

POLICE ACT, 1861

5 of 1861

[22nd March, 1861]

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An Act for the Regulation of Police. Preamble.- WHEREAS it is expedient to reorganise the police and to make it a more efficient instrument for the prevention and detection of crime; It is enacted as follows :-

1. Interpretation clause :-

The following words and expressions in this Act shall have the meaning assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say- the words "Magistrate of the district" shall mean the chief officer charged with the executive administration of a district and exercising the powers of Magistrate, by whatever designation the chief officer charged with such executive administration is styled: the word "Magistrate" shall include all persons within the general police district, exercising all or any of the powers of a Magistrate:

the word "police" shall include all persons who shall be enrolled under this Act: the words "general police-district" shall embrace any Presidency, State, or place, or any part of any Presidency, State or place, in which this Act shall be ordered to take effect: ¹[the words "District Superintendent" and "District Superintendent of Police" shall include any Assistant District Superintendent or other person appointed by general or special order of the ²[State Government] to perform all or any of the duties of a District Superintendent of Police under this Act in any district;] the word "property" shall include any moveable property, money, or valuable security; ³[* * * * *] the word "person" shall include a company or corporation; the word "month" shall mean a calendar month; the word "cattle" shall, besides horned cattle, include elephants, camels, horses, asses, mules, sheep, goats and swine. ⁴ [References to the subordinate ranks of a police force shall be construed as references to members of that force below the rank of Deputy Superintendent.]

1. Inserted by the Police Act (1861) Amendment Act, 1895 (8 of 1895). Section 1.

2. Substituted for the words 'Provincial Government' by A.L.O., 1950,

3. The definitions relating to 'number' and 'gender' were omitted by the Repealing and Amending Act, 1914 (10 of 1914), Section 3 and Schedule II.

4. Inserted by A.O., 1937 (1-4-1937).

2. Constitution of the force :-

The entire police establishment under a ¹[State Government] shall, for the purposes of this Act. be deemed to be one ²police force, and shall be formally enrolled; and shall, consist of such number of officers and men, and shall be constituted in such manner, ³[* * *] as shall from time to time be ordered by the ¹[State Government] ⁵[* * * * *]. ⁶[Subject to the provisions of this Act the pay and all other conditions of service of members of the subordinate ranks of any police force shall be such as may be determined by the ¹ [State Government]

1. Substituted for the words 'Provincial Government', by A.L.O., 1950.

2. As to enrolment of the police force in certain places, see footnote under Section 8,

3. The words 'and the members of such force shall receive such pay' were omitted by A.O., 1937 (1-4-1937).

5. The words 'subject in the case of officers of the Indian Police of

and above the rank of Assistant Superintendent to the control of the Governor-General of India in Council, as amended by Act 38 of 1920, Section 2 and Schedule I, were omitted, A.O., 1937.

6. Inserted, Act 38 of 1920, Section 2 and Schedule I.

2A. Power of State Government to make rules :-

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

(2) Any rules, orders or regulations made before the commencement of the Police (West Bengal Amendment) Act, 1963, by any authority in respect of the aforesaid mailers shall in so far as they are not inconsistent with the provisions of this Act, be deemed to have been validly made and shall continue in force until other provisions are made in this behalf."- W.B. Act 38 of 1963, S..3.

3. Superintendence in the State Government :-

The superintendence of the police throughout a general police-district shall vest in and ¹[* * *] shall be exercised by the ²[State Government] to which such district is subordinate; and except as authorized under the provisions of this Act, no person, officer, or Court shall be empowered by the ²[State Government] to ⁴ [* * *] supersede, or control any police functionary.

1. The words 'subject in the case of officers of the Indian Police of and above the rank of Assistant Superintendent to the control of the Governor-General of India in Council, as amended by Act 38 of 1920, were omitted by A.O.. 1937 (1-4-1937).

2. Substituted for the words 'Provincial Government' by A.L.O., 1950.

4. The word "appoint" omitted by A.O., 1937.

4. Inspector-General of Police, etc :-

The administration of the police throughout a general police-district shall be vested in an. officer to be styled the Inspector-General of Police, and in such Deputy Inspectors-General and Assistant Inspectors-General as to the ¹[State Government] shall seem fit. The administration of the police throughout the local jurisdiction of the Magistrate of the district shall, under the general control and direction of such Magistrate, be vested in a District Superintendent a n d such Assistant District Superintendents as the ¹[State Government] shall consider necessary. ³ [* * * * *]

1. Substituted for the words 'Provincial Government', by A.L.O., 1950.

3. The last sentence "The Inspector-General and other officers abovementioned shall from time to time be appointed by the Local Government, and may be removed by the same authority' was omitted by A.O., 1937 (1-4-1937),

4A. Special and Additional Inspectors General of Police :-

(1) If at any lime, the State Government considers it necessary so to do, it may appoint one or more officers to be Special Inspectors-General of Police and may also appoint one or more officers to be additional Inspectors-General of Police, and each of the officers so appointed shall he subordinate to the Inspector-General of Police.

(2) The Special or, as the case may be, Additional Inspector-General of Police shall be competent to exercise all or any of the powers conferred on, and perform all or any of the functions or duties imposed upon, the Inspector-General of Police by or under this Act or any other law for the time being in force."-W. B. Act 5 of 1973, S. 3 (17-3-1973).

5. Powers of Inspector-General Exercise of powers :-

The Inspector-General of Police shall have the full powers of a Magistrate throughout the general police district; but shall exercise those powers subject to such limitation as may from time to time be imposed by the ¹ [State Government],

1. Substituted for the words 'Provincial Government' by A.L.O., 1950.

6. Magisterial powers of police Officers :-

Repealed by the Code of Criminal Procedure, 1882 (Act 10 of 1882), Section 2 and Schedule I (b).]

7. Appointment, dismissal, etc., of inferior officers :-

¹[²[Subject to the provisions of Article 311 of the Constitution and to such rules] as the ³[State Government] may from time to time make under this Act, the Inspector-General, Deputy Inspectors-General, Assistant Inspectors-General and District Superintendents of Police may at anytime dismiss, suspend or reduce any police officer of the subordinate ranks] whom they shall think remiss or negligent in the discharge of his duty or unfit for the same; ⁴[or may award any one or more of the following punishments to any police officer ⁵ [of the subordinate ranks] who shall discharge his duty in a careless or negligent manner, or who by any act of his

own shall render himself unfit for the discharge thereof, namely :-

(a) fine to any amount not exceeding one month's pay;

(b) confinement to quarters for a term not exceeding fifteen days, with or without punishment- drill, extra, guard, fatigue or other duty;

(c) deprivation of good conduct pay;

(d) removal from any office of distinction or special emolument.]

1. Substituted for "The appointment of all police officers other than those mentioned in section 4 of this Act shall, under such rules as the Local Government shall from time to time sanction, rest with the Inspector-General, Deputy Inspectors-General, Assistant Inspector-General and District Superintendents of Police, who may, under such rules as aforesaid, at any time dismiss, suspend or reduce any police officer' by A.O., 1937 (1-4-1937).

2. Substituted for the words "Subject to such rules", by A.L.O., 1950 (26-1-1950).

3. Substituted for the words 'Provincial Government' by A.L.O., 1950.

4. Substituted for 'or fine any police officer to any amount not exceeding one month's pay who shall discharge his duty in a careless or negligent manner, or who, by any act of his own, shall render himself unfit for the discharge thereof, by the Police Act (1861) Amendment Act, 1895 (8 of 1895). S. 2.

5. Inserted by A.O., 1937 (1-4-1937).

7A. Validity of appointment, dismissal and punishment of subordinate ranks of the police force in certain cases :-

Notwithstanding anything contained elsewhere in this Act or any rule, regulation or order made thereunder, all appointments made by the Inspector-General or any other authority subordinate to him, all orders of dismissal or removal from office passed by any such authority, not being an authority subordinate to the authority by which the respective appointments were made and all orders inflicting any other punishment passed by any other authority, before the commencement of the Police (West Bengal Amendment) Act, 1963, in respect of the subordinate ranks of the police force shall be deemed to be, and to have always been, validly passed."- West Bengal Act 38 of 1963, S. 4.

8. Certificates to police officers :-

¹[Every police officer ²[appointed to the police force other than an officer mentioned in section 4 shall receive on his appointment a certificate in the form annexed to this Act, under the seal of the

Inspector-General or such other officer as the Inspector-General shall appoint, by virtue of which the person holding such certificate shall be vested with the powers, functions, and privileges of a police officer. Surrender of certificate.- ³ [Such certificate shall cease to have effect whenever the person named in it ceases for any reason to be a police officer, and, on his ceasing to be such an officer, shall be forthwith surrendered by him to any officer empowered to receive the same. A police officer shall not by reason of being suspended from office cease to be a police officer. During the term of such suspension the powers, functions and privileges vested in him as a police officer shall be in abeyance, but he shall continue subject to the same responsibilities, discipline and penalties and to the same authorities as if he had not been suspended.]

1. As to enrolment, maintenance employed in- (1) the Military Police-force employed in- (a) the Andaman and Nicobar Islands, see the Andaman and Nicobar Islands Military Police (Disbandment) Regulation, 1946 (3 of 1946); (b) Assam, see the Assam Rifles Act, 1981 (5 of 1941); (c) Bengal, see the Eastern Frontier Rifles (Bengal Battalion) Act, 1920 (Ben. 2 of 1920): (2) the Punjab Frontier Police-officers, see the Punjab Frontier Police Officers Regulation, 1893 (7 of 1893); (3) the Calcutta and Suburban Police, see the Calcutta Police Act, 1866 (Ben. IV of 1866) and the Calcutta Suburban. Police Act, 1866 (Ben. 2 of 1866); (4) the Police establishment in municipal area in the U. P., see the U. P. Municipalities Act, 1916 (U. P. 2 of 1916); (5) the Police establishment in municipal areas in the Punjab, see the Punjab Municipal Act, 1911 (Punj. 3 of 1911); (6) the Rural Police in the Santhal Parganas, see the Santhal Parganas Rural Police Regulation, 1910 (4 of 1910); (7) the Rural Police in Chota Nagpur, see the Chota Nagpur Rural Police Act, 1914 (B. and O. 1 of 1914): (8) the U. P. Special Armed Constabulary, see the U. P. Special Armed Constabulary Act, 1948 (U. P. 40 of 1948); and (9) the Delhi Special Police Establishment, see the Delhi Special Police Establishment Act. 1946 (25 of 1946); (10) the Armed Central Reserve Police Force, see Central Reserve Police Force Act, 1949 (66 of 1949); (11) the Armed Force of the Union for ensuring the security of our borders, see the Border Security Force Act, 1968 (47 of 1968); (12) the Central Industrial Security Force for the better protection and security of certain industrial undertakings, see the Central Industrial Security Force Act, 1968 (1 of 1968); and (13) the force for better protection and security of railway property, see the Railway Protection Force Act, 1957 (23 of 1959).

2. Substituted for the words 'so appointed' by A.O., 1937.

3. Substituted for the original second paragraph by the Police Act (1861) Amendment Act, 1895 (8 of 1895) Section 3.

9. Police officers not to resign without leave or two months notice :-

No police officer shall be at liberty to withdraw himself from the duties of his office unless expressly allowed to do so by the District Superintendent or by some other officer authorised to grant such permission, or, without the leave of the District Superintendent, to resign his office unless he shall have given to his superior officer notice in writing, for a period of not less than two months of his intention to resign.

10. Police-officers not to engage in other employment :-

No police-officer shall engage in any employment or office whatever other than his duties under this Act, unless expressly permitted to do so in writing by the Inspector-General.

11. Police superannuation fund :-

Repealed by the Repealing Act, 1874 (16 of 1874), S. 1 and Sch., Pt. 1.]

12. Power of Inspector-General to make rules :-

The Inspector-General] of Police may, "" from time to time, subject to the approval of the ¹ [State Government], frame such orders and rules as he shall deem expedient relative to the organisation, classification and distribution of the police- force, the places at which the members of the force shall reside, and the particular services to be performed by them; their inspection, the description of arms, accountments and other necessaries to be furnished to them; the collecting and communicating by them of intelligence and information; and all such other orders and rules relative to the police-force as the Inspector-General shall, from time to time, deem expedient or preventing abuse or neglect of duty, and for rendering such force efficient in the discharge of its duties.

1. Substituted for the words 'Provincial Government' by A.L.O., 1950.

13. Additional police-officers employed at cost of individuals :-

It shall be lawful for the Inspector-General of Police, or any Deputy Inspector-General, or Assistant Inspector-General, or for the District Superintendent, subject to the general direction of the Magistrate of the district, on the application of any person showing the necessity thereof, to depute any additional number of police-officers to keep the peace at any place within the general polie-

district and for such time as shall be deemed proper. Such force shall be exclusively under the orders of the District Superintendent, and shall be at the charge of the person making the application : Provided that it shall be lawful for the person on whose application such deputation shall have been made, on giving one month's notice in writing to the Inspector-General, Deputy Inspector-General, or Assistant Inspector-General, or to the District Superintendent, to require that the police- officers so deputed shall be withdrawn: and such person shall be relieved from the charge of such additional force from the expiration of such notice.

14. Appointment of additional force in the neighbourhood of railway and other works :-

Whenever any railway, canal or other public work, or any manufactory or commercial concern shall be carried on. or be in operation in any part of the country, and shall appear to the Inspector-General that the employment of an additional police force in such place is rendered necessary by the behaviour or reasonable apprehension of the behaviour of the persons employed upon such work, manufactory or concern, it shall be lawful for the Inspector-General, with the consent of the State Government, to depute such additional force to such place and to employ the same so long as such necessity shall continue and to make orders from time to time, upon the person having the control or custody of the funds used in carrying on such work, manufactory or concern, for the payment of the extra force so rendered necessary, and such person shall thereupon cause payment to be made accordingly.

15. Quartering of additional police in disturbed or dangerous districts :-

(1) It shall be lawful for the ¹[State Government], by proclamation to be notified in the Official Gazette, and in such other manner as the ¹[State Government] shall direct, to declare that any area subject to its authority has been found to be in a disturbed or dangerous state, or that, from the conduct of the inhabitants of such area or of any class or section of them, it is expedient to increase the number of police.

(2) It shall thereupon be lawful for the Inspector-General of Police, or other officer authorized by the ¹ State Government] in this behalf, with the sanction of the ¹[State Government], to employ any police force in addition to the ordinary fixed complement to be

quartered in the area specified in such proclamation as aforesaid.

(3) Subject to the provisions of sub-section (5) of this section, the cost of such additional police-force shall be borne by the inhabitants of such area described in the proclamation.

(4) The Magistrate of the district, after such enquiry as he may deem necessary, shall apportion such cost among the inhabitants who are, as aforesaid, liable to bear the same and who shall not have been exempted under the next succeeding sub-section. Such apportionment shall be made according to the Magistrate's judgment of the respective means within such area of such inhabitants.

(5) It shall be lawful for the ¹[State Government] by order to exempt any persons or class or section of sue inhabitants from liability to bear any portion of such cost.

(6) Every proclamation issued under sub-section (1). of this section shall state the period for which it is to remain in force but it may be withdrawn at any time or continued from time to time for further period or periods as the ¹ [State Government] may in each case think fit to direct.

Explanation.- For the purposes of this section, "inhabitants" shall include persons who themselves or by their agents or servants occupy or hold land or other immovable property within such area, and landlords who themselves or by their agents or servants collect rents direct from raiyats or occupiers in such area, notwithstanding that they do not actually reside therein] :

1. Substituted for the words 'Provincial Government', by A.L.O., 1950.

15A. Awarding compensation to sufferers from misconduct of inhabitants or persons interested in land :-

(1) If, in any area in regard to which any proclamation notified under the last preceding section is in force, death or grievous hurt or loss of, or damage to, property has been caused by or has ensued from the misconduct of the inhabitants of such area or any class or section of them it shall be lawful for any person, being an inhabitant of such area, who claims to have suffered injury from such misconduct to make, within one month from the date of the injury or such shorter period as may be prescribed, an application for compensation to the Magistrate of the district or of the sub-

division of a district within such area is situated.

(2) It shall thereupon be lawful for the Magistrate of the district, with the sanction of the ¹[State Government] after such enquiry as he may deem necessary, and whether any additional police-force has or has not been quartered in such area under the last preceding section, to-

(a) declare the persons to whom injury has been caused by or has ensued from such misconduct;

(b) fix the amount of compensation to be paid to such persons and the manner in which it is to be distributed among them; and

(c) assess the proportion in which the same shall be paid by the inhabitants of such area other than the applicant who shall not have been exempted from liability to pay under the next succeeding sub-section: Provided that the Magistrate shall not make any declaration or assessment under this sub-section, unless he is of opinion that such injury as aforesaid has arisen from a riot or unlawful assembly within such area, and that the person who suffered the injury was himself free from blame in respect of the occurrences which led to such injury.

(3) It shall be lawful for the ¹[State Government], by order, to exempt any persons or class or section of such inhabitants from liability to pay any portion of such compensation.

(4) Every declaration or assessment made or order passed by the Magistrate of the district under sub-section (2) shall be subject to revision by the Commissioner of the Division or the ¹ [State Government], but save as aforesaid shall be final.

(5) No civil suit shall be maintainable in respect of any injury for which compensation has been awarded under this section.

(6) Explanation.- In this section the word "inhabitants" shall have the same meaning as in the last preceding section].

1. Substituted for the words "Provincial Government" by A.L.O., 1950.

16. Recovery of money payable under sections 13, 14, 15 and 15-A and disposal of same when recovered :-

(1) All moneys payable under sections 13, 14, 15 and 15-A shall be recoverable by the Magistrate of the district in the manner provided

by sections 386 and S.387 of the Code of Criminal Procedure, 1882 of the Code of Criminal Procedure, 1882, for the recovery of fines, or by suit in any competent Court.

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(3) All moneys paid or recovered under section 15-A shall be paid by the Magistrate of the district to the persons to whom and in the proportions in which the same are payable under that section] **2**

1. Sub-section (2) was omitted by A.O., 1937.

2. Section 16 was extended to the erstwhile Sandur State by T. N. Act 35 of 1949, S. 14. Sandur area now forms part of the Mysore State.-See Act 37 of 1956.

17. Special police-officers :-

When it shall appear that any unlawful assembly, or riot or disturbance of the peace has taken place, or may be reasonably apprehended, and that the police- force ordinarily employed for preserving the peace is not sufficient for its preservation and for the protection of the inhabitants and the security of property in the place where such unlawful assembly or riot or disturbance of the peace has occurred, or is apprehended, it shall be lawful for any police- officer not below the rank of Inspector to apply to the nearest Magistrate to appoint so many of the residents of the neighbourhood as such police-officers may require to act as special police-officers for such time and within such limits as he shall deem necessary; and the Magistrate to whom such application is made shall, unless he see cause to the contrary, comply with the application.

18. Powers of special police-officers :-

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

19. Refusal to serve as special police-officers :-

If any person being appointed a special police-officer as aforesaid shall without sufficient cause, neglect or refuse to serve as such, or to obey such lawful order or direction as may be given to him for the performance of his duties, shall be liable, upon conviction before a Magistrate, to a fine not exceeding fifty rupees for every

such neglect, refusal or disobedience.

20. Authority to be exercised by police-officers :-

Police-officers enrolled under this Act shall not exercise any authority, except the authority provided for a police-officer under this Act and any Act which shall hereafter be passed for regulating criminal procedure.

21. Village police-officers :-

Nothing in this Act shall affect any hereditary or other village police-officer, unless such officer shall be enrolled as a police-officer under this Act. When so enrolled, such officer shall be bound by the provisions of the last preceding section. No hereditary or other village police-officer shall be enrolled without his consent and the consent of those who have the right of nomination. Police-chaukidars in the Presidency of Fort William. If any police-officer appointed under Act, 1856 (to make better provision for the appointment and maintenance of Police chaukidars in Cities, Towns, Stations, Suburbs and Bazars in the Presidency of Fort William in Bengal) is employed out of the district for which he shall have been appointed under that Act, he shall not be paid out of the rates levied under the said Act for that district.

22. Police-officers always on duty and may be employed in any part of district :-

Every police-officer shall, for all purposes in this Act contained, be considered to be always on duty, and may at any time be employed as a police-officer in any part of the general police-district.

23. Duties of police-officers :-

It shall be the duty of every police-officer promptly to obey and execute all orders and warrants lawfully issued to him by any competent authority; to collect and communicate intelligence affecting the public peace: to prevent the commission of offences and public nuisance; to detect and bring offenders to justice and to apprehend all persons whom he is legally authorized to apprehend, and for whose apprehension sufficient ground exists: and it shall be lawful for every police-officer, for any of the purposes mentioned in this section, without a warrant, to enter and inspect any drinking-shop, gaming-house or other place of resort of loose and disorderly characters. Section 23-A

24. Police-officers may lay information, etc :-

It shall be lawful for any police-officer to lay any information before

a Magistrate, and to apply for a summons, warrant, search-warrant or such other legal process as may by law issue against any person committing an offence ¹ [* * *].

1. The words "and to prosecute such person up to final judgment" were omitted by the Code of Criminal Procedure, 1882 (10 of 1882). S. 2 and Sch. 1(b).

25. Police-officers to take charge of unclaimed property, and be subject to Magistrates orders as to disposal :-

It shall be the duty of every police-officer to take charge of all unclaimed property, and to furnish an inventory thereof to the Magistrate of the district. The police-officers shall be guided as to the disposal of such property by such orders as they shall receive from the Magistrate of the district.

26. Magistrate may detain property and issue proclamation :-

(1) The Magistrate of the district may detain the property and issue a proclamation, specifying the articles of which it consists, and requiring any person who has any claim thereto to appear and establish his right to the same within six months from the date of such proclamation.

¹ [(2) The provisions of section 525 of the Code of Criminal Procedure, 1882, shall be applicable to property referred to in this section].

1. Inserted by the Police Act (1861) Amendment Act. 1895 (8 of 1895), S. 7.

27. Confiscation of property if no claimant appears :-

(1) If no person shall within the period allowed claim such property, or the proceeds thereof, if sold, it may, if not already sold under sub-section (2) of the last preceding section, be sold under the orders of the Magistrate of the district.

(2) The sale-proceeds of property sold under the preceding sub-section and the proceeds of property sold under section 26 to which no claim has been established shall be ¹ [at the disposal of the State Government 1.1

1. Substituted for the words "at the disposal of Government" by A. O., 1937(1-4-1937).

28. Persons refusing to deliver up certificate, etc., on

ceasing to be police-officers :-

Every person, having ceased to be an enrolled police-officer under this Act, who shall not forthwith deliver up his certificate, and the clothing, accoutrements, appointments and other necessaries which shall have been supplied to him for the execution of his duty, shall be liable, on conviction before a Magistrate, to a penalty not exceeding two hundred rupees, or to imprisonment with or without hard labour, for a period not exceeding six months or to both.

29. Penalties for neglect of duty, etc :-

Every police-officer who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation or lawful order made by competent authority, or who shall withdraw from the duties of his office without permission, or without having given previous notice for the period of two months ¹ [or who, being absent on leave. shall fail, without reasonable cause, to report himself for duty on the expiration of such leave,] or who shall engage without authority in any employment other than his police-duty, or who shall be guilty of cowardice, or who shall offer any unwarrantable personal violence to any person in his custody, shall be liable, on conviction before a Magistrate, to a penalty not exceeding three months' pay, or to imprisonment with or without hard labour, for a period not exceeding three months, 'or to both.

1. Inserted by the Police Act (1861) Amendment Act. 1895 (8 of 1895). S. 9.

30. Regulation of public assemblies and processions and licensing of the same :-

(1) The District Superintendent or Assistant Superintendent of Police may, as occasion requires, direct the conduct of all assemblies and processions on the public roads, or in the public streets or thoroughfares, and prescribe the routes by which, and the times at which, such processions may pass.

(2) He may also. on being satisfied that it is intended by way any persons or class of persons to convene or collect an assembly in any such road. street or thoroughfare, or to form a procession which would, in the judgment of the Magistrate of the district, or of the subdivision of a district, if uncontrolled, be likely to cause a breach of the peace, require by general or special notice that the persons convening or collecting such assembly or directing or promoting such procession shall apply for a license.

(3) On such application being made, he may issue a license specifying the names of the licensees and defining the conditions on which alone such assembly or such procession is to be permitted to take place and otherwise giving effect to this section : Provided that no fee shall be charged on the application for or grant of any such license.

Music in the streets.

(4) He may also regulate the extent to which music may be used in the streets on the occasion of festivals and ceremonies.)

30A. Powers with regard to assemblies and processions violating conditions or license :-

(1) Any Magistrate or District Superintendent of Police or Assistant District Superintendent of Police or Inspector of Police or any police-officer in charge of a station may stop any procession which violates the conditions of a license granted under the last foregoing section, and may order it or any assembly which violates any such conditions as aforesaid to disperse.

(2) Any procession or assembly which neglects or refuses to obey any order given under the last preceding sub-section shall be deemed to be an unlawful assembly.]

31. Police to keep order in public roads, etc :-

It shall be the duty of the police to keep order on the public roads, and in the public streets, thoroughfares, ghats and landing-places, and at all other places of public resort, and to prevent obstructions on the occasions of assemblies and processions on the public roads and in the public streets or in the neighbourhood of places of worship, during the time of public worship, and in any case when any road, street, thoroughfare, ghat or landing-place may be thronged or may be liable to be obstructed.

32. Penalty for disobeying orders issued under last three sections, etc :-

Every person opposing or not obeying the orders issued under the last ¹[three] preceding sections, or violating the conditions of any license granted by the District Superintendent or Assistant District Superintendent of Police for the use of music, or for the conduct of assemblies and processions, shall be liable, on conviction before a Magistrate, to a fine not exceeding two hundred rupees. ¹

1. Substituted for the word "two" by the Police Act (1861) Amendment Act, 1895 (8 of 1895), section 12.

33. Saving of control-of Magistrate of district :-

Nothing in the last ¹ [four] preceding sections shall be deemed to interfere with the general control of the Magistrate of the district over the matters referred to therein.

1. Substituted for "three" by the Police Act (1861) Amendment Act, 1895 (8 of 1895), S. 12.

34. Punishment for certain offences on roads, etc :-

Any person who, on any road or in any ¹[open place or] street or thoroughfare within the limits of any town ²to which this section" shall be specially extended by the ³[State Government], commits any of the following offences, to the obstruction, inconvenience, annoyance, risk, danger or damage of the ⁴[residents or passengers] shall, on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees, or to imprisonment ⁵ [with or without hard labour] not exceeding eight days; Power of police-officers. and it shall be lawful for any police-officer to take into custody, without a warrant, any person who within his view commits any of such offences, namely :- Slaughtering cattle, furious riding, etc. First.-Any person who slaughters any cattle or cleans any carcass: any person who rides or drives any cattle recklessly or furiously, or trains or breaks any horse or other cattle : Cruelty to animals. Second.-Any person who wantonly or cruelly beats, abuses or tortures any animal : Obstructing passengers. Third.-Any person who keeps any cattle or conveyance of any kind standing longer than is required for loading or unloading or for taking up or setting down passengers, or who leaves any conveyance in such a manner as to cause inconvenience or danger to the public : Exposing goods for sale. Fourth.- Any person who exposes any goods for sale. Throwing dirt into street. Fifth.-Any person who throws or lays down any dirt, filth, rubbish or any stones or building materials, or who constructs any cowshed, stable or the like, or who causes any offensive matter to run from any house, factory, dung-heap or the like : Being found drunk or riotous. Sixth.- Any person who is found drunk or riotous or who is incapable of taking care of himself: Indecent exposure of person. Seventh.- Any person who wilfully and indecently exposes his person, or any offensive deformity or disease, or commits nuisance by easing himself or by bathing or washing in any tank or reservoir

not being a place set apart for that purpose : Neglect to protect dangerous places. Eight.-Any person who neglects to fence in or duly to protect any well, tank or other dangerous place or structure.

1. Inserted by the Police Act (1861) Amendment Act, 1895 (8 of 1895), S. 13.
2. The section has been extended to whole territory of Goa, Daman and Diu w.e.f. 13-8-1964 - See Goa, Daman and Diu Gaz., 13-8-1964, Sr. I, p. 244 (2) to the towns of Jind, Narawana, Safidon and Julva in Jind Dist. of Haryana-See Haryana Gaz., 12-11-1969, Pt. IV, p. 443, to certain districts in M. P. -See M. P. Gaz. 11-8- 1967, Pt. I, pp. 812, 854, 855 and 864, to some 12 towns in Manipur-See Mani. Gaz. 27-12-1967. Ext., (No. 209) E, p. 172 : to Rishabdeo Town in Rajasthan-See Raj. Gaz., 3-6-1965, Pt. I (Kha),p. 194(1): to Naharkata Town in Lakhimpur Dist. in Assam - See Assam Gaz. 2-7-1969, Pt. II-A. p. 1696, to Delhi notified-area in Mahasu Dist.. H. P. - See H. P. Gaz., 22-1-1966, Pt. I, p. 35 : For extension to certain notified areas in Manipur see Manipur Gaz.,27-12-1967,Ext., (No. 209-E-1972): to Kalyani township in W. B.-See Cal. Gaz., 12-9- 1968, Pt. I, p. 1876 : to Zaidpur town and Nandprayag town in U. P. -See U. P. Gaz.. Pt. I, p. 1242 and the Amending Act. 1903 (1 of 1903), S. 3 and Sch. II, 1964, Pt. I, p. 741.
3. Substituted for the words "Provincial Government" by A. L. O., 1950.
4. Substituted for the words "residents and passengers" A. L. O., 1950.
5. Inserted by the Amending Act. 1903 (1 of 1903), S. 3 and Sch. II.

35. Jurisdiction :-

¹[* * *] Any charge against a police officer above the rank of a constable under this Act shall be enquired into and determined only by an officer exercising the powers of a ² Magistrate.

1. The words "In all cases of convictions under this Act the Officer trying the case shall be limited to his ordinary jurisdiction as to the amount of fine or imprisonment which he may inflict provided that" were omitted by the Code of Criminal Procedure, 1882 (10 of 1882), S. 2 and Sch. I (b).
2. i.e., by a Magistrate of the first class. See the Code of Criminal Procedure, 1898 (5 of 1898), S. 3(2).

36. Power to prosecute under other law not affected :-

Nothing contained in this Act shall be construed to prevent any person from being prosecuted under any Regulation or Act for any offence made punishable by this Act, or from being liable under any other Regulation or Act or any other or higher penalty or

punishment than is provided for such offence by this Act : Proviso Provided that no person shall be punished twice for the same offence.

37. Recovery of penalties and fines imposed by Magistrates

:-

The provisions of Ss. 64 to 70, both inclusive, of the Indian Penal Code, 1860 , and of sections 386 to S.389 of the Code of Criminal Procedure, 1898, both inclusive, of the Code of Criminal Procedure, 1882, with respect to fines, shall apply to penalties and fines imposed under this Act on conviction before Magistrate : Provided that notwithstanding anything contained in section 65 of the first-mentioned Code, any person sentenced to fine under section 34 of this Act may be imprisoned in default of payment of such fine for any period not exceeding eight days.]

38. Procedure until return is made to warrant of distress :-

Repealed by the Police Act (1861) Amendment Act, 1895 (8 of 1895), section 14.]

39. Imprisonment if distress not sufficient :-

Repealed by the Police Act (1861) Amendment Act, 1895 (8 of 1895), section 14.]

40. Levy of fines from European British subjects :-

Repealed by the Police Act (1861) Amendment Act, 1895 (8 of 1895), section 14.]

41. Rewards to police and informers payable to General Police Fund :-

Repealed by A.O., 1937.]

42. Limitation of actions :-

¹ [All actions and prosecutions against any person, which may be lawfully brought for anything done or intended to be done under the provisions of this Act, or under the general police powers hereby given shall be commenced within three months after the act complained of shall have been committed, and not otherwise]; and notice in writing of such action and of the cause thereof shall be given to the defendant, or to the District Superintendent or an Assistant District Superintendent of the District in which the act was committed, one month at least before the commencement of the action. Tender of amends. No plaintiff shall recover in any such action if tender of sufficient amend shall have been made before

such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant, and, though a decree shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the Judge before whom the trial is held shall certify his approbation of the action : Proviso: Provided always that no action shall in any case lie where such officers shall have been prosecuted criminally for the same act.

1. Substituted for the words figures and letters "or 34E" by the Regn. 2 of 1979 S. 3 (9-4-1979).

43. Plea that act was done under warrant :-

When any action or prosecution shall be brought or any proceedings held against any police officer for any act done by him in such capacity, it shall be lawful for him to plead that such act was done by him under the authority of a warrant issued by a Magistrate. Such plea shall be proved by the production of the warrant directing the act, and purporting to be signed by such Magistrate and the defendant shall thereupon be entitled to a decree in his favour, notwithstanding any defect of jurisdiction in such Magistrate. No proof of the signature Of such Magistrate shall be necessary, unless the Court shall see reason to doubt its being genuine : Proviso: Provided always that any remedy which the party may have against the authority issuing such warrant shall not be affected by anything contained in this section.

44. Police officers to keep diary :-

It shall be the duty of every officer in charge of a police station to keep a general diary in such form as shall, from time to time be prescribed by the ¹ [State Government] and to record therein all complaints and charges preferred, the names of all persons arrested, the names of the complainants, the offences charged against them, the weapons or property that shall have been taken from their possession or otherwise, and the names of the witnesses who shall have been examined. The Magistrate of the district shall be at liberty to call for and inspect such diary.

1. Substituted for the words figures and letters "or 34E" by the Regn. 2 of 1979 S. 3 (9-4-1979).

45. State Government may prescribe form of returns :-

The ¹[State Government] may direct the submission of such returns by the Inspector-General and other police officers as to

such ¹ [State Government] shall seem proper, and may prescribe the form in which such returns shall be made.

1. Substituted for the words figures and letters "or 34E" by the Regn. 2 of 1979 S. 3 (9-4-1979).

46. Scope of Act :-

(1) This Act shall not by its own operation take effect in any presidency [State] or place. But the [State Government] by an order to be published in the Official Gazette] may extend the whole or any part of this Act to any presidency, [State] or place, and the whole or such portion of this Act as shall be specified in such order shall thereupon take effect in such presidency, [State] or place.

(2) When the whole or any part of this Act shall have been so extended, the [State Government] may, from time to time, by notification in the [Official Gazette], make rules consistent with this Act-

(a) to regulate the procedure to be followed by Magistrate and police officers in the discharge of any duty imposed upon them by or under this Act;

(b) to prescribe the time, manner and conditions within and under which claims for compensation under section 15-A are to be made, the particulars to be stated in such claims, the manner in which the same are to be verified, and the proceedings (including local enquiries if necessary) which are to be taken consequent thereon: and.

(c) generally, for giving effect to the provisions of this Act.

(3) All rules made under this Act may from time to time be amended, added to or cancelled by the [State Government].]

47. Authority of District Superintendent of Police over village police :-

It shall be lawful for the ¹[State Government] in carrying this Act into effect in any part of the territories subject to such ¹ [State Government], to declare that any authority which now is or may be exercised by the Magistrate of the district over any village-watchman or other village police officer for the purposes of police, shall be exercised, subject to the general control of the Magistrate of the district, by the District Superintendent of Police.

1. Substituted for the words figures and letters "or 34E" by the Regn. 2 of 1979 S. 3 (9-4-1979).