees for the management of the proceeds of the said road cess, and also to provide for the construction and maintenance of other works of public utility out of the proceeds of the said road cess;

Preamble.

It is hereby enacted as follows:—

Preliminary.

1. This Act may be called the Cess Act, 1880; (Commencement.)—*Rep. bys. 4 and the Third Sch. of the Amending Act, 1903 (1 of 1903).*

Short title.

2. This Act shall take effect at once in every district³ and part of a district in which Bengal Act X of 1871⁴ (*an Act to provide for local rating for the construction and maintenance of roads and other means of communication*) and Bengal Act II of 1877⁴ (*an Act to provide for the levy*

Extent.

¹LEGISLATIVE PAPERS.—For Proceedings in Council, see the *Calcutta Gazette* of 1879, Supplement, page 1508; *ibid.* page 180, Supplement, pages 45, 291, 323, 379, 406 and 948.

²This includes the present State of West Bengal and other territory.

³These now comprise all districts which form the State of West Bengal.

⁴Rep. Acts X of 1871 and II of 1877 have been repealed by s. 3 of the present Act.

(Preliminary.—Sections 3, 4.)

of a cess for the construction, charges and maintenance of provincial public works) may be in force on the date of the commencement of this Act.

[The ¹[State Government] may, by notification, in the ²[Official Gazette], extend its provisions to any other district or part of a district situate in the territories for the time being administered by ³[it]; and this Act shall take effect accordingly therein from the date specified in such notification:]

Proviso.

Provided that nothing herein contained shall be deemed to affect any immovable property within the limits of the ordinary original jurisdiction of [the High Court at Calcutta], or within the limits of any ⁴[municipality under the Bengal Municipal Act, 1932].

Power to exempt districts from operation of Act.

The ¹[State Government] may, by notification in the ²[Official Gazette], exempt any district or part of a district, or any estate or tenure, from the operation of this Act, or from the operation of so much thereof as relates to the road cess, or as relates to the public works cess, and may at any time, by a similar notification, revoke such exemption.

Ben. Act XV
of 1932.

3. [Repeal of District Road Cess Act, 1971, and Provincial Public Works Act, 1877.]—Rep. by sec. 3 and the Second Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

Interpretation-clause.

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

"Annual value of land, etc.":

⁶"annual value of any land, estate or tenure" means the total ⁷* * rent which is payable, or, if no ⁷* * rent is actually payable, would, on a reasonable assessment, be payable, during the year by all the cultivating *rai-yats* of such Land, estate or tenure,

⁸"annual value of any land estate or tenure" means the total *revenue or rent* which is payable, or, if no *revenue or rent* is actually payable, would, on a reasonable assessment, be payable, during the year by all the cultivating *rai-yats* of such land,

"Annual value of land, etc.":

¹The words "Provincial Government" were originally substituted for the word "Lieutenant-Governor" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "State" was substituted for the word "Provincial" by paragraph 4(1) of the Adaptation of Laws Order, 1950.

²These words were substituted for the words "Calcutta Gazette," by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³This word was substituted for the word "him" by paragraph 5(2), *ibid.*

⁴These words were substituted for the words "The High Court of Judicature at Fort William in Bengal," by paragraph 3 of, and the Eleventh Schedule to, the Adaptation of Laws Order, 1950.

⁵These words and figures were substituted for the words and figures "first or second class municipality under the Bengal Municipal Act, 1876" by s. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

⁶This definition is in force in this form in Western Bengal.

The differences in the definition as in force in Western Bengal and in Eastern Bengal respectively, lie in the words printed in italics.

See also foot-note under "Local Extent" on page 383, *ante*.

⁷The words "revenue or" were repealed in Western Bengal by s. 2(1) of the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910).

⁸This definition is in force, in this form in Eastern Bengal.

See also foot-note under "Local Extent" on page 383, *ante*.

of 1880.]

(Preliminary.—Section 4.)

or by other persons in the actual use and occupation thereof:

estate or tenure, or by other persons in the actual use and occupation thereof:

¹*Explanation.—For purpose of the foregoing definition, whatever is lawfully payable or deliverable, or would, on a reasonable assessment, be lawfully payable or deliverable, in money or in kind, directly to the Government,—*

(a) by raiyats cultivating land in a Government estate—on account of the use or occupation of the land, or

(b) by other persons in the actual use and occupation of land in such an estate.

shall be deemed to be "rent":

"Commissioner" means the Commissioner of the Division:

"Commissioner":

"cultivating raiyat" means a person cultivating land and paying rent thereof not exceeding one hundred rupees per annum:

"Cultivating raiyat":

Explanation.—When rent is payable in kind, the money value thereof shall, for the purposes of this Act, be taken to be the annual value of the land-lord's share of the crop calculated on an average of the three years next preceding any valuation or re-valuation under this Act:

"despatch", in relation to a coal mine, means the quantity of coke and coal despatched from the coal mine and that, in relation to other mines and quarries including sand quarries, means the quantity of minerals/sand despatched from such mine or quarry:

"district" means the local area to which a Collector is appointed and no lands situate beyond the limits of such local area shall be deemed to form part of a district by reason of their forming part of an estate paying revenue to the Collector thereof:

"District":

"estate" means—

"Estate":

- (1) land included under one entry in the general registers of revenue-paying lands and of revenue-free lands prepared and maintained by the Collector of a district under the Land Registration Act, 1876, or any similar law for the time being in force;

¹The *Explanation* applies only to Western Bengal. It was added by s. 2(2) of the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910).

²This "definition" was originally added by s. 2 of the West Bengal Cess (Amendment) Act, 1964 (West Ben. Act XXIII of 1964). Later, the present "definition" was substituted for the original by s. 2 of the West Bengal Cess (Amendment) Act, 1984 (West Ben. Act XXXII of 1984).

(Preliminary.—Section 4.)

- (2) any land other than the holding of a cultivating *raiyat*, the revenue or rent of which may be payable directly to the Collector or any person specially appointed by him to collect the same;
- (3) any land acquired under any rules issued by, or under authority of, Government for the sale, grant, lease or clearance of waste-lands:

"Holder of an estate or tenure":

"holder of an estate or tenure" means all or any of the holders thereof, and, where two or more persons are jointly holders thereof, they shall be jointly and severally liable under this Act:

"Holding":

"holding" means the land held by a cultivating *raiyat*:

"Immovable property":

"immovable property" includes lands and all benefits to arise out of land and things attached to the earth, or permanently fastened to anything which is attached to the earth, but does not include crops of any kind, or houses, shops or other buildings:

"Land":

"land" means land which is cultivated, uncultivated or covered with water, and does not include houses or buildings:

"Part," "chapter" and "section":

"Part" "chapter" and "section" means respectively a Part, chapter and section of this Act:

"Schedule":

"Schedule" means a schedule to this Act annexed, and every such schedule shall be read as part of this Act:

"Tenure":

"tenure" includes every interest in land, whether rent-paying or not save and except an estate as above defined, and save and except the interest of a cultivating *raiyat*:

"The Collector":

"the Collector" includes any person specially invested with the powers of a Collector for the purposes of this Act, and means—

- (i) when used in reference to revenue-paying estates and lands comprised therein, to all proceedings connected therewith and to the assessment and levy of cesses in respect thereof,

the Collector or other similar officer on whose revenue-roll such estates are borne;

- (ii) when used in reference to revenue-free estates and lands comprised therein, to all proceedings connected therewith and to the assessment and levy of cesses in respect thereof,

the Collector or other similar officer on whose general register of revenue-free lands such estates are borne;

"The Collector of the district.":

"the Collector of the district" includes any person specially invested with the powers of a Collector for the purposes of this Act, and means the officer in charge of the revenue-administration of a district:

of 1880.]

(Preliminary.—Section 4.)

¹“the Settlement Officer” means the Revenue-officer appointed by the ²[State Government] under the designation of Settlement Officer or Assistant Settlement Officer, for the purpose of preparing or revising records-of-rights, under Chapter X of the Bengal Tenancy Act, 1885, or any other law for the time being in force, in respect of the lands in any local area, estate or tenure, or part thereof,

“The Settlement officer.”

and includes any officer appointed by the ²[State Government] to maintain records-of-rights so prepared or revised.

VIII of 1885.

* * * * *

“Year” means the cess year as determined by the ⁴[Board of Revenue] under section 11.

“Year.”

⁵“Zilla Parishad” means a Zilla Parishad established under section 3 of the West Bengal Zilla Parishads Act, 1963.

⁵Zilla Parishad Fund” means the fund constituted under section 40 of the West Bengal Zilla Parishads Act, 1963.

West Ben. Act XXV of 1963.

¹This definition of “the Settlement Officer” applies only to Western Bengal. It was inserted by s. 2(3) of the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910).

²The words “Provincial Government” were originally substituted for the words “Local Government” by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word “State” was substituted for the word “Provincial” by paragraph 4(1) of the Adaptation of Laws Order, 1950.

³The definitions of “District Board” and “District Fund” were substituted for the definition of “the Committee” by s. 2 of the Bengal Local Self-Government Act, 1885 (Ben. Act III of 1885). Later, those definitions were omitted by s. 118 of, and second Schedule to, the West Bengal Zilla Parishads Act, 1963 (West Ben. Act XXXV of 1963).

⁴These words were substituted for the word “Lieutenant-Governor” by the Bengal Decentralization Act, 1915 (Ben. Act V of 1915).

⁵These definition of “Zilla Parishad” and “Zilla Parishad Fund” were added by s. 118 of, and Second Schedule to, the West Bengal Zilla Parishads Act, 1963 (West Ben. Act XXXV of 1963).

(Part I.—Chapter I.—Imposition and Application of the Cesses.—
Sections 5, 6.)

PART I.

CHAPTER I.

Imposition and Application of the Cesses.

All immovable
property to
be liable to a
road cess
and public
works cess.

5. From and after the commencement of this Act in any district or part of a district, all immovable property situate therein except as otherwise in ¹[section 2] provided, shall be liable to the payment of a road cess and a public works cess.

Cesses how
to be
assessed.

6. The road cess and the public works cess ²[shall be assessed—
(a) in respect of lands, on the annual value thereof,
³(b) in respect of all mines and quarries, on the annual despatches therefrom, and
(c) in respect of ⁴* * * * * tramways, railways and other immovable property, on the annual net profits thereof,
ascertained respectively as in this Act prescribed:]

and the rates at which such cesses respectively shall be levied for each year shall be determined for such year in the manner in this Act prescribed:

⁵Provided that—

- (1) the rates of such road cess and public works cess shall not exceed six paise and twenty-five paise respectively on each rupee of such annual value,
- (2) the rates of each of such road cess and public works cess shall not exceed—
 - ⁶(i) fifty paise on each tonne of coal, minerals or sand of such annual despatches, and
 - (ii) six paise on each rupee of such annual net profits.

¹This word and figure were substituted for the words and figures "sections 2 and 8" by s. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

²Clauses (a), (b) and (c) beginning with the words "shall be assessed—" and ending with the words "ascertained respectively as in this Act prescribed;" were first substituted for the words beginning with "shall be assessed on the annual value of lands" and ending with "ascertained respectively as in this Act prescribed" by s. 3(1) of the West Bengal Cess (Amendment) Act, 1964 (West Ben. Act XXIII of 1964). Prior to this substitution the words "until provision to the contrary is made by the Central Legislature" were originally inserted by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "Parliament" was substituted for the words "Central Legislature" by para. 3 of, and the Eleventh Schedule to, the Adaptation of Laws Order, 1950.

³Clause (b) was substituted by s. 3(a) of the West Bengal Cess (Amendment) Act, 1984 (West Ben. Act XXXII of 1984).

⁴The words "mines other than coal mines, quarries." were omitted by s. 3(b), *ibid.*

⁵Proviso to section 6 with the *Explanation* was first substituted by s. 3(2) of the West Bengal Cess (Amendment) Act, 1964 (West Ben. Act XXIII of 1964). Later, the present proviso with the *Explanation* was substituted for the previous by s. 2 of the West Bengal Cess (Amendment) Act, 1973 (West Ben. Act XXXII of 1973).

⁶Sub-clause (i) of clause (2) of the proviso was substituted by s. 3 of the West Bengal Cess (Amendment) Act, 1984 (West Ben. Act XXXII of 1984).

of 1880.]

(Part I.—Chapter I.—Imposition and Application of the Cesses.—
Sections 7-10.)

Explanation.—For the purposes of this proviso, one tonne of coke shall be counted as one and a quarter tonne of coal:

Provided that the rate at which each such cess shall be levied for any one year shall not exceed the rate of one-half *anna* on each rupee of such annual value and annual net profits respectively.

7. Nothing in this Act contained shall be deemed to require the payment by the ¹[State Government] ²* * *, from the public revenues, of any sum as road cess in excess of such sums as may have been paid as such cess to the Collector by persons liable to pay the same.

Public revenues not liable for more road cess than has been paid to Collector by persons liable.

8. [Government and guaranteed railways not liable to the cesses without consent of Governor General in Council.]—Omitted by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

9. The proceeds of the road cess in each district shall be paid into the District Road Fund of such district, as hereinafter provided.

Application of proceeds of road cess.

³* * * * *

10. The proceeds of the public works cess ⁴[and interest paid thereon] shall be paid into the public treasury.

Application of proceeds of public works cess.

⁵* * * * *

¹See foot-note 1 on page 384, *ante*.

²The words "of Bengal" were omitted by Article 3 (1) of, and the Schedule to, the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

³The words "and together with other assets of such fund, shall be applied to the purposes mentioned in section 109" were omitted by s. 2 of the Bengal Local Self-Government Act, 1885 (Ben. Act III of 1885).

⁴These words were inserted by s. 2 of the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act II of 1881).

⁵The rest of this section commencing with the words "and shall be applied" and ending with the words "may direct" was omitted by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Part I.—Chapter I.—Imposition and Application of the Cesses.—
Section 11.—Part II.—Mode of Assessment.—Chapter II.—
Valuation of Lands.—Sections 12, 13.)

Power to fix
cess year.

11. The ¹[Board of Revenue] shall, by an order published in the ²[Official Gazette] fix the date from which the cesses leviable under this Act in any district or part of a district shall take effect therein, and may fix and from time to time alter the date from which the cess year shall run in any district or part thereof.

PART II.

MODE OF ASSESSMENT.

CHAPTER II.

Valuation of Lands.

Board of
Revenue
may order
valuation,
and re-
valuation.

12. Upon the commencement of this Act in any district or part of a district, the ³[Board of Revenue] may order that a valuation shall be made of such district or part of a district; and from time to time, after the expiration of the term of five years from the beginning of the year in which the levy of the cesses took effect in accordance with any such valuation, or with any re-valuation as hereafter provided in this section ⁴* * *, or at any time within twelve months previous to the expiration of such term,

the ⁵[Board of Revenue] may, if ⁵they think fit, order that a re-valuation shall be made of any such district or part of a district, and such re-valuation shall take effect from the beginning of such year as the ⁶[Board of Revenue] may direct.

After five
years holder
of estate or
tenure may
apply to
Collector for
re-valuation.

13. Whenever the term of five years shall have expired from the beginning of the year in which the levy of the cesses took effect in any estate or tenure in accordance with any valuation ⁶[or re-valuation] under this Act ⁷* * * the holder of any such estate or tenure may apply to the Collector to re-value his estate or tenure, and for such purpose shall lodge in the office of the Collector returns in the form in Schedule A

¹These words were substituted for the word "Lieutenant-Governor" by the Bengal Decentralization Act, 1915 (Ben. Act V of 1915).

²See foot-note 2 on page 384, ante.

³These words were substituted for the word "Lieutenant-Governor", for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910), and for Eastern Bengal, by the Bengal Decentralization Act, 1915 (Ben. Act V of 1915).

⁴The words "or in Chapter IIA" were repealed in Western Bengal, by s. 3 and the Second Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

⁵This word "they" in s. 12, was substituted for the word "he" for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910), and for Eastern Bengal, by the Bengal Decentralization Act, 1915 (Ben. Act V of 1915).

⁶These words were inserted by s. 3 of the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act II of 1881).

⁷The words and figures "or Bengal Act X of 1871" were repealed by s. 3 and the Second Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

of 1880.]

(Part II.—Mode of Assessment.—Chapter II.—Valuation of Lands.—Sections 14, 15.)

contained; and thereupon the Collector shall proceed to revalue such estate or tenure, and, if he makes any alteration in the valuation of any such tenure, shall give notice of such alteration to the holder of the estate or superior tenure in which such tenure is included, and shall alter the valuation of such estate or superior tenure accordingly:

Provided that no re-valuation or reduction of the amount of cesses previously payable in respect of any estate or tenure, in consequence of a re-valuation under this section, shall take effect until the beginning of the year commencing next after such re-valuation, unless the application for re-valuation shall have been made and the necessary returns lodged in the Collector's office within three months after the beginning of a year, in which case such re-valuation and reduction, if any, shall take effect from the commencement of such year.

14. Whenever the ¹[Board of Revenue] has ordered ²[under section 12] that a valuation or a re-valuation of any district or part of a district shall be made for the purposes of this Act, the Collector of the district shall cause a proclamation to be issued requiring every holder of an estate of tenure which is liable to pay an annual amount of revenue or an annual amount of rent exceeding one hundred rupees and every holder of a revenue-free estate or rent-free tenure the gross annual rental of which exceeds one hundred rupees, severally to lodge at the office of such Collector within one month a return of all lands comprised in his estate or tenure, in the form in Schedule A contained, giving the particulars in such form set forth.

Proclamation to make return of lands to be issued.

The Collector of the district shall cause such proclamation to be published by affixing a copy thereof in some conspicuous place in the office of such Collector, in every Civil Court, in every police-station, and in the office of every Subdivisional Officer within the district, and in any other manner which the ¹[Board of Revenue] may from time to time direct.

Publication of proclamation.

15. At any time at which the ¹[Board or Revenue] might order a re-valuation of a district or part of a district to be made as provided by section 12, ²[they] may, if ³[they] think fit instead of so ordering, make an order that particular estates or tenures only in such district or part of a district shall be re-valued.

Re-valuation may be of particular estates or tenures only.

¹See foot-note 3 on page 390. *ante*.

²These words and figures within square brackets were inserted, for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910), and, for Eastern Bengal, by the Bengal Decentralization Act, 1915 (Ben. Act V of 1915).

³This word was substituted for the word "he" for Western Bengal by the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910), and for Eastern Bengal, by the Bengal Decentralization Act, 1915 (Ben. Act V of 1915).

*(Part II.—Mode of Assessment.—Chapter II.—Valuation
of Lands.—Sections 16, 17.)*

16. Whenever any proclamation has been published as mentioned in section 14, in any district, and whenever the ¹[Board of Revenue] has made an order, under the last preceding section, that a re-valuation of particular estates and tenures only shall be made, the Collector shall cause a notice to be served in respect of every estate and tenure which is to be valued or re-valued and in respect of which no return shall have been lodged in accordance with the requirement of such proclamation, requiring every holder of such estate of tenure severally to lodge at the office of the Collector the return mentioned in section 14;

Notice to
lodge
returns.

and shall also cause a similar notice to be served in respect of every tenure included in any such estate or tenure which may have been named in any return lodged in pursuance of the provisions of this Act, or of Bengal Act X of 1871², either for the purposes of the valuation or re-valuation then contemplated, or for the purposes of any previous valuation or re-valuation, or of which the existence may in any other way have come to his knowledge.

17. The notice mentioned in the last preceding section shall be in the Form No. I in Schedule B contained, or in the Form No. II in the said schedule contained, as the case may be, and shall require every holder of the estate or tenure severally to lodge the return within the time specified below, namely:—

Form of
notice and
time for
lodging
returns.

In the case of Revenue-paying Estates and Rent-paying Tenures.

If the return relate to an estate or tenure which is liable to the payment of actual revenue or of rent not exceeding Rs. 500, or to any share or interest in such estate or tenure.	Within six weeks of the service of the notice.
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If the return relate to any other estate or tenure, or to any share or interest therein.	Within three months of the service of the notice.
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In the case of Revenue-free Estates and Rent-free Tenures.

If the return relate to an estate or tenure which is the gross annual rental does not exceed Rs. 500, or to any share or interest in such estate or tenure.	Within six weeks of the service of the notice.
---	--

If the return relate to any other estate or tenure, or to any share or interest therein.	Within three months of the service of the notice.
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The Collector may in his discretion extend the time allowed for lodging any such return.

¹See foot-note 3 on page 390, *ante*.

²Ben. Act X of 1871 has been repealed by this Act—See s. 3.

of 1880.]

(Part II.—Mode of Assessment.—Chapter II.—Valuation of Lands.—Sections 18-20.)

18. All holders of estates or tenures in respect of which such notice has been served who shall, without sufficient cause being shown to the satisfaction of the Collector, refuse or omit to lodge the required return in the office of such Collector within the time allowed by such notice in respect of the estate or tenure which they hold, or within any extended time which may have been allowed by the Collector for lodging such return, shall be severally liable to a fine which may extend to fifty rupees for every day after the expiration of such time or extended time until such return is furnished, or until the value of the lands comprised in their respective estates and tenures shall have been otherwise ascertained and determined by the Collector as hereinafter provided.

Penalty for omitting to make return.

The amount of such fine accruing due from time to time may be levied by the Collector as provided in section 98 or 99, and the fact of an appeal against such fine being pending shall not avail to prevent the levy of any such fine pending the disposal of the appeal, unless the Commissioner shall otherwise direct.

Whenever the amount levied in respect of any such fine exceeds five hundred rupees, the Collector shall report the case specially to the Commissioner; and no further levy for such default shall be made otherwise than by authority of the Commissioner.

19. From and after the expiry of the time allowed by the notice, or of any extended time under the provisions of section 17, every holder of an estate or tenure in respect of which such notice has been served shall be precluded from suing for or recovering rent for any land or tenure situate in any estate or tenure in respect of which no return has been lodged as aforesaid.

No rent to be recovered till return is made.

The Collector may send a list to the Civil Court of all such holders so making default in lodging returns as aforesaid, and such Court shall take judicial notice of the same.

Whenever the required return is lodged in respect of any estate or tenure or whenever the valuation of any such estate or tenure has been otherwise completed, the disability imposed on the holder thereof by this section shall cease; and, if such estate or tenure shall have been included in any list as aforesaid, the Collector shall forthwith give notice to the Civil Court of the cessation of such disability.

20. Every holder of an estate or tenure in respect of which a return has been made as required by this chapter shall be precluded from suing for or recovering—

No rent to be recovered for land, etc., not mentioned in return.

(a) any rent whatsoever for any land, holding or tenure forming part of the estate or tenure to which such return relates, but which has not been mentioned in such return, unless it be proved that the holding or tenure for

*(Part II.—Mode of Assessment.—Chapter II.—Valuation
of Lands.—Sections 21, 22.)*

the rent of which the rent is claimed was created subsequently to the lodging of such return;

(b) rent at any higher rate than is mentioned in such return for any land, holding or tenure included in such return unless it be proved that the rent of such land or tenure has been lawfully enhanced subsequently to the lodging of such return:

Proviso.

Provided that the Collector may at his discretion, at any time within six months from the presentation of any return made under this Part, receive a petition correcting any such return;

and on the acceptance of such petition may make such correction in the valuation of the estate or tenure as may be required;

and, as soon as the person in respect of whose estate or tenure, the return and valuation have been so corrected shall have paid in all sums due by him as road cess and public works cess in accordance with such corrected valuation and not otherwise such person may recover such rent as may be due to him on any tenure or land included in the return of such estate or tenure at any rate not being in excess of the rate shown in the corrected return as payable in respect of such tenure or land.

Such notices as the Collector may direct shall be served upon the parties affected by such petition at the expense of the person lodging the return as aforesaid.

If returns not furnished, Collector to make valuation.

21. If no return shall have been lodged in respect of any lands for which notice under section 16 has been issued, the Collector may, after the expiration of the time allowed by the notice, or of such extended time as is mentioned in section 17, ascertain and fix, by such ways and means as to him shall seem expedient, the annual value of any estate, tenure or lands mentioned in such notice; and all expenses incurred in making such valuation may be recovered with all costs of recovery thereof as provided in sections 98 and 99.

Valuation by Collector where return untrue or incorrect.

22. If the Collector is satisfied, for reasons to be recorded by him in writing, that any return made under this Act is untrue or incorrect, he may, by such ways and means as to him may seem expedient, ascertain and fix the annual value of the lands in respect of which the return has been made:

Provided that no such action shall be taken without giving notice to the person who made the return and allowing him an opportunity to prove that the return is not untrue or incorrect.

¹Sections 22 and 23 which were in force in this form in Western Bengal, having been substituted by s. 6 of the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910) were substituted for the original sections 22 and 23 by s. 2 of the Bengal Cess (Amendment) Act, 1934 (Ben. Act XI of 1934).

of 1880.]

(Part II.—Mode of Assessment.—Chapter II.—Valuation of Lands.—Sections 23-27.)

23. The expense of any valuation made by the Collector under section 22 may be recovered, in the manner prescribed in sections 98 and 99, from the person by whom the untrue or incorrect return was made;

Recovery of expense of such valuation.

Provided that, where such return relates to lands for which no rent is payable by cultivating *raiyyats* to the person who made the return, and the annual value of such lands, as determined by the Collector under section 22, does not exceed by one-fifth the value stated in such return, the said expense shall be borne by the District Road Fund.

24. The Collector may, whenever he may think fit cause a notice in the Form No. I in Schedule B contained to be served on any person holding any lands or possessing any interest therein, although such person may have been mentioned in any return as a cultivating *raiyyat*; and thereupon such person shall be bound to make a return of the annual value of such lands within one month from the service of such notice in the form in Schedule A contained, and the provisions of sections 17 and 18 regarding extension of time for lodging a return and regarding fines respectively shall be applicable to such person.

Person returned as cultivating *raiyyat* may be served with notice.

25. If no return is made by any person on whom a notice has been served as provided in the last preceding section, the Collector may proceed, by such ways and means as to him shall seem expedient, to ascertain the annual value of the lands held by such person; and, in case it appears that such annual value is greater than the rent paid by such person, the expense of such valuation shall be borne by such person and may be recovered with all costs of recovery thereof as provided in sections 98 and 99, but in all other cases shall be borne by the District Road Fund.

If no return made, Collector may ascertain annual value of lands.

26. If it shall appear to the Collector that any person on whom a notice has been served under section 24 has been wrongly classed in the return as a cultivating *raiyyat*, the Collector may direct that the entry be corrected and that such person be classed as a tenure-holder;

Collector may correct classification in returns.

and thereupon such person shall be deemed to be a tenure-holder for the purposes of the assessment and levy of the cesses in respect of the lands held by him.

27. Whenever the revenue annually payable in respect of any estate, or the rent annually payable in respect of any tenure, does not exceed the sum of one hundred rupees, the Collector may, without issuing any notice for such estate or tenure,—

Summary valuation of small revenue-paying estates and tenures.

(a) in any case determine the annual value of the land comprised therein to be in a permanently-settled estate or tenure a sum not exceeding three times, and in a temporarily-settled estate or tenure a sum not

¹See foot-note 1 on page 394, ante.

(Part II.—Mode of Assessment.—Chapter II.—Valuation
of Lands.—Sections 28, 29.)

exceeding twice, the amount of the annual revenue or rent payable therefor; or,

(b) when the area of the said estate or tenure has been ascertained, determine the annual value of such estate or tenure to be at such rate per acre as to him shall seem fit.

Summary valuation of small revenue-free estates and rent-free tenures of which the area has been ascertained.

28. When the area of any revenue-free estates or rent-free tenure, the gross rental of which does not exceed, or is not estimated by the Collector to exceed, the sum of one hundred rupees, has been ascertained, the Collector may, without issuing any notice for such estate or tenure, determine the annual value of such estate or tenure to be at such rate per acre as to him may seem fit.

Computation of annual value of land comprised in a subordinate tenure in a summarily valued estate or tenure.

29. When the land contained in any estate or tenure has been summarily valued by the Collector in the manner provided by clause (a) of section 27, the annual value of any portion of such land which is comprised within a tenure subordinate to such estate or tenure shall be determined according to the following rules:—

(1) When the subordinate tenure comprises the whole of the estate or superior tenure, the annual value of the subordinate tenure shall be taken to be the same as that of the estate or superior tenure.

Example.—An estate paying a revenue of Rs. 80 is summarily valued by the Collector under clause (a) of section 27 at Rs. 200. The whole estate is let in *patti* for a rent of Rs. 120. The annual value of the *patti* tenure will be Rs. 200.

(2) When the subordinate tenure comprises a part only of the land constituting the estate or superior tenure—

- (a) the difference between the annual value of the estate or superior tenure, and the revenue or rent payable in respect of such estate or superior tenure, shall first be ascertained;
- (b) next, the ratio which such difference bears to such revenue or rent shall be ascertained;
- (c) then the amount which bears the same ratio to the rent payable in respect of the subordinate tenure shall be ascertained;
- (d) half of the amount so ascertained shall be added to the rent payable in respect of the subordinate tenure; and

the result shall be taken to be the annual value of the subordinate tenure.

of 1880.]

(Part II.—Mode of Assessment.—Chapter II.—Valuation
of Lands.—Sections 30, 31.)

Example A.—An estate paying revenue of Rs. 60 is summarily valued by the Collector under clause (a) of section 27 at Rs. 100. A part only of the estate is let in *pami* for a rent of Rs. 37-8.

The difference between the annual value of the estate (Rs. 100) and the revenue paid in respect of it (Rs. 60) is Rs. 40. This difference bears a ratio of two-thirds to this revenue (Rs. 60).

The amount which bears the same ratio (two-thirds) to the rent payable in respect of *pami* (Rs. 37-8) is Rs. 25;

add half of Rs. 25 to the rent payable in respect of the *pami* tenure, and the result (Rs. 37-8+Rs. 12-8=) Rs. 50 will be the annual value of the *pami* tenure.

Example B.—Within the *pami* tenure paying a rent of Rs. 37-8 as in Example A, is a *darpatni* tenure paying a rent of Rs. 27.

The difference between the annual value of the *pami* tenur ascertained as above (Rs. 50) and the rent payable in respect of the *pami* (Rs. 37-8) is Rs. 12-8, which bears a ¹ratio of one-third to the said rent.

The amount which bears the same ratio (one-third) to the rent payable in respect of the *darpatni* (Rs. 27) is Rs. 9;

add half of Rs. 9 to the rent payable in respect of the *darpatni*, and the result (Rs. 27+Rs. 4-8=) Rs. 31-8 will be the annual value of the *darpatni* tenure.

30. When the land contained in any estate or tenure has been summarily valued according to a rate per acre, under clause (b) of section 27, or under section 28, the annual value of the land comprised in any subordinate tenure shall be taken at the same rate per acre as that of the estate or superior tenure.

When such land may be valued according to rate per acre.

31. The holder of any estate or tenure which has been summarily valued under section 27 or 28, may, within one month from the posting of the valuation-roll in respect thereof under section 35, lodge a return in the form is Schedule A contained in regard to such estate or tenure, and thereupon such return shall be deemed to be a return made as required by section 16 and shall be dealt with accordingly.

Holder of summarily valued estate or tenure may lodge return.

¹The word "ratio", in Example B, was substituted for the word "rate" by s. 3 and the Second Schedule of the Amending Act, 1903 (I of 1903).

(Part II.—Mode of Assessment.—Chapter II.—Valuation
of Lands.—Sections 32-35.)

Collector
may value
small estate
or tenure by
regular
process.

32. Instead of proceeding to value any estate or tenure summarily under the provisions of section 27 or 28, the Collector may, if he thinks fit, cause a notice to be served in respect of any such estate or tenure in the Form No. I in Schedule B contained, or in the Form No. II in the said Schedule contained, as the case may be, and thereupon all the provisions of this Part shall apply in the same way as they would have applied if the annual Government revenue or rent payable in respect of such estate or tenure had exceeded one hundred rupees.

Lands used for Tea, Coffee or Cinchona.

Return of
plantations,
etc.

33. In the case of lands acquired under any rule issued by, or under the authority of, the Government for the sale, lease, grant or clearance of waste-lands, or held directly from Government, and used for the cultivation of tea, coffee, or cinchona, the Collector shall, in lieu of the notice prescribed by section 16, cause a notice to be served calling on the holder of such lands to lodge, within two months of the service of such notice, a return in the form in Schedule C contained, giving the particulars in such form set forth; and the annual value of such lands shall be fixed at ten rupees in respect of every acre therein entered as cultivated, unless the Board of Revenue shall in any particular case prescribe a lower rate.

The provisions of sections 18 and 21 shall apply to all lands in respect of which a notice has been issued under this section.

Publication of Valuation-rolls and Duration of Valuations.

Valuation-
rolls to be
prepared.

34. Whenever any valuation or re-valuation is made under this Part, the Collector shall cause to be prepared from the returns furnished to him and from the valuations made by him in accordance with this Act a valuation-roll of each estate within his district and of the tenures therein comprised, noting thereon for each estate the amount of revenue annually payable to Government on which the deduction specified in section 41 is to be calculated.

On the application of any holder of an estate or tenure or holding, and on payment of such copying fee as the Board of Revenue shall from time to time determine, the Collector shall cause to be furnished to such holder a copy or corrected copy of so much of any such returns, and of any such roll, as relates to the lands included within his estate, tenure or holding.

Publication
of rolls.

35. On the completion of every roll prescribed under this Part, the Collector shall cause a copy thereof to be posted up at the *māl-cutcherry* of the estate to which such roll refers, and shall cause extract of such portions of any such roll as refer to any tenure to be posted up at the *māl-cutcherry* of such tenure:

of 1880.]

(Part II.—Mode of Assessment.—Chapter II.—Valuation of Lands.—Sections 36, 37.)

Provided that, if no such *māl-cutcherry* be found, such roll and such extracts shall be posted up at some conspicuous places on the estate and tenures respectively to which they refer, and that, if such estate or tenure cannot be found, such roll and such extracts shall be posted at some conspicuous place in any village in which such estate or tenure is believed to be situate.

The person who is entrusted with the publication of any such return shall obtain an acknowledgment in writing signed by two persons who may be either respectable residents of the neighbourhood, or *chaukidars*, or other [servants of the Government], to the effect that such return was duly published on the spot, and shall give in such acknowledgment to the Collector.

To be attested by two persons.

36. Except as otherwise in this Part expressly provided, every valuation and re-valuation made under this Chapter shall remain in force for the term of five years from the date fixed by the ²[Board of Revenue] under section 12 as the date from which the cess leviable in pursuance thereof shall take effect, and thereafter, until another re-valuation and assessment in substitution thereof shall have been ordered and completed.

Valuation and re-valuation to be in force for five years.

37. Nothing in section 36 contained shall be held to debar the Collector, with the sanction of the ³Commissioner from making at any time any reduction which he may think fit in the valuation of any estate or tenure;

Collector may reduce valuation.

or from making a valuation of and assessing and levying cess under the rules laid down in this Part upon any estate or tenure which for any reason whatever has been omitted from the valuations and assessments for the time being in force, or which was not in existence when such valuation or assessment was made.

and may value and assess omitted and newly formed estates and tenures.

[37A-37-1.]—(Chapter IIA.)—Rep. by sec. 3 of the Bengal Cess (Amendment) Act, 1943 (Ben. Act XI of 1943).

¹The words "Servants of the Crown" were originally substituted for the words "officers of Government" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "Government" was substituted for the word "Crown" by paragraph 4(1) of the Adaptation of Laws Order, 1950.

²See foot-note 3 on page 390, *ante*.

³The word "Commissioner" was substituted for the words "Board of Revenue" for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910) and for Eastern Bengal, by the Bengal Decentralization Act, 1915 (Ben. Act V of 1915).

(Part II.—Mode of Assessment.—Chapter III.—Rating and Levy of the Cesses.—Sections 38-40A.)

CHAPTER III.

Rating and Levy of the Cesses.

Rate at which road cess shall be levied, how to be fixed.

¹38. The road cess for each year shall be assessed and levied in each district as provided in section 6, and (subject to the maximum rate in that section mentioned) at such rate as may be determined for such year by the District Board.

Rate at which public works cess shall be levied, how to be fixed.

39. The public works cess for each year shall be assessed and levied in each district as provided in section 6, and subject to the maximum rate in that section mentioned, at such rate as the ²[State Government] may determine for such year.

Notice showing amount of cess payable to be served on zamindars.

40. When the rate of road cess and public works cess to be levied in any district shall have been determined for any year and published in the ³[Official Gazette] ⁴* * * * *, the Collector of the district shall cause the rate so determined to be published by affixing a notification in some conspicuous place in the office of the said Collector, in every Civil Court, in every police-station, and in the office of every Subdivisional Officer within the district, and

shall cause such rate to be proclaimed by beat of drum throughout the district, and

shall cause to be served on the holder of every estate within the district a notice showing the amount of road cess and public works cess payable in respect of his estate, and specifying the date from which such road cess and public works cess will take effect:

Provided that it shall not be necessary to serve such notice, when no change has been made in the valuation of the estate or in the rate of road cess or public works cess since the issue of the last notice under this section.

Recovery of cess from tenures in Government estates.

⁵40A. Notwithstanding anything in the definitions of "estate" and "tenure" in section 4 or elsewhere in this Act contained, the Board of Revenue may direct that any land (other than the holding of a cultivating *raiyat*) of which the rent or revenue is payable directly to the Government as proprietor thereof shall, for the purposes of this Part, be deemed to be a tenure and not an estate, and that the Government shall be deemed to be the holder of the estate within which such tenure is included, and thereupon the Collector may recover any sum payable from such tenure under the provisions of this Act, in the same manner and under the same penalties as if the same were arrears of rent or revenue due to him.

¹Section 38 was substituted for the original section 38 by s. 2 of the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885).

²See foot-note 1 on page 384, *ante*.

³See foot-note 2 on page 390, *ante*.

⁴The words "as provided in section 155" were omitted by the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885).

⁵Section 40A was inserted by s. 4 of the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act II of 1881).

of 1880.]

(Part II.—Mode of Assessment.—Chapter III.—Rating and Levy of the Cesses.—Section 41.)

41. Except as otherwise in this Act provided,—

- (1) every holder of an estate shall yearly pay to the Collector the entire amount of the road cess and public works cess calculated on the annual value of the lands comprised in such estate, at the rate or rates which may have been determined for such cesses respectively for the year as in this Act provided, less a deduction to be calculated at one-half of the said rates for every rupee of the revenue entered in the valuation-roll of such estate as payable in respect thereof;
- (2) every holder of a tenure shall yearly pay to the holder of the estate or tenure within which the land held by him is included the entire amount of the road cess and public works cess calculated on the annual value of the land comprised in his tenure at the rate or rates which may have been determined for such cesses respectively for the year as in this Act provided less a deduction to be calculated at one-half of the said rates for every rupee of the rent payable by him for such tenure;
- (3) every cultivating *raiyat* shall pay to the person to whom his rent is payable one-half of the said road cess and public works cess calculated at the said rate or rates respectively upon the rent payable by him, or upon the annual value ascertained under the provisions of section 24 or 25 of the land held by him.

Mode of payment of road cess and public works cess by holder of estate:

by holder of tenure;

by cultivating *raiyat*.

by holders of *chaukidari chakran* lands.

¹Notwithstanding anything hereinbefore in this section contained, all persons to whom *chaukidari chakran* lands have been transferred under Part II of the Village Chaukidari Act, 1870, or the heirs or assigns of such persons, shall yearly pay to the Collector the entire amount of the road cess and public works cess calculated on the annual value of such lands at the rate or rates which may have been determined for such cesses respectively for the year as in this Act provided, less a deduction to be calculated at one-half of the said rate or rates for every rupee of the assessment approved under the said Part as payable in respect of such lands.

Ben. Act VI of 1870.

¹This paragraph was added to s. 41, for Western Bengal, by s. 9 of the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910).

(Part II.—Mode of Assessment.—Chapter III.—Rating and Levy
of the Cesses.—Section 45.)

not being inconsistent with this Act, as may be issued by the Board of Revenue; and the holders of such several shares shall be primarily liable as aforesaid for the payment of the amount of the cesses so apportioned on their shares respectively.

¹(4a) Whenever a recorded sharer of a joint revenue-paying estate applies to the Collector, under section 10 or section 11 of Act XI of 1859² or section 70 of Bengal Act VII of 1876³, for the opening of a separate account of the land-revenue payable by him, he may include in his application a request for the simultaneous opening of a separate account of the road cess and public works cess payable by him.

¹(4b) The Collector may thereupon issue a notice to each of the several sharers of such estate, simultaneously with the notice issued under any of the aforesaid sections, informing him that, unless any objection is preferred to the Collector within six weeks of the service of the notice, the amount of the cesses which the whole estate is liable to pay will, from the date on which such separate account is opened, be apportioned among such sharers severally, in proportion to the amount of Government revenue for the payment of which each share is entered in the separate account as being liable.

⁴(5) Whenever the separate account of the revenue payable in respect of any share or portion of an estate, as mentioned in clause (1) of this section, shall be closed, the provisions of this section shall cease to have effect in respect of such share.

⁵45. (1) A rebate of five *per centum* of the amount payable as an instalment of road cess and public works cess under Chapter III, IV or VIIA in respect of any estate or tenure, or of the interest of a cultivating *raiyat* shall be allowed at the time of payment:

¹These sub-sections (4a) and (4b) were inserted, for Western Bengal, by s. 10 of the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910).

²The Bengal Land Revenue Sales Act, 1859.

³The Land Registration Act, 1876.

⁴Sub-section (5) was added by s. 7 of the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act II of 1881).

⁵Section 45 was substituted for the original section 45 by s. 4 of the Bengal Cess (Amendment) Act, 1934 (Ben. Act XI of 1934).

of 1880.]

(Part II.—Mode of Assessment.—Chapter III.—Rating and Levy of the Cesses.—Section 46.)

Provided that—

- (a) the instalment is paid in full on or before the due date, and
- (b) the annual cess payable in respect of the estate, tenure or interest amounts to fifty rupees or more.

Explanation.—The word "estate" as used in this sub-section means, in the case of a payment made in respect of the share or portion of an estate for which a separate account referred to in section 44 has been opened, the share or portion in respect of which the payment is made.

VIII of 1885.

(2) Notwithstanding anything contained in Schedule III to the Bengal Tenancy Act, 1885, if any instalment of road cess or public works cess or part thereof payable to the Collector shall not be paid within thirty days from the date on which the same becomes due, the amount of such instalment or part thereof may be recovered at any time within six years after it becomes due, with interest at the rate of ¹[six and a quarter] *per centum per annum* calculated from the date on which such instalment became due with all costs of recovering the same:

* * * * *

(3) The provisions of sub-section (1) shall not apply to any amount payable as road cess and public works cess in respect of any lands referred to in section 33 or sub-section (4) of section 107D.

46. (1) In any district to which the ²[Board of Revenue] may specially order that the provisions of this section shall be extended, it shall be lawful for the Collector to keep a separate account in respect of the amount of cesses payable and paid by any holder of a revenue-free estate who is recorded in Part I of the Collector's general register of revenue-free lands as proprietor or manager of any specified share or interest in any revenue-free property.

With permission of the Board of Revenue, Collector may keep separate account of cesses payable by registered holders of revenue-free estates.

(2) Such separate account shall be opened and kept under such rules as to the levy of fees and other matters, and subject to such conditions and in such manner, as the Board of Revenue may from time to time prescribe; ³[and the Collector, if he becomes aware that any separate account opened under sub-section (1) does not represent existing facts, may, after service of a notice on the recorded proprietor or manager, and after hearing any objection which may be preferred within six weeks of such service, close the account.]

¹These words were substituted for the words "twelve and a half" by s. 2 and the Schedule of the Bengal Rates of Interest Act, 1939 (Ben. Act III of 1939).

²The proviso to sub-section (2) beginning with "Provided that" and ending with "recovering the same," was omitted, *ibid.*

³See foot-note 3 on page 390, *ante.*

⁴These words, brackets and figure were substituted for the words "and the Board of Revenue may at any time order that any separate account which has been so opened shall be closed from such time as they may direct, and no longer kept as a separate account," for Western Bengal by the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910), and for Eastern Bengal by the Bengal Decentralization Act, 1915 (Ben. Act V of 1915).

(Part II.—Mode of Assessment.—Chapter III.—Rating and Levy of the Cesses.—Sections 47-49.)

(3) As long as any separate account shall remain open as provided in the ¹[preceding sub-section], and no longer, the joint liability of the holders of such revenue-free estate for payment of the entire amount payable in respect of such estate shall cease; and the Collector shall recover the amount of cess or other demand due in respect of each share or interest for which an account has been so separately kept from the holder or holders of such share or interest only; and, if the Collector shall think fit to proceed under section 99, he shall take action under that section against the share or interest only in respect of which the sum demanded is due and the rents thereof.

Recovery
by holders
of estates
or tenures.

47. Every holder of an estate or tenure to whom any sum may be payable under the provisions of this Act may recover the same with interest at the rate of ²[six and a quarter] *per centum per annum* in the same manner and under the same penalties as if the same were arrears of rent due to him.

Recovery
from
co-sharer-
holders.

48. Any shareholder in an estate or tenure who may have paid the road cess or public works cess payable in respect of such estate, tenure or any part thereof in excess of the amount proportionate to his own interest in such estate or tenure, may recover from his co-sharers such sums as he may have paid on account of their respective shares and interest, in the same manner and under similar penalties, or may take credit for such sums in any adjustment of accounts between himself and his co-sharers.

Recovery
by recorded
share-holders
from their
co-sharers
by certificate
process.

49. Wherever any shareholder in an estate who is recorded in the general register of revenue-paying and revenue-free lands maintained by the Collector,

or whenever any shareholder in an estate the extent of whose share or interest in such estate is recorded in any other register kept up by the Collector of lands paying revenue or rent to the Collector direct,

shall have paid the road cess or public works cess payable in respect of such estate, or any part thereof in excess of the amount proportionate to his own interest in such estate,

he may, within ³[six weeks] of such payment being made, move the Collector to make a certificate as provided by any law for the time being in force for the recovery of public demands, specifying the amount which has been paid in by such shareholder as cess in respect of the recorded share or interest of any other shareholder in the estate;

he may, with *fifteen days* of such payment being made, move the Collector to make a certificate as provided by any law for the time being in force for the recovery of public demands, specifying the amount which has been paid in by such shareholder as cess in respect of the recorded share or interest of any other shareholder in the estate;

¹These words were substituted for the words "preceding clause" by s. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

²See foot-note 1 on page 405, *ante*.

³This clause of section 49 is in force in this form in Western Bengal. The only difference in the clause as in force in Western Bengal and in Eastern Bengal, respectively, lies in the words printed in italics.

⁴These words were substituted for the words "fifteen days" for Western Bengal, by s. 12 of the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910).

⁵This clause of section 49 is in force in this form in Eastern Bengal.

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Sections 51-52.)

Holders of estates and tenures bound to return rent-free lands and to pay cess at half rates for such lands included therein.

51. Every holder of an estate or tenure who is required by this Act to submit a return in the form in Schedule A contained shall be bound to enter in such return all lands of the nature of those specified in section 50 according to the tenor thereof; and shall be bound to pay road cess and public works cess on the annual value of such lands at one-half of the rates fixed under this Act for the levy of such cesses respectively in the district generally for the year.

Information regarding rent-free lands.

51A. (1) Every owner, holder or occupier of any rent-free land shall be bound to give on demand to the Collector or to the holder of the estate or tenure within which such land is, for the purposes of this Act, included or to his authorised agent all information in his possession regarding the area, situation and description of the land and the names and addresses of all persons owning, holding or occupying it as may be reasonably required for the purpose of the collection or recovery of the cess due on such land.

(2) If any such owner, holder or occupier of rent-free land fails without reasonable excuse to comply with such demand within three months after receiving the same, he shall be liable to a fine not exceeding one hundred rupees, and the provisions of sub-sections (3) to (7) of section 58 of the Bengal Tenancy Act, 1885, shall, so far as may be, apply to the imposition and recovery of the fine.

VIII of 1885.

(3) The Collector may, either on the application of the holder of the estate or tenure within which such rent-free land is included, or of his own motion, summon the owner, holder or occupier of any rent-free land to furnish him with the information referred to in sub-section (1) and such owner, holder or occupier shall furnish such information so far as the same may be in his possession.

(4) For the purpose of sub-section (3) the Collector shall have power to summon, and enforce the attendance of, witnesses, and compel the production of documents, in the same manner as is provided in the case of a Court under the Code of Civil Procedure, 1908.

Act V of 1908.

Notice and extracts of valuation-roll to be published by Collector in respect of such rent-free lands.

52. Whenever any lands held rent-free shall have been included in the return of any estate or tenure as provided in the last preceding section, the Collector shall, on publication of the valuation-roll of such estate or tenure as provided in section 35, cause to be published a notice in the form in Schedule D contained, to which notice shall be annexed such extracts from the valuation-roll of such estate or tenure as relate to such lands.

¹Section 51A was inserted by s. 6 of the Bengal Cess (Amendment) Act, 1934 (Ben. Act XI of 1934).

of 1880.]

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Sections 52A, 53.)

Such publication may be lawfully made by affixing one copy of such notice and extracts at some conspicuous place in every village within which any such lands are situate,

by depositing another copy of the same at any police-station, registration-office or other Government office in the neighbourhood for the inspection of all concerned.

and by proclamation as herein next provided.

The proclamation shall be made by beat of drum throughout every such village, and shall be to the effect that such extracts have been so affixed and deposited, and that the owners and holders of such lands are required to inform themselves, by inspection of such extracts of the valuation put upon their lands, and to pay yearly to the holder of the estate or tenure in the return of which such lands are included the cesses which shall be payable in respect of such lands under the provisions of this Act.

52A. Whenever any notice has been duly published under section 52, the Collector shall sign a certificate to that effect, and such certificate shall be conclusive proof that the publication has been duly made.

Certificate of publication of notices under section 52.

53. Within a reasonable time not exceeding thirty days after the issue of any process for the recovery of any sum due from him as cess under this chapter, the owner, holder or occupier of any such land may make before the Collector an objection to the valuation of his land as entered in the valuation-roll so published, and on such objection being made the Collector shall by such ways and means as to him shall seem expedient, ascertain and fix the annual value of the land in the possession of such owner, holder or occupier, and may alter such roll accordingly, and shall give notice of any such alteration to the holder of the estate or tenure to which such roll relates:

Holder of rent-free land may object to valuation.

Provided that nothing in this section shall be taken to authorize the Collector to alter any return so as to show any area of land as held rent-free which the maker of such return can show to be accounted for by him in the return as rent-paying land.

¹Section 52A was inserted, for Western Bengal, by s. 13 of the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910). This section was extended to the districts in the Chitragong, Rajshahi and Dacca Divisions of the Bengal Presidency by s. 2 of the Bengal Cess (Amendment) Act, 1932 (Ben. Act XIV of 1932).

(Part II.—Mode of Assessment.) CHAPTER IV.—Valuation of Lands, and Levies of Cesses on Moveable Property and Recovery of Cess on Immovable Property (Section 54.)

Section. Notice to be published by holders of estate in certain cases.

- 54. In the following cases, that is to say:— (1) whenever a new valuation or re-valuation takes effect in any district or part of a district; 73. When property in any district is liable for the levy of the road cess or of 74. When the public works cess in any year is changed from the rate 75. If return of value for any such cess was levied in the preceding year and 76. Valuation where compilation of average not possible. (3) whenever the rates fixed by the [Board of Revenue] under 77. Cost of valuation from whom to be recovered. 78. Notice of valuation of rent-free land are changed, 79. Valuations under this chapter to be annual. Declaration of annual net profits by owner for five years. Effect of acceptance by Collector of declaration. 80. Notice of rate of cess and date of payment. 81. Recovery by occupier or owner who has paid in excess. 82. How distributed when property in different districts. 83. Determination of proportion of profits when property in different districts. 84. Service of notices under this chapter.

Such notice shall contain the following information in respect of each tenure and holding of rent-free land which is entered separately in the Collector's Special Provisions for [Orissa and] Midnapore.

- 85. Collectors in [Orissa and] Midnapore may order certain revenue-free estates to be (1) a statement of the quantity, or (1) a specification of the land in annexed to other estates for purposes of payment of cess, a description, of the land, as respect of which the cesses 86. Notice to be given to holder of estate to which such revenue-free estate is annexed. entered in the Collector's are payable; 87. Notice to be given to holder of revenue-free estate. valuation-roll, 88. Cesses payable by holder of revenue-free estate in such instalments as Board of Revenue may direct. (2) the name of the owner, holder or occupier of such lands if 89. Notices to be served. known; 90. Collector may revoke orders passed under section 85. (3) the annual value of such land as entered in the Collector's valuation-roll;

CHAPTER VII.

- (4) the rate on each rupee of the annual value which has been fixed under the Act for the levy of the road cess and public 91. Collector may appoint certain establishments. works cess respectively for the year, 91A. (Western Bengal) Payment of commission to tahsildars. (5) the amount of the cesses payable in respect of each tenure or 92. Powers of Collector in making valuation. holding, calculated at such rates; and 93. Commissioner or Board may revise valuation. 94. False returns. 95. Returns evidence against the maker only. 96. Service of notices under this Part. 97. Costs of service. Miscellaneous. This clause (1) is in force in this form in Western Bengal, having been substituted by s. 4 of the Bengal Asses (Amendment) Act, 1910 (Ben. Act IV of 1910), for the clause printed opposite to it.

of 1880.]

[THE CESS ACT, 1880.]

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Sections 55-57.)

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(6) the dates fixed by the [Board of Revenue] under section 57

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2. Extent. 55. Publication of the notice above-mentioned may be lawfully made by affixing one copy of the same at some conspicuous place in every village in which any such land is situate;

Mode of publication.

3. Interpretation clause. 4. by depositing another copy thereof to be available for general inspection at any mal-cutcherry of the estate or tenure in which such land is included, or at any other convenient place in the neighbourhood;

and by proclamation as herein next provided.

Imposition and Application of the Cesses.

5. The proclamation shall be made by Beat of drum throughout such village, and shall be to the effect that such notice has been so affixed and All immovable property to be liable to a road cess and public works cess. 6. so deposited that it is open to inspection at the mal-cutcherry or other convenient place as above-mentioned, and that every owner and holder of 7. Public revenues not liable for more road cess than has been paid to rent-free land is required to inform himself of the contents of such notice persons liable. 8. and to pay the amount of the cesses due by him accordingly.

Collector by

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Owner of rent-free land bound to pay cess at full rate.

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12. Board of Revenue may order valuation and re-valuation. 13. After five years, holder of estate or tenure may apply to Collector for re-valuation.

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14. Proclamation to make return of lands to be issued. Publication of proclamation. 15. Re-valuation may be of particular estates or tenures only.

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Instalments to be fixed by Board of Revenue.

20. No rent to be recovered for land, etc., not mentioned in return. See foot-note 3 on page 390, ante.

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Sections 57A-60.)

Place of payment or tender of cess.

57A. (1) The provisions of section 54 of the Bengal Tenancy Act, 1885, regarding payment or tender of rent at the landlord's village office or other convenient place or by postal money-order shall apply to the payment or tender of cess by the owner, holder or occupier of rent-free land, as if the person to whom the same is payable under this Act is his landlord.

VIII of 1885.

(2) The provisions of section 56 of the Bengal Tenancy Act, 1885, regarding the grant of rent-receipts shall apply to the payment of cess by the owner, holder or occupier of rent-free land as if the person to whom the cess is payable under this Act is his landlord.

If instalments not paid within a month, double the amount may be recovered.

58. When an instalment of the cesses due on any rent-free land is not paid ²[or tendered] to the holder of the estate or tenure to whom it is due within one month of the date on which such instalment is payable, such holder shall be entitled to recover a sum equal to double the amount of such instalment due to him under sections 56 and 57, with interest on such sum calculated at the rate of ³[six and a quarter] *per centum per annum* from the date on which such instalment was payable, and with all costs of suit:

Provided that such holder shall have paid to the Collector all sums due to such Collector up to date in respect of road cess and public works cess, and not otherwise.

Holders of estates, etc., may send in supplementary returns in respect of rent-free lands.

59. If the holder of any estate or tenure shall have omitted to enter in his return (whether such return was made under Bengal Act X of 1871⁴, or under this Act) any rent-free land which he was bound to enter in such return, such holder may at any time after the passing of this Act give in to the Collector a supplementary return showing the necessary particulars in respect of the land so omitted in the form given in Part IV of Schedule A, and shall thereupon pay to the Collector the amount of the cesses which would have been payable by him to such Collector in respect of such land for the three years next preceding, or for any shorter period which may have elapsed since the estate or tenure was last valued.

Effect of supplementary returns.

60. Such supplementary return shall to all intents and purposes have the same effect as a return duly made under the provisions of section 51; and sections 51 to 56 (both inclusive) shall be applicable to and in respect of any rent-free land included in such supplementary return.

¹Section 57A was inserted by s. 7 of the Bengal Cess (Amendment) Act, 1934 (Ben. Act XI of 1934).

²These words were inserted by s. 8, *ibid.*

³See foot-note 1 on page 405, *ante.*

⁴Ben. Act X of 1871 has been repealed by this Act—see s. 3, *ante.*

of 1880.]

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Sections 61-64.)

61. The provisions of section 57 and 58 shall be applicable to every amount which, as provided in section 56, may become payable by the owner and holder of any such rent-free land to the holder of any such estate or tenure after the fulfilment of the requirements in sections 52, 53 and 54 contained.

Sections applicable to amounts payable by owner, etc., of rent-free land.

62. The provisions of section 58 shall not be applicable to any such amount which may have become so payable under the provisions of * * * this Act before the fulfilment of the requirements of the sections 52, 53 and 54; but, when any instalment of cess which may have become payable before the fulfilment of such requirements has not been paid to the holder of such estate or tenure on the date on which such instalment was payable, the holder of such estate or tenure may recover the amount of such instalment, together with interest at the rate of ²[six and a quarter] *per centum per annum* on such amount, and with all costs of suit:

Section 58 not applicable to such amounts until sections 52, 53 and 54 are complied with.

Provided that no holder of an estate or tenure shall recover any amount under the provisions of this section unless he has paid to the Collector all sums which became payable by him to such Collector on account of road cess and public works cess at any date within the year in which the amount sought to be recovered became payable to such holder of an estate or tenure.

63. As soon as the said requirements shall have been fulfilled in respect of any such land which is included in any such supplementary return, every owner and holder of such land and every person in receipt of the rents and profits, or in possession and enjoyment of such land, shall be bound to pay the amount of the road cess and public works cess which may thereafter become due on such land to the holder of the estate or tenure, in the supplementary return of which such land has been included. Sections 56 and 57 and 58 shall be applicable to the cesses so payable.

Owner of rent-free land liable to pay cess in future.

64. (1) Every holder of an estate or tenure who has included any rent-free lands in any return made to the Collector in respect of his estate or tenure under the provisions of the Bengal Act X of 1871¹ and has paid to the Collector any cess payable under the said Act, or under the Bengal Act II of 1877² in respect of the said rent-free lands, may at any time after the commencement of this Act give in to such Collector an additional return in the form given in Part IV of Schedule A.

Additional return of rent-free land entered in return under Bengal Act X of 1871 may be made.

¹The words and figures "Bengal Act X of 1871, or of" were repealed by s. 3 and the Second Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

²See foot-note 1 on page 405, *ante*.

³Bengal Acts X of 1871 and II of 1877 have been repealed by this Act—see s. 3, *ante*.

(Part II.—Mode of Assessment, Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and

Recovery of Cess in respect thereof. Sections 64A, 64B.)
of a cess for the construction, charges and maintenance of provincial public works) may be in force on the date of the commencement of this Act.

Additional return to be deemed supplementary return.

(2) Such additional return shall be deemed to be a supplementary return within the meaning of section 59 and from the date of the inclusion of any such lands in such additional return the same consequences shall apply in the territories for the time being administered by him, and this Act shall take effect accordingly thereon on the date specified in such notification.)

Proviso.

Provided that nothing herein contained shall be deemed to affect any immovable property within the limits of the ordinary original jurisdiction of [the High Court at Calcutta], or within the limits of any [municipality under the Bengal Municipal Act, 1932].

Holders of lands etc. may recover from holders of rent-free lands of Act.

64A. [Notwithstanding anything contained in Schedule III to the Bengal Tenancy Act, 1885,] any holder of an official or tenure under the provisions of this Chapter [or of Chapter VIII] in respect of any land held rent-free, may recover by such holder from any owner or holder of such rent-free land, or from any occupier of the same, within six years from the date on which such sums became due, by any means and any process by which the amount might be recovered if there were no account of rent of a riaspable tenure or holding.* Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

Ben. Act XV of 1938 1885.

Inter-pretation-clause.

Provided that, unless such objection is registered in the office of the Collector, no proceedings shall be commenced, and no proceedings which have been commenced shall be continued,

"Annual value of land, etc.":

for recovery of cess in respect of the lands at the rate of the land tax of such objections, until such objection shall have been disposed of by the Collector payable, or, if no * rent or rent which is payable, or, if no is actually payable, would, on a revenue or rent is actually payable,

"Annual value of land, etc.":

Owner, holder or occupier of rent-free lands may be sued. Decree against occupier tantamount to decree against owner.

64B. In every suit for the recovery of any such sum the person to whom the sum is due may proceed at his option either against the owner or holder of the rent-free land in respect of which such amount is due, or against the occupier thereof; and any decree obtained in such suit against any occupier of such land shall have the same effect and be followed by the Lieutenant-Governor by virtue of the Act for the Government of India (Adaptation of the Indian Laws) Order, 1937, and hereafter the word "State" was substituted for the word "provincial" by section 3 of the said Act, and in respect of the sale of such land in such execution of the said order, and the decree given against such owner or holder of such land shall have effect against such occupier personally so long only as he remains in occupation of such land and no other person, by paragraph 3 of, and the Eleventh Schedule to, the Adaptation of Laws Order, 1950.

*These words and figures were substituted for the words and figures "first or second class Section IIIA and 64B" inserted by the Bengal Cess Amendment Act, 1938, by section 10 of the said Act, and the Amendment Act, 1938, on which Ben. Act IX of 1938 is based, in force in the States of West Bengal, Eastern Bengal, and Assam, respectively, as of the words printed in italics.

The difference in the definition as in force in West Bengal and in Eastern Bengal, respectively, is in the words "Local Extent" on page 383, ante.
See also foot-note under "Local Extent" on page 383, ante.
The words "rents and duties payable in respect of s. 2(1) of the Bengal Cess Act, 1885" within square brackets were inserted by s. 9(c), *ibid.*
This definition is in force in this form in Eastern Bengal.
The words and subjects of the same rules as to which the words were omitted by s. 9(d), *ibid.* See also foot-note under "Local Extent" on page 383, ante.

of 1880.]

Section.

(Part II.—Mode of Assessment.—Chapter IV.—Valuation

98. Dues under the Act to be levied as public demand.

99. Collector may recover dues out of fell. Recoveries of Cess in respect thereof.—Sections 65-67.)

Collector's claim to have priority.

100. Board of Revenue may invest any person with Collector's powers, whenever any occupier of land which is held rent-free by the owner thereof shall have paid any sum as cess due in respect of such land

Occupier may deduct cess paid from rent.

101. Collector may delegate powers to any holder of an estate or tenure to whom such cess is payable, such

102. Appeals against valuation. Occupier may be entitled to deduct the sum so paid by him from the rent

103. Return for any payable cess to be made by the owner of such land, until such sum

104. Is fully adjusted to Commissioner.

105. (Western Bengal) Revision of orders by Collector, and control and supervision by

66. Notwithstanding anything in this chapter contained, the Collector

Notice to be served on holder of rent-free land requiring him to lodge return.

Commissioner and Board may at any time cause a notice as mentioned in section 16 to be served on

(Eastern Bengal) Collector's proceedings subject to supervision of Commissioner

the holder of any rent-free land which he shall consider not to have been

106. Board may make rules entered in the return of any estate or tenure in which such land ought to

107. All rights in immovable property saved unless affected by this Act. Such notice shall require the holder of such land to lodge at the office

of the said Collector a return in the form in Schedule A contained in respect

CHAPTER VIIA.

Valuation and revaluation of lands in a district or part of a district in respect of which a record of rights has been finally published, and payment of cess on such lands.

107A. Application of chapter. Same liabilities shall attach to the holder of such land as would have ensued

107B. Definitions. and would have attached if such lands had constituted a revenue-free

107C. Cess-paying and cess-free lands. estate.

107D. Determination of cess-free lands. If the Collector has reason to believe that any land in respect of which

107E. Determination of cess-free and cess-paying lands. he determines to serve such notice has been included in the return of any

107F. Preliminary publication of division of district into units, acreage rate and classes of

estate or tenure, and shall alter such return as may be requisite, and shall

107G. Appeal to and revision by a revenue authority and final publication of division of

district, acreage rate and classes of cess-free lands.

107H. Rates. 67. At the commencement of this Act no notice has

107I. Preparation and publication in section 66 on this holder of any rent-free land, and

If no notice served, such holder may notify omission to Collector.

107J. Power to bind holder to lodge a return in the office of the Collector and if such

land has not been included in any extracts from the returns of estates and

107K. Copies of or extracts from valuation-roll to be available on payment of fee. tenures published by the Collector under section 52 or other similar

107L. Correction of mistakes in valuation-roll. section, the holder of such rent-free land shall be bound within one month

107M. Payment of cess. of the expiration of such year to give information of such omission to the

107N. Power to Collector when a return is made, to enquire into the area of each village, and

107O. The amount of rent payable in respect of such land from the date from which cess shall take

effect. Provided that no holder of rent-free land who at any time after the

107P. Particulars of cess to be specified in his own motion and otherwise

107Q. Alteration of cess if any amount by the Collector in respect of his lands gives

107R. Rule. information to the Collector shall be liable to prosecution for omitting

107S. Application of such information within the prescribed time. to give such information within the provisions of this chapter.

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Sections 68-71.)

Collector thereupon may require such holder to make return.

68. On receipt of such information, whether within the time prescribed or after the expiration thereof, the Collector may, by an order in writing, require such owner or holder to make a return of his land in the form in Schedule A contained, or, if the gross rental of such land does not exceed one hundred rupees, may order that such land shall be summarily valued under section 27 or section 28, and may proceed to make such valuation.

Order to have effect of notice.

69. Every order made by a Collector under the last preceding section shall have the same effect and be followed by the same consequences as the issue of a notice by the Collector under section 66.

Liability of such holder to pay arrears of cesses.

70. As soon as any rent-free land which had not previously been included in the valuation of any estate or tenure, has been valued by the Collector after the issue of a notice as provided in section 66, or after an order made under section 68, the holder of such land shall become liable to pay to the Collector the road cess and the public works cess due on such land, in accordance with such valuation, for the three years last preceding such valuation, at the full rates at which such cesses were respectively levied for each such year in the district generally, together with interest calculated at '[six and a quarter] *per centum per annum* on each instalment from the date on which such instalment would have been payable if such valuation had been in force.

Such holder is not liable to pay cesses except to Collector or his Deputy.

71. No owner or holder of rent-free land on whom a notice has been served by the Collector under section 66, or in respect of whose land, an order has been made by the Collector under section 68, shall be liable to have the land to which such notice or order refers included in any return of an estate or tenure, or to pay any amount as road cess or public works cess otherwise than to the Collector or to some person appointed by him in that behalf, unless, on a re-valuation of any estate or tenure being made, the Collector shall by an order in writing direct that for the future such land shall be included within such estate or tenure for the purposes of this Act;

and, upon such order being made, the provisions of this chapter, in so far as they are applicable, shall apply to the assessment and payment of road cess and public works cess in respect of such land.

¹See foot-note 1 on page 405, *ante*.

of 1880.]

(Part II.—Mode of Assessment.—Chapter V.—Valuation, Assessment and Levy of Cesses on Mines, Railways and other Immovable Property.—Sections 72, 72A.)

CHAPTER V.

Valuation, Assessment and Levy of Cesses on Mines, Railways and other Immovable Property.

72. On the commencement of this Act in any district and thereafter before the close of each year, the Collector of the district shall cause a notice to be served upon the owner, chief agent, manager or occupier of every mine, quarry, tramway, railway and other immovable property not included within the provisions of Chapter II * * * ; such notice shall be ²[(in the case of all mines and quarries,) in Form No. I in Schedule E contained and in any other case, in Form No. II in the said Schedule contained.] and shall require such owner, chief agent, manager or occupier to lodge in the office of such Collector within two months a return ³[(in the case of all mines and quarries, of the annual despatches from such mines and quarries,) and in the case of any other property, of the annual net profits of such other property,] calculated on the average * * * * * for the last three years for which accounts have been made up.

Notice to return profits.

Such Collector may in his discretion extend the time allowed for lodging such return.

⁴72A. (1) Any owner, chief agent, manager or occupier who, without sufficient cause being shown to the satisfaction of the Collector, refuses or omits to lodge the required return in the office of the Collector within two months from the date of the service upon him of a notice under section 72, or within any extended time which may have been allowed

Penalty for omitting to lodge a return.

¹The words and figure "and not being one of the tramways or railways mentioned in section 8" were repealed by s. 3 and the Second Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

²The words "in the case of coal mines, in Form No. I in Schedule E contained and in any other case, in Form No. II in the said Schedule contained" were originally substituted for the words "in the Form in Schedule E contained" by s. 4(1) of the West Bengal Cess (Amendment) Act, 1964 (West Ben. Act XXIII of 1964) and thereafter, the words within the first brackets were substituted for the words "in the case of coal mines," by s. 4(a) of the West Bengal Cess (Amendment) Act, 1984 (West Ben. Act XXXII of 1984).

³The words "in the case of a coal mine, of the annual despatches from such coal mine, and in the case of any other property, of the annual net profits of such other property," were substituted for the words "of the net annual profits of such property" by s. 4(2) of the West Bengal Cess (Amendment) Act, 1964 (West Ben. Act XXIII of 1964) and thereafter the words within the first brackets were substituted for the words "in the case of a coal mine, of the annual despatches from such coal mine," by s. 4(b) of the West Bengal Cess (Amendment) Act, 1984 (West Ben. Act XXXII of 1984).

⁴The words "of the annual net profits thereof" were omitted by s. 4(3) of the West Bengal Cess (Amendment) Act, 1964 (West Ben. Act XXIII of 1964).

⁵Section 72A was inserted, for Western Bengal, by s. 15 of the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910).

(Part II.—Mode of Assessment.—Chapter V.—Valuation, Assessment and Levy of Cesses on Mines, Railways and other Immovable Property.—Sections 73, 74.)

by the Collector for lodging such return, shall be liable to a fine which may extend to fifty rupees for every day after expiration of such time or extended time until such return is furnished, or until ¹[the annual despatches or the annual net profits, as the case may be, in respect of the property] in respect of which the notice has been served shall have been otherwise ascertained and determined by the Collector as hereinafter provided.

(2) The amount of such fine accruing due from time to time may be levied by the Collector as provided in section 98 or section 99, and the fact of an appeal against such fine being pending shall not avail to prevent the levy of any such fine pending the disposal of the appeal, unless the Commissioner otherwise directs.

(3) Whenever the amount levied in respect of any such fine exceeds five hundred rupees the Collector shall report the case specially to the Commissioner; and no further levy for such default shall be made otherwise than by authority of the Commissioner.

When property lies in different districts.

73. Whenever any property assessable under this chapter lies in two or more districts, the notice to furnish a return under section 72 shall be served on the owner, chief agent, manager or occupier of such property by or through the Collector of the district in which such owner, chief agent, manager or occupier may reside or have his chief place of business, and one return for the whole of such property shall suffice.

When property is partly in and partly outside the State.

²74. Whenever any property assessable under this chapter lies partly within and partly outside the ³[State], the return furnished as required by section 72 shall state the ⁴(total annual despatches or the total annual net profits, as the case may be, calculated as aforesaid, in respect of the whole of such property and also the portion of such annual despatches or annual profits, as the case may be, which may reasonably be calculated to relate to the portion of such property situated within the ⁵[State]).

¹The words within square brackets were substituted for the words "the annual net profits of the property" by s. 5 of the West Bengal Cess (Amendment) Act, 1964 (West Ben. Act XXIII of 1964).

²This section shall stand unmodified. Vide para. 3 and Sch. IV of the Government of India (Adaptation of Laws) Order, 1937.

³The word "Province" was originally substituted for the words "territories administered by the Lieutenant-Governor of Bengal" by Article 3(1) and the Sch. of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948, and thereafter the word "State" was substituted for the word "Province" by paragraph 4(1) of the Adaptation of Laws Order, 1950.

⁴The words within the first brackets were substituted for the words "total annual net profits calculated as aforesaid accruing from such property, and also the proportion of such profits which may reasonably be calculated to accrue in the State" by s. 6 of the West Bengal Cess (Amendment) Act, 1964 (West Ben. Act XXIII of 1964).

of 1880.]

(Part II.—Mode of Assessment.—Chapter V.—Valuation, Assessment and Levy of Cesses on Mines, Railways and other Immovable Property.—Sections 75-78.)

75. If such return be not furnished within the period of two months from the date on which such notice was served, or within any extended time allowed by the Collector of the district, or if such Collector shall deem that any return made in pursuance of such notice is untrue or incorrect, such Collector shall proceed to ascertain and determine by such ways or means as to him shall seem expedient ¹[the annual despatches or the annual net profits, as the case may be, calculated as aforesaid in respect of such property.]

If return not furnished or incorrect, Collector to make valuation.

²76. If such Collector is unable to ascertain the annual despatches or the annual net profits, as the case may be, calculated as aforesaid, in respect of any property assessable under this Chapter, he may, by such ways or means as to him shall seem expedient—

Valuation where compilation of average not possible.

- (a) ³[in the case of all coal mines and quarries], ascertain and determine the annual despatches therefrom to the best of his judgment having regard to all the circumstances of the case, and
- (b) in the case of any other property, ascertain and determine the value of such other property and determine six *per centum* on such value to be the annual net profits of such other property.

77. The expenses incurred in making any valuation under section 75 or section 76 may be recovered together with all costs of the recovery thereof as provided in section 98 from the person who was bound to make such return or who made the incorrect return.

Cost of valuation from whom to be recovered.

78. So soon as such Collector shall have ascertained and determined ⁴[the annual despatches or the annual net profit, as the case may be, in respect of] any such property, he shall cause to be served upon the owner, chief agent, manager or occupier of such property a notice informing him of ⁵[the quantity of the annual despatches or] the amount of the annual net profits so ascertained and determined by him.

Notice of valuation.

¹The words within square brackets were substituted for the words "the annual net profits of such property calculated as aforesaid" by s. 7 of the West Bengal Cess (Amendment) Act, 1964 (West Ben. Act XXIII of 1964).

²Section 76 was substituted for the original by s. 8, *ibid*.

³The words within the square brackets were substituted for the words "in the case of a coal mine" by s. 5 of the West Bengal Cess (Amendment) Act, 1984 (West Ben. Act XXXII of 1984).

⁴The words within the square brackets were substituted for the words "the annual net profits as aforesaid of" by s. 9(1) of the West Bengal Cess (Amendment) Act, 1964 (West Ben. Act XXIII of 1964).

⁵The words within the square brackets were inserted by s. 9(2), *ibid*

(Part II.—Mode of Assessment.—Chapter V.—Valuation, Assessment and Levy of Cesses on Mines, Railways and other Immovable Property.—Section 79.)

Valuations under this chapter to be annual.

79. New valuations under this chapter shall be made by the Collector of the district every year, and such Collector may for that purpose cause such notices to be issued and served; and such returns to be made, and shall have such powers and authorities as are in this Part mentioned and conferred:

Declaration of annual net profits by owner for five years.

Provided that whenever any return made under section 72 ¹[in respect of any property assessable under this Chapter] shall be accepted by the Collector for any year, the owner, chief agent, manager or occupier of such property may, if he sees fit, declare in writing at the time of such acceptance that ²[the annual despatches or the annual net profits, as the case may be,] set forth in such return may, for the purposes of this Act, be deemed to be ³[the annual despatches or the annual net profits, as the case may be,] for each of the five years then next ensuing;

Effect of acceptance by Collector of declaration.

and, if the Collector of the district shall agree to accept such declaration, no new valuation shall be made of such property until the said five years shall have expired:

⁴Provided further that if the Collector is satisfied that though ⁴[despatches issued or] net profits accrued, from any property assessable under this chapter, in any previous years no cess was paid in respect thereof the Collector shall proceed to ascertain and determine by such ways or means as to him shall seem expedient ⁵[the annual despatches or the annual net profits, as the case may be, in respect of such property] for each such year during a period not exceeding the last preceding three years, and road cess and public works cess shall be payable in respect thereof at the rate determined for each such year, respectively, and the Collector shall add the amount of such cess to the amount shown in the notice to be served under section 80 and such cess shall be payable in two equal instalments as provided in section 80.

¹The words within the square brackets were inserted by s. 10(1)(a) of the West Bengal Cess (Amendment) Act, 1964 (West Ben. Act XXIII of 1964).

²The words within the square brackets were substituted for the words "the annual net profits" by s. 10(1)(b), *ibid.*

³This proviso was added by s. 10 of the Bengal Cess (Amendment) Act, 1934 (Ben. Act XI of 1934).

⁴The words within the square brackets were inserted by s. 10(2)(a) of the West Bengal Cess (Amendment) Act, 1964 (West Ben. Act XXIII of 1964).

⁵The words within the square brackets were substituted for the words "the net profits of such property" by s. 10(2)(b), *ibid.*

of 1880.]

(Part II.—Mode of Assessment.—Chapter V.—Valuation, Assessment and Levy of Cesses on Mines, Railways and other Immovable Property.—Sections 80-82.)

80. When the rate of road cess and public works cess to be levied in the district upon property assessable under this chapter shall have been determined for any year as in this Act provided, the Collector of the district shall cause to be served on the owner, chief agent, manager or occupier of every such property a notice showing the amount of road cess and public works cess respectively payable in respect of such property, and specifying the date from which such cesses shall take effect. Such amount shall be payable by such owner, chief agent, manager or occupier to such Collector in two equal instalments within a period of sixty days from the date of service of the notice as aforesaid.

Notice of rate of cess and date of payments.

81. In any case in which the occupier of such property is a different person from the owner, and has paid in excess of half of the sum due as road cess and public works cess on account of any instalment, such occupier shall be entitled to deduct the amount of such excess from the next and subsequent instalments of rent payable in respect of such property; and every owner who has paid in excess of half of such sum due shall be entitled to recover the amount of such excess from the occupier:

Recovery by occupier or owner who has paid in excess.

Provided that in no case shall an occupier deduct from his annual rent more than half of the rate of the road cess and public works cess on every rupee thereof.

82. The total of the cesses payable in respect of property assessable under this chapter owned or occupied by the same person in two or more districts shall be payable to the Collector of the district where the owner, chief agent, manager or occupier may reside or have his chief place of business, and shall be by him transmitted to the Collectors of other districts in the proportion in which the ²[District Road Funds] of such districts shall be severally entitled thereto, as provided in the section next following.

How distributed when property in different districts.

¹Section 80 was substituted for the original by s. 2 of the West Bengal Cess (Amendment) Act, 1981 (West Ben. Act XXXV of 1981).

²These words were substituted for the word "Committees," by s. 2 of the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885).

(Part II.—Mode of Assessment.—Chapter V.—Valuation, Assessment and Levy of Cesses on Mines, Railways and other Immovable Property.—Sections 83, 84.)

Determina-
tion of
proportion
of profits
when
property in
different
districts.

83. Whenever any property assessable under this chapter lies in two or more districts, the ¹[Board of Revenue] shall from time to time determine, out of ²[the total annual despatches or the total annual net profits, as the case may be,] stated in the return, or in the valuation of ³[such despatches issuing from, or such profits accruing in, the territories] ⁴[within its jurisdiction], and ascertained in any manner as aforesaid, the proportions in which such property shall be assessed in each of the said districts respectively, and the proportion of the road cess due thereon which shall be assigned to the ⁵[District Road Fund] of each district concerned.

Service of
notices
under this
chapter.

84. Every notice under this chapter may be served—

- (a) by leaving it at the registered office (if any) of such owner, chief agent, manager or occupier aforesaid;
- (b) by sending it by post in a letter addressed to such owner, chief agent, manager or occupier at his office, or, if he have more offices than one, at his principal office;
- (c) by giving it to such owner, chief agent, manager or occupier.

¹See foot-note 3 on page 390, *ante*.

²The words within the square brackets were substituted for the words "the total annual net profits" by s. 11(1) of the West Bengal Cess (Amendment) Act, 1964 (West Ben. Act XXIII of 1964).

³The words within the square brackets were substituted for the words "such profits accruing in the territories" by s. 11(2), *ibid*.

⁴These words were substituted for the words "subject to him", by the Bengal Decentralization Act, 1915 (Ben. Act V of 1915).

⁵These words were substituted for the word "Committee" by s. 2 of the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885).

of 1880.]

(Part II.—Mode of Assessment.—Chapter VI.—Special Provisions for
[Orissa and] Midnapore.—Sections 85-87.)

CHAPTER VI.

Special Provisions for [Orissa and] Midnapore.

85. [In any district of the ¹[State] of Orissa and] in the district of Midnapore, the Collector may at any time, with the sanction of the Commissioner, order that any revenue-free estate not exceeding five hundred standard *bighas* in extent, of which the valuation shall have been completed, shall, for the purpose of payment and levy of the cesses due in respect thereof, be annexed to any other estate within the ambit of which it is situate or which it adjoins.

Collectors in [Orissa and] Midnapore may order certain revenue-free estates to be annexed to other estates for purposes of payment of cess.

86. Notice of such order shall be given by the Collector to the holder of the estate to which such revenue-free estate is ordered to be so annexed, and to such notice shall be appended a copy of the valuation-roll of the said revenue-free estate, and thereupon such holder shall be liable to pay annually to the Collector, on account of such revenue-free estate, road cess and public works cess at one-half of the rates which may be fixed under this Act for the levy of the said cesses respectively in the district generally for each year.

Notice to be given to holder of estate to which such revenue-free estate is annexed.

87. Notice of such order shall also be given by the Collector to the holder of the said revenue-free estate, and such notice shall require him to pay annually, and he shall thereupon be bound to pay to the holder of such other estate road cess and public works cess at the full rates which may be fixed under this Act for the levy of the said cesses respectively in the district generally for each year.

Notice to be given to holder of revenue-free estate.

¹This word was substituted for the word "Province" by paragraph 4(1) of the Adaptation of Laws Order, 1950.

(Part II.—Mode of Assessment.—Chapter VI.—Special Provisions for [Orissa and] Midnapore.—Sections 88-90.—Chapter VII.—Miscellaneous.—Section 91.)

Cesses payable by holder of revenue-free estate in such instalments as Board of Revenue may direct.

88. Such cesses shall be so payable by the holder of the said revenue-free estates in two equal instalments, on such dates as may be fixed by the ¹[Board of Revenue] under section 42 for the payment of cess by the holders of revenue-free estates, or in such other instalments and on such other dates as the ¹[Board of Revenue] may direct, or, if the ¹[Board of Revenue] shall so order, the whole amount so payable on account of such cesses for each year shall be payable in a single sum on any such date as the ¹[Board of Revenue] may appoint.

In default of payment as hereby required, the provisions of section 47 shall be applicable.

Notices to be served.

89. Whenever the service of a notice on the holder of a revenue-free estate is required by the provisions of section 40, the Collector shall cause such notice to be served, notwithstanding that the revenue-free estate may have been annexed to another estate as hereinbefore provided;

and the Collector shall further cause a notice containing the same particulars to be served in respect of such revenue-free estate on the holder of the other estate to which it is under the provisions of section 85 annexed.

Collector may revoke orders passed under section 85.

90. The Collector may at any time, with the sanction of the Commissioner, revoke any order passed under section 85, and shall give notice of such revocation both to the holder of the revenue-free estate affected and to the holder of the other estate to which such revenue-free estate was annexed.

CHAPTER VII.

Miscellaneous.

Collector may appoint certain establishments.

91. The Collector, with the sanction of the Board of Revenue, may appoint such establishments as may be required for making valuations and re-valuations under this Act, for making collections, recovering arrears, keeping accounts connected therewith, and generally for all purposes connected with such valuations, re-valuations, collections and

¹See foot-note 3 on page 390, *ante*.

of 1880.]

(Part II.—Mode of Assessment.—Chapter VII.—Miscellaneous.—
Sections 91A-94.)

recoveries, and other purposes of this Act, and may incur such other expenses as are requisite for such purposes;

and the payment of such establishments and other charges on bills signed by the Collector shall be the first charge on the District Road Fund.

91A. The Collector may, with the sanction of the Commissioner, pay to any person appointed by him to collect the road cess and public works cess such percentage of the total amount collected by such person as to him may seem fit.

Payment of commission to tahsildars.

92. For the purpose of making any valuation of lands directed by this Part, the Collector shall exercise the powers vested in Collectors by clause I of Section 23 and clause I of section 24 of Regulation VII of 1822¹, except so far as the said clauses authorize any inquiry into rights or interests attaching to such lands.

Powers of Collector making valuation.

93. Every valuation under this Part shall be open to revision by the Commissioner or Board of Revenue, and not otherwise.

Commissioner or Board may revise valuation.

False returns.

94. Any person who is bound to make any return under this Part shall be deemed to be legally bound to give notice and to furnish information to a public servant in respect of the same.

94. Any person who is bound to make any return under this Part shall be deemed to be legally bound to give notice and to furnish information to a public servant in respect of the same.

False returns.

If the Collector shall see ground for believing that any return made is false, he may prosecute the maker accordingly.

If the Collector shall see ground for believing that any return made is false, he may prosecute the maker accordingly.

¹Section 91A was inserted, for Western Bengal by s. 16 of the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910).

²The Bengal Land-revenue Settlement Regulation, 1822.

³Section 94 is in force in this form in Western Bengal.

⁴Section 94 is in force in this form in Eastern Bengal.

The difference in the section as in force in Western Bengal and in Eastern Bengal, respectively, lies in the words printed in italics.

(Part II.—Mode of Assessment.—Chapter VII.—Miscellaneous.—
Sections 95-97.)

* * * * *

And, if the person so prosecuted is convicted, the Collector may proceed to make a valuation of the lands mentioned in such return, by such ways and means as to him shall seem expedient.

Returns evidence against the maker only.

95. Every return filed by or on behalf of any person in pursuance of the provisions of this Part shall bear the signature and address of such person, or his authorized agent, and shall be admissible in evidence against such person, but shall not be admissible in his favour.

Service of notices under this Part.

96. Every notice under this Part required to be served, except as otherwise expressly provided, may be served—

- (1) by delivering the same to the person to whom it is directed, or, on failure of such service, by posting the same on some conspicuous part of the house in which the said person resides, or by delivering the said notice to any agent authorized to appear generally for the person to whom such notice is directed; or
- (2) by sending a registered letter containing such notice directed to the said person at his usual place of abode or to the place where he may be known to reside; or
- (3) by posting a copy of the notice at the *mal-cutcherry* of the estate or tenure to which the notice relates, or, if no such *mal-cutcherry* be found, on some conspicuous place on such estate or tenure: and, in the case of estates paying their annual revenue by four instalments, by delivering another copy thereof to the agent who shall have paid an instalment of revenue next after the preparation of such notice. In all cases where two or more persons are holders of an estate or tenure, service of notice under this clause shall be deemed to be good and sufficient service on each and all of such persons.

Costs of service.

97. The costs of service of every notice and process by this Act required to be served shall in the first instance be defrayed from the District Road Fund, and, subject to such rules as may be made by the Board of Revenue under section 106, shall be recoverable either from the person to whom such notice or process is addressed, or from the person owing to whose default such notice or process is issued, as the

¹The words in italics printed opposite were repealed, in Western Bengal, by s. 17 of the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910), and are omitted.

of 1880.]

(Part II.—Mode of Assessment.—Chapter VII.—Miscellaneous.—
Sections 98, 99.)

Collector may think fit; and every such amount shall be deemed to be due to the Collector, but when levied by the Collector shall be credited to the District Road Fund:

Provided that no costs or other expenses whatever shall be recovered from any person in respect of the publication or issue of any proclamation or notice calling for any return or giving intimation of any amount payable by any person as cess under this Act other than notices of demand to pay any amount of cess which has become due.

No costs to be recovered for certain notices.

98. Every amount due, or which may become due, to any Collector under the provisions of this Act in respect of any arrears of cess, of any expenses incurred, of any fee or costs payable, of any notices served, of any fines imposed, or on any other account, may be realized by such Collector by any process provided by any law for the time being in force for the realization of public demands; and shall be deemed to be a public demand under such law:

Dues under the Act to be levied as public demand.

Provided that the [District Road Fund] shall indemnify the Collector of the district for all expenses incurred, and for all costs and damages for which such Collector may become liable (whether in connection with suits before the Civil Courts or otherwise) in respect of any proceedings for the recovery of any such dues as aforesaid.

99. Instead of proceeding as provided by the last preceding section for the recovery of any sum due under this Act, or if after so proceeding the Collector shall have failed to find property belonging to the person from whom any such sum is due, by the sale of which such sum may be recovered, the Collector may, if he sees fit, after recording his opinion to that effect, cause a notification in form in Schedule F contained to be issued for the estate or tenure in respect of which any such amount is due.

Collector may recover dues out of rent.

Such notification shall be published by beat of drum in every village containing any land to which such notification relates, and a copy thereof shall be posted in a conspicuous place in every such village and at the *mal-cutcherry* of the estate or tenure to which such notification relates, if such *cutcherry* be found.

Every payment of rent, save and except to the Collector or some person by him thereunto appointed, made after such publication, until further order from the Collector, shall be null and void;

and the Collector may recover by any process of law for the time being in force, by which he might recover rent due to the Government from a tenant in an estate which is managed directly by the Collector,

¹These words were substituted for the words "District Road Committee" by s. 2 of the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885).

(Part II.—Mode of Assessment.—Chapter VII.—Miscellaneous.—
Sections 100-102.)

the rent then or thereafter to become due from any occupier, tenure-holder, under-tenant or *raiyat* on the estate or tenure in respect of which the notification has been issued, until the amount due to the Collector together with all costs shall be satisfied, whereupon the said notification shall be revoked.

The receipt of the Collector in respect of all sums paid to him as rent or so recovered shall be, to the extent of such sums, a valid discharge in respect of rent due by the occupier, tenure-holder, under-tenant or *raiyat* to whom such receipt is given.

Collector's claim to have priority.

In case the Collector shall see fit so to proceed, the claim for arrears of road cess and public works cess due from any estate or tenure in respect of which a notification has been issued as above provided shall have priority over any other demand or claim or lien existing thereupon other than the demand of Government revenue.

Board of Revenue may invest any person with Collector's powers.

100. The ¹[Board of Revenue] may at any time invest any person with the powers of a Collector under this Part to be exercised by such person under the control or supervision of the Collector, or independently of such control and supervision, as the ¹[Board of Revenue] shall direct.

Collector may delegate powers.

101. The Collector may ^{2*} * * * delegate all or any of his powers and functions under this Part to be exercised, under the control and supervision of the Collector, by any Deputy Collector, Assistant Collector, Sub-Deputy Collector or other officer of like rank:

Provided that every order passed by such Deputy Collector, Assistant Collector, Sub-Deputy Collector or other officer shall be appealable to the Collector within fifteen days of such order being passed.

Appeals against valuation.

102. Every person who shall deem himself to be aggrieved by any valuation made by a Collector under the provisions of section 75 or 76 may, within one month after the issue of the notice mentioned in section 78,

and ^{3*} * * * every person who shall deem himself to be aggrieved by any valuation made by the Collector under the provisions of any other section of this Part,

may, within one month after the posting up of a copy of the valuation-roll as mentioned in section 35,
prefer his objections to the Collector;

¹See foot-note 3 on page 390, *ante*.

²The words "with the sanction of the Commissioner" were omitted, by the Bengal Decentralisation Act, 1915 (Ben. Act V of 1915).

³The words "subject to anything contained in Chapter II A," were repealed in Western Bengal by s. 3 and the Second Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

of 1880.]

(Part II.—Mode of Assessment.—Chapter VII.—Miscellaneous.—
Sections 103-105.)

and, if such objections, or any of them, are disallowed, may, within one month of such disallowance, appeal to the Commissioner against such valuation, and the decision of the Commissioner shall be final.

103. Every order for the levy of a fine or of expenses passed by a Collector under this Act shall be appealable to the Commissioner within one month from the service of the first process for the levy of such fine or expenses. Except as otherwise provided in section 18, pending such appeal, and until the order of the Commissioner, which shall be final, all process for such levy shall be discontinued.

Orders for
levy of fine
appealable.

104. Every order passed by the Collector under sections 19, 20, 26, 46(2), 50, 51, 53, 85, 98 or 99 shall be appealable to the Commissioner within one month from the date of such order.

Orders
appealable
to Com-
missioner.

²105. Notwithstanding any-
thing hereinbefore contained,—

¹105. Notwithstanding any-
thing hereinbefore contained,—

Collector's
proceed-
ings
subject to
supervision
of Com-
missioner
and Board.

(a) *the Collector may at any time revise any order made under this Part by himself or by any officer subordinate to him, unless an appeal against such order has been preferred, and*

(b) all proceedings of the Collector or of any officer of a lower grade under this Part shall be subject to the general control and supervision of the Commissioner and of the Board of Revenue, and all proceedings of the Commissioner *under this Part* shall be subject to the general control and supervision of the Board of Revenue.

all proceedings of the Collector or of any officer of a lower grade under this Part shall be subject to the general control and supervision of the Commissioner and of the Board of Revenue, and all *such* proceedings of the Commissioner shall be subject to the general control and supervision of the Board of Revenue.

¹These figures "46(2)," were inserted for Western Bengal, by s. 19 of the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910) and for Eastern Bengal by s. 2 and the First Sch. of the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

²Section 105 is in force in this form in Western Bengal, having been substituted by s. 20 of the Bengal Cess (Amendment) Act, 1910 (Ben. Act IV of 1910). For the section printed opposite to it.

The differences in section 105 as in force in Western Bengal and in Eastern Bengal, respectively, lie in the matter printed in italics.

³Section 105 is in force in this form in Eastern Bengal.

Revision of
orders by
Collector,
and control
and super-
vision by
Commis-
sioner
and Board.

(Part II.—Mode of Assessment.—Chapter VII.—Miscellaneous.—
Sections 106, 107.)

Board may
make rules.

106. The Board of Revenue may, [subject to the provisions of section 107-R,] from time to time make, and, when made, from time to time alter, add to or cancel, any rules—

- (a) prescribing forms for the notices, returns and valuation-rolls required by this Part to be issued or made;
- (b) prescribing the amounts which shall be levied in respect of the issue of each notice and process under this Part, and regulating the recovery thereof under section 97;
- (c) prescribing the amount of copying fee to be levied in respect of supplying extracts and copies of returns and valuation-rolls as provided in section 34;
- (d) apportioning the amount of the cesses for the payment of which the respective holders of the several shares of an estate in respect of which separate accounts are kept shall be primarily liable under section 44;
- (e) regulating the opening, keeping and closing of separate accounts in respect of amounts of cess payable by recorded shareholders in revenue-free estates as provided in section 46;
- (f) regulating the proceedings of the Collectors under Chapter V;

and otherwise providing for the proper execution of this Act in respect of valuations of the assessment and of the levy of the cesses and other sums due under the same.

All rights in
immovable
property
saved
unless
affected by
this Act.

107. Nothing in this Part contained, and nothing done in accordance with this Act, shall be deemed to affect the rights of any person in respect of any immovable property or of any interest therein except as otherwise expressly provided in this Act.

¹These words, brackets, figures and letter were inserted by s. 11 of the Bengal Cess (Amendment) Act, 1934 (Ben. Act XI of 1934).

of 1880.]

(Part II.—Mode of Assessment.—Chapter VIIA.—Valuation and revaluation of lands in a district or part of a district in respect of which a record-of-rights has been finally published and payment of cess on such lands.—Section 107A.)

CHAPTER VIIA.

Valuation and revaluation of lands in a district or part of a district in respect of which a record-of-rights has been finally published and payment of cess on such lands.

- 107A.** (1) Notwithstanding anything contained in this Act—
- (a) the valuation or revaluation of lands in a district included in Schedule G or in a part of such district shall be made in accordance with the provisions of this chapter:

Applica-
tion of
chapter.

²Provided that if at any stage of the operations regarding valuation or revaluation of lands under this chapter, the ³[State] Government is of opinion that the valuation or revaluation of such lands should be made in accordance with the provisions laid down in Chapters II, III and IV, the ³[State] Government shall, by notification in the *Official Gazette*, make an order to that effect, and on the publication of such notification,—

- (i) the valuation or revaluation of lands in respect of which such notification is in force shall be made in accordance with the provisions of Chapters II, III and IV;
- (ii) the valuation or revaluation of such lands made under this chapter shall have no effect; and
- (iii) the holders of estates or tenures or the owners, holders or occupiers of rent-free interest who have filed returns under section 107J shall not be again called upon to file returns under Chapter II or Chapter IV for the purposes of valuation or revaluation under Chapters II, III and IV, and the returns filed under section 107J shall be treated as returns filed under Chapter II or Chapter IV, as the case may be;
- (b) every holder of an estate, other than ⁴[the Government], and every holder of a tenure or other interest in land in a district or part of district in respect of which such valuation or

¹Chapter VIIA (Sections 107-A to 107-S) were inserted by s. 12 of the Bengal Cess (Amendment) Act, 1934 (Ben. Act XI of 1934).

²This proviso to clause (a) was added by s. 2 and the First Schedule to the West Bengal Laws (Amendment and Repeal) Act, 1947 (West Bengal Act XII of 1947).

³This word was substituted for the word "Provincial" by paragraph 4(1) of the Adaptation of Laws Order, 1950.

⁴The words "the Crown" were originally substituted for the word "Government" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "Government" was substituted for the word "Crown" by paragraph 4(1) of the Adaptation of Laws Order, 1950.

(Part II.—Mode of Assessment.—Chapter VIIA.—Valuation and revaluation of lands in a district or part of a district in respect of which a record-of-rights has been finally published and payment of cess on such lands.—Section 107B.)

revaluation shall have been made shall be bound to pay cess in accordance with the provisions of this chapter from the date fixed by the Board of Revenue as the date from which such valuation or revaluation shall take effect:

Provided that no such valuation or revaluation shall take effect before the expiration of the period of five years from the date from which the last preceding valuation, if any, took effect:

¹Provided further that where a notification has been issued under the proviso to clause (a) for the valuation or revaluation of any lands in accordance with the provisions of Chapter II, III and IV, the cess in respect of such lands shall, when such valuation or revaluation shall have been made, be paid in accordance with the provisions of Chapter III or Chapter IV, as the case may be, from the date fixed by the Board of Revenue as the date from which the valuation or revaluation so made shall take effect.

(2) The ²[State Government] may, from time to time, by notification in the ³[Official Gazette] include in Schedule G any district in respect of the whole or any part of which a record-of-rights has been finally published under Chapter X of the Bengal Tenancy Act, 1885, ⁴[or may, by like notification with effect from such date as may be specified in the notification, exclude from the said schedule any district for the time being included therein].

VIII of 1885.

⁵(3) The reference in sub-section (1) to Schedule G shall be construed as a reference to such schedule as for the time being amended under sub-section (2).

Definitions.

⁶107B. In this chapter, unless there is anything repugnant in the subject or context,—

(1) "acreage rate" means the rate per acre of land determined in accordance with the provisions of this chapter;

¹This proviso to clause (b) was added by the First Schedule to the West Bengal Laws (Amendment and Repeal) Act, 1947 (West Ben. Act XII of 1947).

²The words "Provincial Government" were originally substituted for the words "Local Government" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "State" was substituted for the word "Provincial" by paragraph 4(1) of the Adaptation of Laws Order, 1950.

³See foot-note 2 on page 384, *ante*.

⁴These words were added by s. 2 and the First Schedule to the West Bengal Laws (Amendment and Repeal) Act, 1947 (West Ben. Act XII of 1947).

⁵This sub-section (3) was added, *ibid*.

⁶See foot-note 1 on page 431, *ante*.

of 1880.]

(Part II.—Mode of Assessment.—Chapter VIIA.—Valuation and revaluation of lands in a district or part of a district in respect of which a record-of-rights has been finally published and payment of cess on such lands.—Section 107B.)

- (2) "annual value of any land" means the sum of money calculated by multiplying the area of the land by the acreage rate applicable to such land;
- (3) "cess" means the road cess and the public works cess;
- (4) "cess-free land" means all land in respect of which, in accordance with the provisions of section 107-C, no cess shall be payable;
- (5) "cess-paying land" means all land other than cess-free land;
- (6) "class of land" means a class of land according to the classification adopted in the last finally published record-of-rights relating to the district or part of a district in which the land is situated;
- (7) (i) except as provided in sub-clause (ii), "Collector" means, in the case of lands which have been or are about to be valued or revalued under this chapter, the officer-in-charge of the revenue administration of the district in which such lands are situated or any officer appointed by the ¹[State Government] to exercise any of the functions of a Collector under this chapter in respect of such lands;
- (ii) in clause (8) in sub-section (1), of section 107-M and in section 170-O "Collector" means, in the case of a revenue-paying estate, the Collector or similar officer on whose revenue-roll the state is borne, and, in the case of a revenue-free estate, the Collector or other similar officer on whose general register of revenue-free lands the estate is borne;
- (8) "estate" means—
 - (1) land included under one entry in the general registers of revenue-paying lands and of revenue-free lands prepared and maintained by the Collector of a district under the Land Registration Act, 1876, or any similar law for the time being in force;
 - (2) any land acquired under any rules issued by, or under authority of, Government for the sale, grant, lease or clearance of waste-lands;
- (9) "farmer of an estate" means the farmer of an estate let to him in farm by ²[any Government];
- (10) "holder of an estate" includes ³[the Government] in the case of estates which are—
 - (a) the property of ³[the Government], or

Ben. Act VII
of 1876.

¹See foot-note 1 on page 384, *ante*.

²These words were substituted for the word "Government" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

³See foot-note 4 on page 431, *ante*.

(Part II.—Mode of Assessment.—Chapter VIIA.—Valuation and revaluation of lands in a district or part of a district in respect of which a record-of-rights has been finally published and payment of cess on such lands.—Section 107C.)

- (b) the property of private persons and are under the direct management of ¹[any Government] or have been let in farm by ¹[any Government];
- (11) "prescribed" means prescribed by rules made under this chapter;
- (12) "rent" means whatever is lawfully payable or deliverable in money or kind by a tenant to his landlord on account of the use or occupation of the land held by the tenant;
- Explanation.*—Where rent is payable in kind the money value thereof shall, for the purposes of this chapter, be taken to be the value of the landlord's share of the crop calculated on an average of the five years next preceding any valuation or revaluation under this chapter;
- (13) "tenure", "raiyyat" and "under-raiyyat" have the same meanings as in the Bengal Tenancy Act, 1885.

VIII of 1885.

Cess-paying and cess-free lands.

²107C. (1) Except as otherwise provided in this section all lands shall be cess-paying.

(2) The following lands shall be cess-free, namely:—

- (a) in areas other than those referred to in clause (b)—
- (i) all lands recorded in the last finally published record-of-rights as belonging to a class included in the statement of classes of cess-free lands published under sub-section (3) of section 107-G;
 - (ii) all lands included in a list of cess-free lands published under sub-section (2) of section 107-I;
- (b) in areas which have been omitted from a record-of-rights, or in which the Collector considers that the classification contained in the last finally published record-of-rights should not be followed owing to extensive changes in the land which have occurred since its preparation—
- (i) all lands which consist of jungle, road, path, river, *khal*, graveyard, cremation-ground, mosque, temple or any other place of public worship, unculturable waste, unculturable marsh and unculturable *bil* so long as they continue to be such;
 - (ii) all lands exempted for the time being from liability to cess by an order of the Collector.

¹See foot-note 2 on page 433, *ante*.

²See foot-note 1 on page 431, *ante*.

of 1880.]

(Part II.—Mode of Assessment.—Chapter VIIA.—Valuation and revaluation of lands in a district or part of a district in respect of which a record-of-rights has been finally published and payment of cess on such lands.—Section 107D.)

(3) Nothing in this chapter shall apply to the following classes of immovable properties, namely:—

- (i) railways and tramways,
- (ii) mines and quarries, and
- (iii) forests:

Provided that the Collector may, at his discretion, decide what land shall be assessable under Chapter V as forests.

¹107D. (1) On receipt of an order under section 12 or section 15 for the valuation or revaluation of a district or part of a district the Collector may divide the district or part thereof into as many suitable units as he considers necessary and shall determine in accordance with such rules as the ²[State Government] may make a fair and uniform acreage rate for the district or part thereof, as the case may be, or, if the district or part thereof has been divided into units, a fair and uniform acreage rate for each unit.

Deter-
mination
of acreage
rate.

(2) Such rate shall not exceed—

- (a) one-fifth of the value of the gross produce per acre of all cess-paying lands in the area for which the rate is being determined estimated on the assumption that the land produces a normal crop of paddy:

Provided that in respect of any district or part of a district the ²[State Government] may, at its discretion, direct that the estimate shall be made without such assumption,

in making the estimate the following matters shall be taken into account, namely:—

- (i) the general productivity of agricultural lands in the area for which the rate is being determined;
- (ii) the prices prevailing during the preceding five years of agricultural produce generally in the district;
- (iii) the total estimated value of all agricultural produce of the district for the preceding five years;

- (b) a rate likely to increase the total cess demand in the district by more than twenty *per centum*.

(3) In determining such rate the Collector shall take amongst others the following matters into consideration:—

- (i) the maximum rate according to his estimate under sub-section (2);

¹See foot-note 1 on page 431, *ante*.

(Part II.—Mode of Assessment.—Chapter VIIA.—Valuation and revaluation of lands in a district or part of a district in respect of which a record-of-rights has been finally published and payment of cess on such lands.—Section 107E.)

- (ii) the amount of the existing demand for road cess and public works cess in the district and the incidence thereof;
- (iii) the rate of rent generally payable by *raiya*t or under-*raiya*t of all grades.

(4) Notwithstanding anything contained in sub-sections (1), (2) and (3), in the case of lands acquired under any rule issued by, or under the authority of, Government for the sale, lease, grant or clearance of waste lands, or held directly from Government, and used for the cultivation of tea, coffee or cinchona, the acreage rate shall be twenty rupees per acre.

Deter-
mination
of cess-free
and cess-
paying lands.

¹107E. (1) The Collector shall, except in the case of an area referred to in clause (b) of sub-section (2) of section 107C, in accordance with such rules as the ²[State Government] may make in this behalf—

- (a) prepare a statement of the classes of lands in the district or part of a district which shall be cess-free and shall include therein any class of lands consisting entirely of jungle, road, path, river, *khal*, graveyard or cremation-ground, mosque, temple or any other place of public worship, and may include therein any other class of land if he considers it to consist entirely of unculturable waste, and
- (b) prepare, in such form as may be prescribed, a list of lands in any village, group of villages or local area, other than lands belonging to any class specified in the statement prepared under clause (a), which shall be cess-free:

Provided that he shall not include any land in the list except on the ground that it is unculturable waste.

(2) In the case of an area referred to in clause (b) of sub-section (2) of section 107C, the Collector shall, after considering the returns, if any, submitted by the holder of the estate or rent-free interest in which any part of such area is included, summarily determine the total area and the annual value of the cess-paying lands in such area which are included in any estate or rent-free interest, and shall prepare the valuation-roll for such estate or rent-free interest accordingly.

¹See foot-note 1 on page 431, *ante*.

of 1880.]

(Part II.—Mode of Assessment.—Chapter VIIA.—Valuation and revaluation of lands in a district or part of a district in respect of which a record-of-rights has been finally published, and payment of cess on such lands.—Sections 107F, 107G.)

¹107F. (1) The Collector shall publish a statement specifying—

- (a) the units, if any, into which he proposes to divide the district or part thereof;
- (b) the acreage rate determined by him for the district or part thereof or for each unit;
- (c) the classes of land which shall be cess-free;

Preliminary publication of division of district into units, acreage rate and classes of cess-free lands.

with an explanation of the grounds for his proposals, in such manner and for such period as may be prescribed, and shall receive and consider any objections received regarding the same during the period of publication, and shall dispose of such objections according to such rules as the ²[State Government] may make.

(2) No such objection shall be considered except in regard to the units into which it is proposed to divide the district or part thereof, the acreage rate which has been determined, and the classes of land which shall be cess-free.

¹107G. (1) An appeal from any order of the Collector disposing of an objection under section 107F shall, if presented within thirty days from the date of the order, lie to the revenue authority appointed by the ²[State Government] in this behalf whose decision thereon shall, subject to the provisions of sub-section (2), be final.

Appeal to and revision by a revenue authority and final publication of division of district, acreage rate and classes of cess-free lands.

(2) The ²[State Government] and, subject to the control of the ²[State Government], the Board of Revenue may revise any estimate made under sub-section (2) of section 107D by any subordinate authority and any decision by any such authority relating to the division of a district or part thereof into units or to any acreage rate or to the classes of land which shall be cess-free.

(3) When the appeals, if any, under sub-section (1) have been disposed of, the Collector shall submit all his proceedings through the Commissioner of the Division and the Board of Revenue to the ²[State Government], and the ²[State Government], after making such modifications, if any,

¹See foot-note 1 on page 431, ante.

²See foot-note 1 on page 384, ante.

(Part II.—Mode of Assessment.—Chapter VIIA.—Valuation and revaluation of lands in a district or part of a district in respect of which a record-of-rights has been finally published, and payment of cess on such lands.—Sections 107H, 107-I.)

as it may think fit, shall finally publish in the ¹[Official Gazette] a statement showing—

- (a) the units, if any, into which the district or part of a district will be divided,
- (b) the classes of land which shall be cess-free, and
- (c) the acreage rate or rates,

and the publication in the ¹[Official Gazette] shall be conclusive evidence that these have been duly determined under this chapter. The ²[State Government] shall forward a copy of the statement to the Collector for publication in the prescribed manner.

Rates at which cess to be levied.

³107H. (1) Notwithstanding anything contained in section 46 of the Bengal Local Self-Government Act of 1885, the ²[State Government] may, after considering the views of the District Board, determine for any district or part of a district the rates at which the road cess and the public works cess, respectively, shall be levied for each year on each rupee of the annual value of cess-paying land, and may from time to time vary such rates after considering the views of the District Board:

Ben. Act III of 1885.

Provided that the rate at which each such cess shall be levied for any one year shall not exceed the rate of one-quarter anna on each rupee of such annual value.

(2) The rates so determined shall be published in the ⁴[Official Gazette] and in the prescribed manner:

Provided that such publication shall not be necessary unless a change has been made in the rates since they were last published in the ¹[Official Gazette].

Preparation and publication of valuation-rolls, statements, and lists of lands.

³107-I. (1) The Collector shall prepare and publish in such form and in such manner as may be prescribed—

- (a) a valuation-roll in respect of every estate showing in addition to any other particulars, the total area and the total annual value respectively of the rent-paying and rent-free lands in the area under valuation other than cess-free lands comprised in the estate, and the land-revenue, if any, payable for the estate or portion of the estate under valuation;

¹See foot-note 2 on page 384, ante.

²See foot-note 1 on page 384, ante.

³See foot-note 1 on page 431, ante.

of 1880.]

(Part II.—Mode of Assessment.—Chapter VIIA.—Valuation and revaluation of lands in a district or part of a district in respect of which a record-of-rights has been finally published, and payment of cess on such lands.—Section 107J.)

- (b) a valuation-roll of every rent-free interest showing in addition to any other particulars the annual value of the cess-paying lands in such interest, and whether the cess is payable to the Collector direct or to the holder of an estate or tenure other than the Collector. In the latter case, the name, number or other description of the estate or tenure within which the land is included shall be stated;
- (c) statements of the annual value of lands comprised in all other interests. The particulars contained in such statements shall be presumed to be correct until the contrary is proved.

Notwithstanding anything contained in any such statement the holder of an estate or tenure shall be entitled to recover from his tenant, and such tenant shall be bound to pay, the cess due on account of the land held or occupied by him according to the provisions of this chapter.

(2) The Collector shall also publish in the prescribed manner the lists of cess-free lands prepared under clause (b) of sub-section (1) of section 107E.

107J. (1) The Collector, may where he thinks fit and in particular in respect of rent-free interests, or where there has been a change since the last finally published record-of-rights in any area was prepared, on the last revaluation made under this chapter, owing to the addition or exclusion of lands by alluvion or diluvion or any other causes, call for returns to be filed by the holders of estates or tenures or the owners, holders or occupiers of rent-free interests in the prescribed form.

Power of Collector to call for returns from owners or holders of estates or other interests.

(2) Where the Collector requires such returns he shall publish a proclamation in the prescribed manner calling upon the holders of estates or tenures or the owners, holders or occupiers of rent-free interests concerned to file returns in the prescribed form and every such holder or occupier shall file, with full and correct information, the returns so called for within the time specified in the proclamation.

Each such return shall show, in addition to any other particulars, the total area, the area, if any, within the limits of a municipality and the particulars of any change in the area of such estate, tenure or interests, a specification of the lands added thereto or excluded therefrom, with an explanation of the reasons for such change, addition or exclusion, and the revenue or rent payable in respect of the estate, tenure or interest.

¹See foot-note 1 on page 431, ante.

(Part II.—Mode of Assessment.—Chapter VIIA.—Valuation and revaluation of lands in a district or part of a district in respect of which a record-of-rights has been finally published, and payment of cess on such lands.—Sections 107K-107M.)

(3) If any holder of an estate or tenure or the owner, holder or occupier of rent-free interest fails to comply with the requisition for returns, he shall be subject to the provisions of sections 18, 19 and 20.

Copies of or extracts from valuation-roll to be available on payment of fees.

¹107K. Copies of, or extracts from, the valuation-roll prepared under section 107-I shall be available to holders of estates or tenures or other interests or the owners, holders or occupiers of rent-free interests in such manner and on payment of such fees as may be prescribed.

Correction of mistakes in valuation-roll.

¹107L. The Collector may, at any time, correct any *bona fide* clerical mistake in or omission from the valuation-roll.

Payment of cess.

¹107M. (1) Every holder of any estate, other than ²[the Government] and every farmer of an estate, shall yearly pay to the Collector the total cess calculated on the annual value of the cess-paying lands included in such estate, at the rate or rates which may have been determined for the road cess and public works cess respectively for the year as in this chapter provided, less a deduction to be calculated at the said rates for every rupee of the land-revenue, if any, entered in the valuation-roll of such estate as payable in respect thereof, and less also a deduction at half the said rates on the annual value of all cess-paying rent-free lands comprised within the estate.

(2) Every holder, other than a rent-free holder, of a tenure or other subordinate interest comprising any cess-paying lands shall yearly pay to the person to whom his rent is payable the total cess calculated on the annual value of the cess-paying lands comprised in his tenure or interest, at the rate or rates which may have been determined for the road cess and public works cess for the year as in this chapter provided, less a deduction to be calculated at the said rates for every rupee of the rent payable, if any, by him for such tenure or interest, and less also a deduction at half the said rates on the annual value of all cess-paying rent-free lands comprised within the tenure or interest:

Provided that where the rent payable is equal to or greater than the annual value, no cess shall be payable by him.

Explanation.—In this sub-section the expression "rent payable" means, where the rent is payable in kind, the money value thereof.

¹See foot-note 1 on page 431, *ante*.

²See foot-note 4 on page 431, *ante*.

of 1880.]

(Part II.—Mode of Assessment.—Chapter VIIA.—Valuation and revaluation of lands in a district or part of a district in respect of which a record-of-rights has been finally published, and payment of cess on such lands.—Sections 107N, 107-O.)

(3) Every owner and holder of any rent-free land, and every person in receipt of the rents and profits or in possession or enjoyment of such land, shall be bound to pay year by year to the holder of the estate or tenure in which such land is included under the proviso to section 50, or to the Collector if the Collector has ordered that the cess shall be paid to him direct, the total cess calculated on the annual value of such land, not being cess-free land, at the full rate or rates which may have been determined for the road and public works cess as in this chapter provided.

¹107N. Notwithstanding anything contained in this Act, the Collector may, in accordance with rules to be made by the ²[State Government], at any time grant abatement or remission of any cess payable under this chapter.

Power to Collector to grant abatement or remission of cess.

¹107-O. (1) The Collector shall cause to be served on every holder of an estate other than ³[the Government] and on every farmer of an estate, in the prescribed manner, a notice showing the amount of cess payable under sub-section (1) of section 107M in respect of his estate and specifying the date from which such cess will take effect.

Power to serve notice showing cess and fixing the date from which cess shall take effect.

(2) Notwithstanding anything contained in section 107M, the amount shown in the said notice shall be recoverable from the said holder or farmer other than ³[the Government].

(3) The Collector may at any time serve a revised notice on the said holder or farmer if he finds that the amount of cess payable under section 107M has not been correctly calculated or has not been correctly shown in the notice.

(4) In case of any change in the rate of cess it shall not be necessary to serve a revised notice but the amount of cess payable shall be proportionate to the changed rate.

(5) The notice issued under sub-section (1) shall include the cess payable in respect of the estate in all districts including cess, if any, payable under sub-section (1) of section 41 or section 51 on account of lands in respect of which a valuation or revaluation made under Chapter II is still in force, and no separate notice under section 40 shall be necessary:

Provided that if any lands valued or revalued in any district under this chapter appertain to an estate which is borne on the revenue-roll or general register of revenue-free lands of another district, and a valuation or revaluation under Chapter II is still in force in respect of any lands

¹See foot-note 1 on page 431, ante.

²See foot-note 1 on page 384, ante.

³See foot-note 4 on page 431, ante.

(Part II.—Mode of Assessment.—Chapter VIIA.—Valuation and revaluation of lands in a district or part of a district in respect of which a record-of-rights has been finally published, and payment of cess on such lands.—Sections 107P-107R.)

appertaining to that estate which are situated in the latter district, the Collector may issue a notice under section 40 showing the total cess payable in respect of the estate in all districts both under section 107M and under sub-section (1) of section 41 and section 51, and no separate notice under sub-section (1) shall be necessary.

Particulars of cess to be specified in receipt.

107P. (1) Where a tenant makes payment on account of cess to his landlord the rent-receipt granted by the landlord under section 56 of the Bengal Tenancy Act, 1885, shall specify the amount of cess paid by the tenant and the total cess demand payable by him correctly calculated by the landlord.

VIII of 1885.

(2) If the receipt does not contain substantially the particulars required by sub-section (1), it shall be presumed, until the contrary is shown, to be an acquittance in full of all demands of cess payable by the tenant to his landlord up to the date on which the receipt was given.

Alteration of annual value and revision of valuation-roll in certain cases.

107Q. (1) Notwithstanding anything contained in this Act, if at any time while any valuation or revaluation is in force it appears to the Collector that owing to alluvion or diluvion or other cause extensive changes have occurred in any land, and that in consequence thereof the annual value shown in the valuation-roll of any estate or rent-free interest should be altered, he may, after notice to the holder of such estate or rent-free interest and after making such inquiry as he considers necessary, enhance or reduce the annual value in such valuation-roll, and publish a revised valuation-roll of such estate or rent-free interest, and issue a revised notice under section 107-O, and may also, if necessary, amend any list published under section 107-I.

(2) When the Collector publishes a revised valuation-roll under sub-section (1), he may order that the revised valuation shall take effect from a date not being earlier than the beginning of the second financial year previous to the financial year in which the revised roll is published and cess shall be payable accordingly.

Rules.

107R. (1) The ²[State Government] may from time to time make, and when made, from time to time, alter, add to or cancel, any rule—

(a) regulating the determination of the acreage rate referred to in sub-section (1) of section 107D;

¹See foot-note 1 on page 431, ante.

²See foot-note 1 on page 384, ante.

of 1880.]

(Part II.—Mode of Assessment.—Chapter VIIA.—Valuation and revaluation of lands in a district or part of a district in respect of which a record-of-rights has been finally published, and payment of cess on such lands.—Section 107S.)

- (b) regulating the preparation of the statement of cess-free lands and the lists of cess-free lands referred to in sub-section (1) of section 107E and prescribing the form of such lists;
- (c) prescribing the manner and period of publication of the statement referred to in sub-section (1) of section 107F, the method of disposal of objections under the said sub-section and the manner of final publication of the statement by the Collector under sub-section (3) of section 107G;
- (d) prescribing the manner of publication of the rates determined under section 107H;
- (e) regulating the preparation and prescribing the form and the manner of publication of valuation-rolls and statements of annual value of lands and the manner of publication of lists of cess-free lands under section 107-I;
- (f) prescribing the manner of publication of the proclamation under section 107J and the forms for, and contents of, the returns required under that section;
- (g) prescribing the manner of, and the amount of fees to be levied for, supplying extracts from or copies of valuation-rolls under section 107K;
- (h) regulating the abatement or remission of the cess under section 107N;
- (i) prescribing the manner of service of notice under section 107-O; and
- (j) generally to carry out the purposes of this chapter.

(2) Such rules shall be published in the ¹[Official Gazette] and thereupon shall have the force of law:

Provided that any rule made under clause (h) of sub-section (1) shall be subject to the condition of previous publication.

²107S. For the purposes of this chapter—

- (i) the following provisions of this Act shall not be applicable, namely:—

The definitions of 'annual value of any land, estate or tenure', 'cultivating raiyat', 'estate', 'holding', 'tenure', 'the Collector' and 'the Collector of the district' in section 4; sections 6, 13, 14, 16, 17 and 21 to 35; in section 37 the words 'from making at any time any reduction which he may think fit in the valuation of any estate or tenure; or';

Application of certain provisions of this Act to this chapter.

¹See foot-note 2 on page 384, ante.

²See foot-note 1 on page 431, ante.

(Part III.—Constitution and Administration of the District Road Fund.—Chapter VIII.—Constitution and application of the District Road Fund.—Section 108.)

sections 38 to 40A, 41 except the last paragraph as in force in Western Bengal, 51 to 56, 59 to 64, the proviso to section 64A, sections 66 to 71, 89, 93 and the portion of section 102 after the word and figures 'section 78', to the word and figures 'section 35';

(ii) all the other provisions of this Act shall be applicable *mutatis mutandis*, so far as the same may reasonably be applied, and subject to the following particular modifications, namely:—

- (a) in section 42, in sub-section (1), after the words 'revenue-paying estate' and in sub-section (2) after the words 'revenue-free estate' the words 'other than Government, and every farmer of an estate' shall be deemed to be inserted;
- (b) in sub-section (3) of the said section, for the words 'cultivating *raiyat*' and for the word '*raiyat*' in the two other places where it occurs the words 'holder of any other subordinate interest in land' shall be read;
- (c) in section 47, after the word 'tenure' the words 'or any other subordinate interest in land' shall be deemed to be inserted;
- (d) in section 48, after the words 'in an estate or tenure' the words 'or any other subordinate interest in land' shall be deemed to be inserted.

PART III.

CONSTITUTION AND ADMINISTRATION OF THE DISTRICT ROAD FUND.

CHAPTER VIII.

Constitution and Application of the District Road Fund.

Constitution
of District
Road Fund.

108. The District Road Fund of every district under this Act shall consist of the amount produced by the road cess, of all sums levied or recovered ¹* * * in respect of the cesses under this Act ²[not being fines or penalties and] ³[not being interest levied in respect of public works cess,] of all sums assigned by ⁴[any Government] thereto, whether as a

¹The words "as fines, penalties or otherwise" were omitted by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

²These words were inserted, *ibid.*

³These words were inserted by s. 10 of the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act II of 1881).

⁴These words were substituted for the words "the Government" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

of 1880.]

(Part III.—Constitution and Administration of the District Road Fund.—Chapter VIII.—Constitution and application of the District Road Fund.—Sections 109-181.—Part IV.—Chapter XIII.—General.—Section 182.)

contribution from the proceeds of the public works cess towards the expenses of assessing and collecting such cess jointly with the road cess or otherwise.

* * * * *

²109. The District Road Fund of every district shall be applicable to the following objects and in the following order:—

Application of District Road Fund.

Firstly.—To the payment of the cost of establishments entertained and expenses incurred by the Collector under section 91.

Secondly.—To the indemnification of the Collector, with the sanction of the Commissioner, for any other costs or damages which he may have incurred, or for which he may have become liable, in the course of the proceedings for the assessment and collection of the cesses under this Act.

³And the balance, after payment of such expenses, shall be credited to the *Zilla Parishad* Fund of the district.

[110 to 181.]—*Rep. by sec. 2 and the First Sch. of the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885).*

PART IV.

CHAPTER XIII.

General.

182. The ⁴[State Government] may from time to time make, and, when made, from time to time alter, add to or cancel, any rules, not inconsistent with the provisions of this Act,—

State Government empowered to prescribe forms and rules.

[(a) to (c)]—*rep. by sec. 2 and the First Sch. of the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885);*

(d) prescribing forms of accounts to be kept by the Collector under this Act;

[(e)] —*rep. by sec. 2 and the First Sch. of the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885);*

(f) fixing the dates for payment of instalments of cess under sections 42 and 57;

[(g) and (h)]—*rep. by sec. 2 and the First Sch. of the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885);*

(i) and generally for the purposes of this Act.

Such rules shall be published in the ⁵[*Official Gazette*] and shall thereupon have the force of law.

¹The words "and of all sums whatsoever which may be at the disposal of the District Road Committee as hereinafter appointed" were omitted by s. 2 of the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885).

²Section 109 was substituted for the original section 109 by s. 2 of the Bengal Local Self-Government Act of 1885 (Ben. Act III of 1885).

³The Second Paragraph of clause "Secondly" was substituted by s. 118 of, and Second Schedule to, the West Bengal *Zilla Parishads* Act, 1963 (West Ben. Act XXXV of 1963). Prior to this substitution clauses (a), (b), (c), (d), (e) and (f) beginning with the words "and shall be applicable to the following objects, and in the following order, namely:—" were added to the original Second Paragraph by s. 64 of the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act V of 1908). Ben. Act V of 1908 was also extended to Eastern Bengal by Ben. Act I of 1914.

⁴See foot-note 1 on page 384, *ante*.

(Schedule A.)

SCHEDULE A.

e.

Form of return prescribed by section 14.

Amount of Government revenue or rent payable by the estate or tenure:

Rs. a. p.

PART I.

District

Name by which the estate or tenure is known, and the number which it bears on the Collector's general register, or on any other register kept by the Collector—

Details of lands in the actual occupation or cultivation of the person submitting the return:—

1	2	3	4	5
<i>Pargana.</i>	Name of village and <i>thana</i> in which the lands are situate.	Area of land ¹ [if known].	Deduct area of land situate within any municipality.	Annual value of remaining land.

¹Note.—In the body of this statement should be entered only *nijjar* lands and such uncultivated lands in the use and occupation of the maker of the return as are capable of assessment on their annual value.

¹These words in the heading of column 3 of Part I were inserted by s. 11 of the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act II of 1881).

²This note to Part I was substituted for the original note, *ibid.*

of 1880.]

(Schedule A.)

PART II.

District

Name and number of estate or tenure as in Part I.

Details of lands held by cultivating *raiya*s paying direct to the persons submitting the return:—

1	2	3	4	5	6	7
<i>Pargana</i> .	Name of village and <i>thana</i> in which the lands are situate.	Name of <i>raiya</i> , name of village, <i>thana</i> and district in which he resides.	Area occupied ¹ [if known].	Annual rent.	Deduct rent of land included in any municipality.	Balance of net rent assessable.

PART III.

District

Name and number of estate or tenure as in Part I.

Details of the tenure-holders paying to the person submitting the return:—

1	2	3	4	5	6	7	8
Name of tenure-holder and person paying rent for him borne on the books of holder of estate or tenure.	Name of village, <i>thana</i> and district in which such person resides.	Name of village and <i>thana</i> in which tenure is situated.	Name of village and <i>thana</i> in which <i>mal-cutcherry</i> is situate.	Area, if known.	Annual rent paid by tenure-holder.	Deduct rent of land included in any municipality.	Balance of net rent assessable.

PART IV.

District

Name and number of estate or tenure as in Part I.

¹These words in the heading of column 4 of Part II were added by s. 12 of the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act II of 1881).

(Schedule B.)

Details of lands included in the estate or tenure of the person submitting the return which are held by others than himself but for which no rent is paid:—

1	2	3	4	5	6	7
<i>Pargana</i> in which situate.	Name of village and <i>thana</i> in which situated.	Name of holder, and owner, if known.	Name of village, <i>thana</i> and district in which the holder resides.	Area, if known.	Deduct area of land included in any municipality.	Annual value of remaining land.

I, X. Y. Z., do declare that the statements contained in the above return are true to the best of my knowledge, information and belief.

Signed.....

N.B.—This return must be signed by the holder or his authorized agent, whose address must also be given.

SCHEDULE B.

FORM No. I.

Form of Notice upon a Revenue-paying Estate or Rent-paying Tenure under section 17.

District of

Notice under section 17 of the Cess Act, 1880.

The holders of estate or tenure (*description to be filled in*) in the district of..... and all others interested therein are hereby required to lodge in the office of the Collector of the said district a return, in the form hereunto annexed, of all lands comprised in such estate or tenure and the rents paid therefor. Such return must be signed by such holder or his authorized agent, and be so lodged within the time mentioned below under a penalty of a daily fine which may amount to fifty rupees on each such holder for every day after the expiry of such time or of any extended time

of 1880.]

(Schedule B.)

which may be allowed by the Collector on application made to him, until such return shall be lodged. Notice is hereby given that no rent is due to the holders of the said estate (or tenure) can be recovered by suit after such time until such return be so lodged.

If the annual amount of revenue or rent payable on the estate or tenure to which this notice refers does not exceed Rs. 500, the holders are required to lodge the return within six weeks of the service of this notice.

If such amount exceeds Rs. 500, within three months of such service.

If for any good reason the holders will be unable to lodge the return within the time allowed, they should apply to the Collector for extension of such time.

COLLECTOR'S OFFICE,

(Sd/-) A. B.,

Dated

Collector.

N.B.—To this notice shall be annexed forms of Parts I, II, III and IV of the return which is mentioned in Schedule A.

FORM No. II.

Form of Notice upon a Revenue-free Estate or Rent-free Tenure under section 17.

District of

Notice under section 17 of the Cess Act, 1880.

The holder of the revenue-free estate of rent-free tenure (*description to be filled in*) in the district of.....and all others interested therein are hereby required to lodge in the office of the Collector of the said district a return in the form hereunto annexed, of all lands comprised in such estate or tenure. Such return must be signed by such holder or his authorized agent, and be so lodged within the time mentioned below under a penalty of a daily fine which may amount to fifty rupees on each such holder for every day after the expiry of such time or of any extended time which may be allowed by the Collector on application made to him until such return shall be lodged.

Notice is hereby given that no rents due to the holders of the said estate (or tenure) can be recovered by suit after such time until such return be so lodged.

(Schedule C.)

If the gross annual rental of the estate or tenure to which this notice refers does not exceed Rs. 500, the holders are required to lodge the return within six weeks of the service of this notice.

If the gross rental exceeds Rs, 500, within three months of such service.

If for any good reason the holders will be unable to lodge the return within the time allowed, they should apply to the Collector for extension of such time.

COLLECTOR'S OFFICE,

(Sd.) A. B.,

Dated

Collector.

N.B.—To this notice shall be annexed forms of Parts I, II, III and IV of the return which is mentioned in Schedule A.

SCHEDULE C.

Form of Notice under section 33.

District of

Notice under section 33 of the Cess Act, 1880.

The owner, the chief agent, manager or occupier of (*give the name by which the concern or property is known*) situated in the district of, is hereby required to lodge in the office of the Collector of of a return in the form hereunto annexed, showing the amount of land under cultivation at the date of this return in the said

Such return must be signed by him and be lodged within the space of two months from the service of this notice (unless within the said two months such owner, chief agent, manager or occupier obtain from the Collector an extension of the said space of two months), under penalty of a daily fine of fifty rupees for every day after the expiry of such period of extension thereof until such return shall be presented.

Form of Return to the Notice.

District

Details of lands acquired under any rules for the sale, lease, grant or clearance of waste lands or held direct from

Government and used for the cultivation of tea, coffee or cinchona, under the control of the person submitting the return:—

of 1880.]

(Schedule D.)

1	2	3	4	5	6	7
Districts	<i>Parganas and thanas</i>	Designation by which the estate, lot or grant is known, and the number it bears on any register kept by the Collector.	Name of owner, agent, manager or occupier.	Entire area of land.	Area or areas of lands under cultivation.	Aggregate value at Rs. 10 per acre of land in [column 6].
in which the lands lie.						

I, X. Y. Z., do declare that the statements contained in the above return are true to the best of my knowledge, information and belief.

Signed.....

N.B.—This return must be signed by the owner, chief agent, manager or occupier.

SCHEDULE D.

Form of Notice under section 52.

Notice to Holders of Lands held Rent-free under section 52 of the Cess Act, 1880.

Notice is hereby given to all concerned that the lands specified in the annexed extracts from valuation-rolls of estates and tenures have been entered by the holders of such estates and tenures in the valuation returns of their estates and tenures under the Cess Act, 1880, and have been valued as shown in the extracts.

Every owner and holder of any land entered in these extracts may appear before the Collector within one month of the publication of this notice, and may object to the amount at which his land has been valued.

If no such objection is made, the owners and holders of lands will be bound to pay year by year to the holder of the estate or tenure in which his land has been entered the amount of road cess and public works cess calculated on the annual value of such land as entered in these extracts at the full rate which may be fixed for the year in the district.

If any instalment of the cess due upon any of the lands included in these extracts is not paid to the holder of the estate or tenure on or before the date which the ²[Board of Revenue] may fix for the payment of such instalment, the estate or tenure will be entitled to recover double the amount due with interest and all costs of suit.

¹This word and figure in the heading of column 7 were substituted for the word and figure "column 5" by s. 13 of the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act II of 1881).

²See foot-note 3 on page 390, *ante*.

(Schedule E.)

SCHEDULE E.

FORM No. I

Form of notice under section 72 in respect of all mines
and quarries

District of

Notice under section 72 of the Cess Act, 1880.

The Owner, Chief Agent, Manager or Occupier of the situated (give the designation of the mine or the quarry) in the district of is required to lodge in the office of the Collector of the district of a return in the form hereunto annexed showing the despatches of coal/mineral/sand from calculated respectively on the average of the despatches of the last three years for which accounts have been made up. Such return must be signed by him or his authorised agent, and be so lodged within the space of two months from the service of this notice under penalty of a daily fine which may amount to not more than fifty rupees (payable by each such owner, chief agent, manager or occupier) for every day after the expiry of such time or of any extended time which may be allowed by the Collector, on application made to him, until such return shall be lodged or until the annual despatches of coal/mineral/sand from the mine/quarry in respect of which this notice is served, shall have been otherwise ascertained and determined by the Collector.

*Collector.**Annexed Form of Return*

District

Year

Details of yearly despatches from the mines/quarry in the possession or under the control of the person submitting the return:—

District	Pargana	Name of holder or manager.	Annual despatches per annum in tonnes on the average of the last three years for which accounts have been made up.					Remarks.
			Coal.	Tonnage of coke despatched.	Tonnage in terms of coal.	Tonnage in terms of minerals/sand.	Total despatches to be assessed.	
1	2	3	4	5	6	7	8	9

I, X. Y. Z., do declare that the statements contained in the above return are true to the best of my knowledge, information and belief.

*Signature.**N. B.—This return must be signed by the Owner, Chief Agent, Manager or Occupier.*

¹"Form No. I" was originally inserted by s. 12(1) of the West Bengal Cess (Amendment) Act, 1964 (West Ben. Act XXIII of 1964). Later, the present "Form No. I" was substituted for the original by s. 6(1) of the West Bengal Cess (Amendment) Act, 1984 (West Ben. Act XXXII of 1984)..

of 1880.]

FORM No. II

Form of notice under section 72 in respect of properties other than mines and quarries.

District of

Notice under section 72 of the Cess Act, 1880, ²[in respect of properties other than mines and quarries.]

The owner, chief agent, manager or occupier of the (give the designation of the property), situated in the district of , is required to lodge in the office of the Collector of the district of a return in the form hereunto annexed, showing the net profits of the calculated on the average of the profits of the last three years for which accounts have been made up. Such return must be signed by him or his authorised agent, and be lodged within the space of two months from service of this notice, unless within the said two months an extension of the time allowed is obtained from the Collector.

COLLECTOR'S OFFICE,

(Sd/-) A. B.

Dated

Collector.

Annexed Form of Return.

District

Detail of yearly profits of * * * * railways and tramways or other immovable property in the possession or under the control of the person submitting the return:—

1	2	3	4
Districts in which the property lies.	<i>Parganas</i>	Name of holder or manager.	Annual net profits <i>per annum</i> on the average of the last three years for which accounts have been made up.

¹The "heading" of the original form was originally substituted by s. 12(2)(n) of the West Bengal Cess (Amendment) Act, 1964 (West Ben. Act XXIII of 1964). Later, the present "heading" was substituted by s. 6(2)(i) of West Bengal Cess (Amendment) Act, 1984 (West Ben. Act XXXII of 1984).

²Firstly, the words "in respect of properties other than coal mines" were inserted by s. 12(2)(b) of the West Bengal Cess (Amendment) Act, 1964 (West Ben. Act XXIII of 1964). Later, the words within the square brackets were substituted for the words "in respect of properties other than coal mines" by s. 6(2)(ii) of the West Bengal Cess (Amendment) Act, 1984 (West Ben. Act XXXII of 1984).

³The words "mines, quarries," were omitted by s. 6(2)(iii), *ibid*.

[Ben. Act IX of 1880.]

(Schedules F, G.)

I, X. Y. Z., do declare that the statements contained in the above return are true to the best of my knowledge, information and belief.

Signed.....

N. B.—This return must be signed by the owner, chief agent, manager or occupier.

SCHEDULE F.

Form of Notice under section 99.

District of

Notice under section 99 of the Cess Act, 1880.

The occupiers, tenure-holders, under-tenants, and *raiylats* on estate or tenure (*the estate, tenure or lands to be here clearly designated*) are hereby prohibited, until further order of the Collector, from making any payment of rent now or hereafter to become due from them in respect of any land comprised within such estate or tenure except to the Collector of the said district or to (*name of person*) hereby appointed to receive the same. The Collector will grant receipts for all sums paid; and such receipts will, under the provisions of the above Act, be a valid discharge, to the extent of the sums covered by such receipts, for rent due, or become due, as above stated by the holders of such receipts. All payments, except to the Collector, until further order will be nul and void.

(Sd/-) A. B.,

Collector.

SCHEDULE G.

Name of districts in which, or in parts of which, valuation or revaluation shall be made under Chapter VIIA.

1. Burdwan.	2*	*	*	*
2. Bankura.				
3. Midnapore.	3 ⁷ .			
4. 24-Parganas				
5. Nadia	4			
6. Murshidabad.	2*	*	*	*
	4			
	Jalpaiguri.			

¹Sch. G was added by s. 13 of the Bengal Cess (Amendment) Act, 1934 (Ben. Act XI of 1934).

²Items (7) Jessore, (8) Khulna, (9) Dacca, (10) Mymensingh, (11) Faridpur, (12) Noakhali, (13) Tippera, (14) Rajshahi, (15) Bogra and (16) Pabna and Rangpur were omitted by Article 3(1) and the Schedule of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

³Item No. 17 was renumbered as item No. 7, *ibid.*

⁴These Districts were included by notification No. 366-T.R., dated the 30th September, 1940, published in the *Calcutta Gazette* of 1940, Pt. I, page 2907.