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SECOND SUPPLEMENT TO THE FEDERATED MALAY STATES GOVERNMENT GAZETTE

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The following Notifications are, by direction of the Chief Secretary to Government, published for general information.

C. W. H. COCHRANE,
Acting Under Secretary, F.M.S.

No. 7877.—The following Bill about to be introduced in the Federal Council is published for general information:

DRAFT CUSTOMS BILL.

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A BILL

intituled

An Enactment to consolidate and amend the law relating to Customs Duties.

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows:

PART I.

PRELIMINARY.

1. (i) This Enactment may be cited as "The Customs Enactment, 1923," and shall come into force on

Short title, commencement and repeal.

(ii) Upon the coming into force of this Enactment the Enactments mentioned in the schedule shall be repealed to the extent specified therein provided that all Customs duties imposed, all rules and appointments made, and all notifications issued under any of the Enactments hereby repealed or under any Enactment repealed by any of the said Enactments which were in force immediately prior to the commencement of this Enactment, shall, so far as they are not inconsistent with the provisions of this Enactment be deemed to have been imposed, made or issued under this Enactment.

2. In this Enactment, unless there is something repugnant in the subject or context,

Interpretation.

"Chief Secretary" means the Chief Secretary to Government, Federated Malay States.

Chief Secretary.

"Commissioner" means the Commissioner of Trade and Customs appointed by the Chief Secretary by notification in the *Gazette* in such behalf and includes Deputy Commissioners.

Commissioner.

"Superintendent of Customs" means any officer appointed by notification in the *Gazette* in such behalf, and includes Assistant Superintendents of Customs, so appointed, and for the purpose of this Enactment includes also Superintendents and Assistant Superintendents of Excise or Chandu.

Superintendent of Customs.

"Principal Officer of Customs" means a Superintendent or Assistant Superintendent of Customs, and in his absence from any district and in districts in which there is no Superintendent or Assistant Superintendent of Customs includes the District Officer and Assistant District Officer.

Principal Officer of Customs.

"Proper Officer of Customs" means any Officer of Customs acting in the fulfilment of his duties under this Enactment, whether such duties are assigned to him specially or generally and expressly or by implication.

Proper Officer of Customs.

"Senior Officer of Customs" means any Principal Officer of Customs or any public servant expressly declared to be a Senior Officer of Customs.

Senior Officer of Customs.

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Out-door Officer of Customs.	"Out-door Officer of Customs" means any Customs Officer below the rank of Assistant Superintendent.
Goods.	"Goods" includes all kinds of movable personal property.
Dutiable goods.	"Dutiable Goods" includes all goods in respect of which any duty of Customs is payable.
Liquor.	"Liquor" includes all liquids consisting of alcohol, or containing more than two per cent. of pure alcohol by weight, and also any liquor which the Chief Secretary may by notification in the <i>Gazette</i> declare to be liquor for the purposes of this Enactment.
Intoxicating Liquors.	"Intoxicating Liquors" includes spirits, liqueurs, wines, medicated wines, beer, cider, perry and all other liquors fit or intended or which can by any means be converted for use as a beverage containing more than two per cent. of pure alcohol by weight but does not include denatured spirits or toddy.
Beer.	"Beer" includes ale, stout, porter, and all other fermented liquors made from malt.
Tobacco.	"Tobacco" includes cigars, cigarettes and snuff.
Gallon.	"Gallon" means the imperial gallon, or the gantang or six reputed quart bottles or twelve reputed pint bottles.
Spirit.	"Spirit" means any liquor containing alcohol obtained by distillation whether denatured or not.
Proof Spirit.	"Proof Spirit" means a liquor containing 49.24 per cent. by weight of alcohol and 50.76 per cent. by weight of distilled water having a specific gravity at 60 degrees Fahrenheit of .91984.
Proof Gallon.	"Proof Gallon" means a gallon of proof spirit. A duty payable on any liquor "per proof gallon" means a duty payable upon the maximum number of proof gallons which the alcohol contained in such liquor when mixed with water is capable of forming.
Denatured.	"Denatured" means effectually and permanently rendered unfit for human consumption.
Master.	"Master" includes every person (except a pilot) having command or charge of any vessel.
Vessel.	"Vessel" includes any ship or boat or any other description of vessel used in navigation.
Coasting trade and coasting vessel.	All trade by sea from any one part of the Federated Malay States to any other part thereof shall be deemed a coasting trade and all vessels while employed therein shall be deemed to be coasting vessels.
Prohibited or restricted goods.	"Prohibited" or "Restricted Goods" means goods the import or export of which is prohibited or restricted by any law or order in force for the time being.
Uncustomed goods.	"Uncustomed goods" means goods in respect of which a breach of the Customs laws, rules or regulations has during the import or export of the same been committed.

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PART II.

APPOINTMENT OF OFFICERS.

3. (i) The Chief Secretary may appoint an officer to be styled the Commissioner of Trade and Customs, hereinafter referred to as the Commissioner, and such number of Deputy Commissioners as he may think fit. Appointment of Commissioner.

(ii) The Commissioner shall be the Chief Officer of Customs and shall have the superintendence of all matters relating to the Customs throughout the Federated Malay States subject to the direction and control of the Chief Secretary.

(iii) Deputy Commissioners shall be subject to the general direction and supervision of the Commissioner, and subject to this proviso shall have and exercise all powers conferred on the Commissioner by this Enactment or by any rule made thereunder. Deputy Commissioners.

4. (i) The Chief Secretary may appoint either by name or by virtue of their office so many officers to be called Superintendents of Customs as he may think necessary for the purpose of collecting duties of Customs and generally for the purpose of carrying out the provisions of this Enactment and such number of Assistant Superintendents as he may think fit. Appointment of Superintendents and Assistant Superintendents.

(ii) An Assistant Superintendent shall have all the powers conferred on a Superintendent by this Enactment.

(iii) Any act within the powers conferred upon him done by to or before an Assistant Superintendent shall have the same effect as if done by to or before a Superintendent.

(iv) All Superintendents and Assistant Superintendents shall be under the direction and control of the Commissioner.

5. Every person appointed as a Superintendent or Assistant Superintendent of Chandu under "The Opium and Chandu Enactment, 1910," and every person appointed as a Superintendent or Assistant Superintendent of Excise under "The Excise Enactment, 1923," shall by virtue of such appointment be a Superintendent or Assistant Superintendent of Customs under this Enactment. Powers extended to Officers of Chandu and Excise.

6. (i) The Commissioner may appoint either by name or by virtue of their office such persons as he may think fit to be Out-door Officers of Customs for the purpose of collecting duties of Customs, and generally for the purpose of carrying out the provisions of this Enactment and may suspend or dismiss any person so appointed. Appointment of Out-door Officers.

(ii) Such Out-door Officers shall be under the direction and orders of Senior Customs Officers.

7. The Commissioner may require of every person now employed or who shall hereafter be employed in the service of the Customs such securities for his good conduct as he may deem necessary. Security may be required.

8. Every person appointed as a Chandu Officer under "The Opium and Chandu Enactment, 1910," and every person appointed as an Out-door Officer of Excise under "The Excise Enactment, 1923," shall by virtue of such appointment be a Subordinate Officer under this Enactment. Powers extended to Officers of Chandu and Excise.

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Powers
extended to
Police Officers.

9. (i) For the purposes of this Enactment all Police Officers not below the rank of Inspector shall be deemed to be Senior Customs Officers and all Police Officers below the rank of Inspector and all Police Constables shall be deemed to be Out-door Officers of Customs.

Police and
Customs
Officers to carry
means of
identification.

(ii) Every Police Officer or Constable or Customs Officer when acting against any person under this Enactment shall if not in uniform on demand declare his office and produce to the person against whom he is acting such part of his public equipment as the Commissioner of Police or the Commissioner of Trade and Customs as the case may be may direct to be carried by Police Officers or Customs Officers when employed on secret or special service.

Customs
Officers deemed
to be public
servants.

10. The Commissioner, Deputy Commissioners and all Customs Officers shall be deemed to be public servants within the meaning of the Penal Code.

Persons
employed on
Customs duty
to be deemed
proper officers
for such service.

11. Every person employed on any duty or service relating to the Customs by the orders or with the concurrence of the Commissioner (whether previously or subsequently expressed) shall be deemed to be the proper officer for that duty or service; and every act required by law at any time to be done by or with any particular officer nominated for such purpose if done by or with any person appointed by the Commissioner to act for such particular officer shall be deemed to be done by or with such particular officer.

PART III.

APPOINTMENT OF PORTS, COLLECTING STATIONS, AND WAREHOUSES.

Power to
appoint ports
and collecting
stations.

12. (i) The Chief Secretary may from time to time by notification in the *Gazette* fix the ports and places of import and export respectively and the legal landing and shipping places within port limits and may from time to time annul any such notification or such part or parts thereof as he may deem expedient.

(ii) The Chief Secretary may from time to time by notification in the *Gazette* fix the places inland at which collecting stations shall be established for the collection of import and export duties.

(iii) Import or export duties imposed under this Enactment may be collected at any place within the Colony appointed for that purpose under the provisions of any Colonial Ordinance or by virtue of any arrangement between the Governments of the Colony and the Federated Malay States.

Business hours.

13. The Chief Secretary may, from time to time, by notification in the *Gazette*, fix the days and times during which any collecting station may be open for business and the times during which any goods may be landed or shipped at any port.

Overtime fees.

14. The Chief Secretary may, from time to time, by notification in the *Gazette*, fix the rates of overtime fees to be paid by the masters or agents of vessels in port or by the importers or exporters of goods, to Customs Officers for services rendered on demand, beyond the ordinary working hours of such officers.

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15. The Chief Secretary may establish Customs warehouses wherein dutiable goods may be deposited and kept without payment of Customs duties and may prescribe from time to time the amount to be paid as warehouse rent on any goods so deposited. Government warehouses.

16. (i) The Chief Secretary may from time to time grant licences for warehousing in places specified in such licences, goods liable to Customs duties. Licensed warehouses.

(ii) It shall be at the discretion of the Chief Secretary to grant or refuse such licence and any such licence granted shall be for such period and subject to such conditions as the Chief Secretary may direct.

(iii) There shall be charged for every such licence an annual fee to be determined by the Chief Secretary in each case.

PART IV.

PROHIBITION OF IMPORTS AND EXPORTS.

17. The Chief Secretary may, by notification in the *Gazette*, prohibit the importation into, or the exportation from, the Federated Malay States, or any part thereof, either absolutely or conditionally, or from or to any country, territory or place without the Federated Malay States in such notification to be specified, or the removal from place to place in the Federated Malay States, of any goods. Power to prohibit imports and exports.

18. The Chief Secretary may, by notification in the *Gazette*, prohibit the importation into, or exportation from, the Federated Malay States, or any part thereof, or removal from place to place in the Federated Malay States, of any goods except at ports or places specified in such notification. Ports and places of import and export and removal.

19. The Chief Secretary may issue a licence, subject to such restrictions and conditions as he thinks fit, allowing the person named in the licence to import, export or remove any goods in respect of which a notification is in force. Import, export and removal licences.

20. (i) Any licence authorized by this Enactment to be issued by the Chief Secretary may be issued by any officer or officers authorized by the Chief Secretary in that behalf. Delegation of power to issue licences.

(ii) Such authority may be given to any officer either by name or by virtue of his office, and any such authority may be general or restricted to particular areas and may be varied or revoked by the Chief Secretary.

PART V.

LEVY OF CUSTOMS DUTIES.

21. The Chief Secretary may from time to time by notification in the *Gazette* fix the amount of Customs duties to be levied on any goods and may from time to time cancel such duties and impose new duties in the stead thereof and may from time to time exempt any goods from the payment of the whole or any part of the duties of Customs leviable on such goods. Customs duties.

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Power to fix
value.

22. The Chief Secretary may from time to time by notification in the *Gazette* fix, for the purpose of levying duties, the values of any dutiable goods and may from time to time alter any values so fixed.

Valuation by
Customs
Officers.

23. It shall be lawful for the Proper Officer of Customs to cause any dutiable goods on the import or export thereof to be valued, weighed, measured or otherwise examined for ascertaining the duty leviable thereon.

Weighing and
handling fees.

24. All necessary operations relating to the loading, shipping, unloading, unshipping, landing, carrying, weighing, opening, unpacking, repacking, bulking, sorting and marking of goods shall be performed by or at the expense of the owner, importer, exporter, consignor, consignee, or agent as the case may be.

Return of duty
overpaid.

25. It shall be lawful for the Commissioner to order the return of any money which shall have been overpaid as duties of Customs at any time within one year after such overpayment, upon its being proved to his satisfaction that the same was overpaid in error, but no such return shall be allowed unless the claim shall have been made and established within such period of one year.

Payment of
duties short
levied or
erroneously
refunded.

26. Whenever :

(a) any Customs duties have been short levied through inadvertence, error, collusion or misconstruction on the part of the Officers of Customs or through misstatement as to value, quantity or description on the part of the owner, or

(b) any Customs duties, after having been levied, have been owing to any cause erroneously refunded ;

the person chargeable with the duty short levied, or to whom such refund has erroneously been made, shall pay the deficiency or repay the amount paid to him in excess, on demand being made within six months from the date of the levy of the duty or the making of the refund, and any dutiable goods belonging to such person which may be in any Customs warehouse may be detained until the said deficiency or excess be paid or repaid.

No abatement
of duty after
removal from
warehouse.

27. After removal from a Customs or licensed warehouse no abatement of Customs duty on account of damage shall be allowed on wine, spirits or beer, or on any other article on which Customs duty is levied on quantity and not on value.

Time for
calculation of
import duty.

28. The rate of duty and valuation (if any) applicable to any goods imported shall be the rate and valuation in force on the date on which such goods are passed by the Customs for import for home consumption ; provided that if such goods are warehoused under this Enactment the rate and valuation (if any) applicable thereto shall be the rate and valuation in force on the date of the actual removal of such goods from the warehouse for home consumption.

Time for
calculation of
export duty.

29. The rate of duty and valuation (if any) applicable to any goods exported shall be the rate and valuation in force on the date on which the goods are passed by the Customs for export.

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PART VI.

REGISTRATION OF IMPORTS AND EXPORTS.

30. The following officers shall be Registrars of Imports and Exports in the Federated Malay States :

Officers to be Registrars.

- (a) The Proper Officer of Customs—for all goods imported or exported by sea or road ;
- (b) The Proper Officer of Customs—for all dutiable goods imported or exported by rail ;
- (c) The Station Master at the station of destination for all non-dutiable goods imported by rail ;
- (d) The Station Master at the station of despatch—for all non-dutiable goods exported by rail.

31. (i) Every importer of non-dutiable goods by vessel shall, within ten days after the arrival of such vessel deliver or cause to be delivered to the Registrar of Imports and Exports a declaration in duplicate in the form prescribed giving the particulars of such goods as required in the form, and the Registrar of Imports and Exports shall thereupon, if satisfied with the correctness of the declaration, deliver to the said importer a certificate in the form prescribed that the said goods have been duly declared, provided that if any such goods are accompanied by a declaration signed by the consignor or his agent which in the opinion of the Registrar is sufficient, the said certificate may be granted without requiring any further declaration in respect of such goods.

Declaration of non-dutiable goods imported by sea.

(ii) The application for a permit to import dutiable goods required under section 56 of this Enactment shall be deemed to be an import declaration for the purposes of this section.

Declaration of dutiable goods imported by sea, rail or road.

32. (i) Every exporter of non-dutiable goods by vessel shall, within two days after clearance of such vessel, deliver or cause to be delivered to the Registrar of Imports and Exports a declaration in duplicate in the form prescribed, giving the particulars of such goods as required in the form, and the Registrar of Imports and Exports shall thereupon, if satisfied with the correctness of the declaration, deliver to the said exporter a certificate in the form prescribed that the said goods have been duly declared.

Declaration of non-dutiable goods exported by sea.

(ii) The account of dutiable goods to be exported, required under section 57 of this Enactment, shall be deemed to be an export declaration for the purposes of this section.

Declaration of dutiable goods exported.

33. (i) No owner, master, or agent of any steamer or other vessel arriving at or leaving any port in the Federated Malay States shall deliver any inward cargo, or the bill of lading, or other document in the nature of a bill of lading, for any outward cargo until he has been furnished by the owner thereof, or by his agent with a certificate from the Registrar of Imports and Exports in the form prescribed that such cargo has been duly declared.

Carriers to retain goods and documents till certificate of declaration issued.

(ii) When the office of the Registrar of Imports and Exports is closed a declaration in the form prescribed setting out the particulars of the goods may be accepted by such owner, master or agent in lieu of such certificate as regards goods the import or export of which is not prohibited or specially regulated by or under this or any other Enactment.

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(iii) Every such owner, master or agent shall deliver such declaration to the Registrar of Imports and Exports on the first subsequent day on which the office of the Registrar of Imports and Exports is open.

(iv) Nothing in this section contained shall operate to relieve the importer or exporter from the duty of complying with sections 31 and 32.

Declaration of
non-dutiable
goods imported
by rail.

34. (i) Every person to whom non-dutiable goods are consigned by railway from any place outside the Federated Malay States with which there is direct railway communication shall furnish or cause to be furnished to the Registrar of Imports and Exports at the station of delivery a declaration in the form prescribed giving the particulars of such goods, as required in the form, without which delivery shall not be granted.

(ii) If any of the required particulars concerning non-dutiable goods be unknown to the consignee thereof, delivery may be given on a written promise of the consignee or his agent to furnish the necessary information to the Registrar of Imports and Exports within ten days.

In the latter case, it shall be the duty of the Registrar of Imports and Exports to take the name and full postal address of the consignee. The promisor in such promise as aforesaid shall perform his promise within the time therein stipulated.

Declaration of
non-dutiable
goods exported
by rail.

35. Every person who consigns non-dutiable goods by rail from a place within the Federated Malay States to a place outside the Federated Malay States with which there is direct railway communication, shall furnish or cause to be furnished to the Registrar of Imports and Exports at the station of despatch, a declaration in the form prescribed, giving the particulars of such goods required in the form prescribed, without which no receipt or document in the nature of a receipt shall be granted.

Declaration of
non-dutiable
goods imported
by road.

36. On the arrival at any station appointed for the registration of imports and exports of any cart, wagon, car, truck or other vehicle having non-dutiable goods consigned by road from any place outside the Federated Malay States to a place therein, the person in charge thereof shall make a written or verbal declaration to the officer in charge of such station of the goods carried and shall not proceed till this has been done. If such declaration is verbal it is to be reduced to writing by the officer in charge. The declaration shall be in the form prescribed.

Declaration of
non-dutiable
goods exported
by road.

37. On arrival at any station appointed for the registration of imports and exports of any cart, wagon, car, truck or other vehicle having non-dutiable goods consigned by road from any place in the Federated Malay States to any place outside the said States the person in charge thereof shall make a written or verbal declaration to the officer in charge of such station of the goods carried, and shall not proceed till this has been done. If such declaration is verbal it is to be reduced to writing by the officer in charge. The declaration shall be in the form prescribed.

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38. Nothing in this Part contained shall apply to passengers' baggage or to personal property (being non-dutiable) which is conveyed to or from any place with which there is direct railway communication with the Federated Malay States for the consignor's private use and not for sale or to articles sent by parcel post.

Passengers' baggage and postal parcels excepted.

39. Nothing in this Part contained shall absolve any person from any obligation imposed by or under any Enactment regulating the movement of any special merchandise or coins.

Saving provision.

40. Any person who shall commit a breach of, or fail to comply with, any of the preceding provisions of this Part, in so far as they apply to non-dutiable goods, or shall make any false or misleading statement concerning non-dutiable goods on the import or export thereof, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred dollars.

Penalty for breach or non-compliance.

PART VII.

PORT CLEARANCES.

41. The master of every vessel arriving at any port in the Federated Malay States and not exempted under this Enactment shall produce to the Proper Officer of Customs on demand the Port Clearance granted at the last port of call, and the Proper Officer of Customs may retain the same.

Arriving vessels, unless exempted, to produce last Clearance.

42. Port Clearances shall be in the form prescribed from time to time by the Chief Secretary.

Forms of Clearance.

43. (i) No vessel, whether laden or in ballast, unless exempted under this Enactment, shall depart from any port in the Federated Malay States until a Port Clearance has been granted by the Superintendent of Customs or other Customs Officer duly authorized to grant the same.

No vessel, unless exempted, to sail without Clearance.

(ii) Such officer shall not issue a Port Clearance for any ship, until the master of such ship has declared to that officer the name of the nation or State to which he claims that she belongs, and that officer shall thereupon inscribe that name on the Port Clearance.

(iii) It shall not be necessary to take out or produce Port Clearances in respect of the following classes of vessels, namely:

Exempted vessels.

- (a) any ship of war, troop-ship or other ship belonging to or for the time being in the service of His Britannic Majesty of the Colony or any foreign Prince or State;
- (b) ships of a class which has been exempted from the operation of this section by the Chief Secretary.

44. (i) If the master of any vessel shall obtain a Port Clearance and shall not sail within forty-eight hours thereafter, he shall report to the Proper Officer of Customs his reason for not sailing, and if so required obtain a fresh Port Clearance.

Master of vessel not sailing within forty-eight hours after Port Clearance to report to Proper Officer of Customs.

(ii) If the master of any vessel shall fail to comply with the provisions of this section, he shall be guilty of an offence against this Enactment and the vessel may be detained.

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Documents to
be furnished on
applying for
Clearance.

45. The master or agent of any coasting vessel shall, at the time of applying for Port Clearance:

- (a) deliver to the Proper Officer of Customs a list of all goods, dutiable on export, for delivery at another port in the Federated Malay States;
- (b) answer to the Proper Officer of Customs such questions concerning the departure and destination of the vessel as are demanded of him.

List of goods to
be endorsed on
or attached to
the Port
Clearance.

46. The Proper Officer of Customs shall endorse upon the Port Clearance granted, the list of goods submitted under the provisions of section 45 (a) or at his discretion shall firmly attach the list submitted to the Port Clearance.

When
Clearance may
be refused.

47. The Superintendent of Customs or other Customs Officer authorized to grant Port Clearances may refuse to grant Port Clearance to any vessel until:

- (a) the provisions of section 45 shall have been complied with;
- (b) the provisions of section 55 concerning junks, tongkangs, prahus, boats and motor or steam vessels of under fifty tons commanded by an Asiatic, shall have been complied with;
- (c) all charges and penalties due by such vessel or by the owner or master thereof and all duties payable in respect of any goods shipped therein shall have been duly paid, or their payment secured by such guarantee or by deposit at such rate as the Proper Officer of Customs directs; or,
- (d) the ship's agent (if any) shall have delivered to the Proper Officer of Customs a declaration in writing to the effect that he will be liable for all such charges and penalties as aforesaid, and shall have furnished security for the discharge of the same if so required.

PART VIII.

MANIFESTS AND DECLARATIONS.

Master of
arriving vessel
to present copy
of inward
manifest.

48. (i) The master or agent of every vessel arriving in any port shall within twenty-four hours after arrival and before any cargo is unshipped present to the Proper Officer of Customs at the Customs Office, a true copy in English of the inward manifest of the vessel substantially in the form prescribed, certified by the said master or agent, together with a duplicate copy thereof, containing all particulars as to marks numbers and contents of each package intended to be landed at the port, together with the names of shippers and consignees of the same if known to him, and it shall be at the discretion of the Proper Officer of Customs to demand in addition a complete manifest of the whole cargo of the vessel, and a complete list of stores in cases where the Proper Officer of Customs has reasonable grounds to suspect that there is any attempt to evade Customs duties or the regulations in respect of goods, the importation of which is prohibited or restricted.

Goods for
transhipment.

(ii) A separate manifest shall be presented in respect of goods to be transhipped at the port.

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49. In any case where such master or agent has been unable to ascertain the particulars of any inward cargo or the names of the consignees thereof, he shall sign the declaration endorsed upon the form prescribed that he has exercised due diligence to ascertain the particulars of such cargo and the names of the consignees and shall therein enumerate the packages in respect of which his information is defective.

Provision for cases where all particulars are not known.

50. On completion of the discharge of cargo the master or agent of the vessel shall present to the Proper Officer of Customs a certified statement in duplicate of any alteration in the manifest due to short shipment, short landing or any other cause, and if any goods shall not be accounted for to the satisfaction of the Principal Officer of Customs within two months or within such further period as the said officer may allow, the master and agent of the vessel shall be liable to a penalty of one hundred dollars, and in addition, in the case of dutiable goods, the agent shall be liable to pay twice the amount of duty leviable thereon.

Corrections to be made on completion of discharging.

51. The master or agent of any vessel arriving in any port shall at all times answer all questions relating to the vessel, cargo, crew or voyage to the Proper Officer of Customs and if he shall refuse to answer, or if he does not answer truly, or if after his arrival within three miles of the coast of the Federated Malay States bulk shall have been broken or alteration made in the stowage of the cargo of the vessel so as to facilitate the unloading of any part of such cargo before the manifest of such vessel or cargo shall have been presented or if any packages shall have been opened, unless cause be shewn to the satisfaction of the Commissioner, in every such case the master or agent shall be guilty of an offence against this Enactment.

Master to answer questions and not to break bulk, etc., before presenting manifest.

52. The owner or agent of any vessel leaving any port of the Federated Malay States shall within two days of the departure of such vessel deliver to the Proper Officer of Customs at the Customs Office a true copy in English of the outward manifest of the vessel, substantially in the form prescribed, certified by the said owner or agent, together with a duplicate copy thereof, containing all particulars as to marks, numbers and contents of each package shipped at the port together with the names of shippers and consignees of the same.

Outward manifest to be delivered on departure.

53. Sections 48 and 52 shall not apply to any junk, tongkang, prahu, boat, or steam or motor vessel under fifty tons commanded by an Asiatic.

Local craft excepted.

54. On the arrival of any junk, tongkang, prahu, boat, steam or motor vessel under fifty tons commanded by an Asiatic, the Nakhoda thereof shall attend in person at the office of the Proper Officer of Customs of the port and there make a written or verbal declaration of all the cargo to be landed from his vessel. If such declaration is verbal it shall be reduced to writing by the Customs Officer to whom the report is made in the form prescribed.

Nakhoda of local craft to make declaration on arrival.

55. (i) Before the departure of any junk, tongkang, prahu, boat, steam or motor vessel under fifty tons commanded by an Asiatic, the Nakhoda thereof shall attend in person at the office of the Proper Officer of Customs of the port and there make a written or verbal declaration of all cargo shipped on board his vessel and her port of destination. If such declaration is verbal it shall be reduced to writing by the Customs Officer to whom the report is made, in the form prescribed.

Nakhoda to make declaration before departure.

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(ii) No Port Clearance shall be granted until such declaration has been made.

Applications
for permit to
import dutiable
goods.

56. Every importer of dutiable goods by sea, rail or road, shall, at or before the time of importation, make personally or by his agent to the Proper Officer of Customs at the port or place of importation, or in the case of importation by rail, to the Proper Officer of Customs at the Customs warehouse to which the goods are consigned, an application in duplicate, substantially in the form prescribed, for permission to import such dutiable goods, and such application shall be accepted in lieu of an import declaration as required by section 31 of this Enactment, and if no application shall be rendered, all such goods shall be liable to seizure and the importer thereof or his agent shall be guilty of an offence against this Enactment.

Particulars of
dutiable goods
exported to be
furnished.

57. The exporter of any goods subject to duty on exportation shall

- (a) before shipment thereof furnish to the Proper Officer of Customs at the port of exportation, or
- (b) if such goods are despatched by rail, before despatch furnish to the officer in charge of the collecting station at which the exporter intends to pay the export duties on the said goods, or
- (c) if such goods are exported by road, before export, furnish to the Proper Officer of Customs,

a true and full account in duplicate of the weight, measure, quantity, description and value of all such dutiable goods to be exported by him, and such account shall be rendered in the form prescribed, and if no account shall be rendered all such goods shall be liable to seizure and the exporter thereof or his agent shall be guilty of an offence against this Enactment.

Documents to
be produced on
demand.

58. On the demand of the Proper Officer of Customs the importer or exporter of dutiable goods, or his agent, shall produce the invoice, bills of lading, or other documents, relating to the goods, and in the case of imports such certificate of origin or of analysis, as may be deemed necessary to test the accuracy of applications to import, and accounts of dutiable articles exported, and on failure to comply with any of the foregoing requirements the importer, or exporter, or his agent shall be liable to the same penalty as if no application to import or account of dutiable goods exported, as the case may be, had been rendered.

PART IX.

GENERAL PROVISIONS AFFECTING VESSELS IN PORT.

Customs Officer
to have power
to board vessel.

59. The Proper Officer of Customs may board any vessel arriving at any port and freely stay on board while such vessel shall remain within the limits of such port, and if the master of any vessel on board of which any Customs Officer is stationed neglect or refuse to provide such officer with sufficient room or accommodation under the deck for his bed or hammock, he shall be liable to a fine not exceeding one hundred dollars.

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60. The Proper Officer of Customs shall have free access to every part of the vessel, with power to fasten down hatchways or entrances to the hold and to mark any goods before landing and to lock up, seal, mark or otherwise secure any goods on board such vessel; and if any place, box or chest on board such vessel be locked and the keys be withheld, such officer may open any such place, box or chest in the best manner in his power, and if any goods be found concealed on board any such vessel they shall be forfeited; and if any officer shall place any lock, mark or seal upon any goods on board, and such lock, mark or seal shall be wilfully opened, altered or broken before due delivery of such goods, or if any such goods be secretly conveyed away, or if the hatchways or entrances after having been fastened down by the officer be opened, the master of such vessel shall be guilty of an offence against this Enactment.

Power to seal up and secure goods, and to open locks.

61. No goods (except ice and fresh fish which may be landed at any time) shall be landed or put on shore from any vessel except on the days and during the times prescribed under the provisions of section 13, without the permission of the Proper Officer of Customs, nor shall any goods be landed or unshipped except in the presence or with the authority of the Proper Officer of Customs; nor shall any goods be so landed except at some quay, wharf or other place duly appointed for the landing or unshipping of goods nor shall any such goods after having been landed or unshipped, or put into any boats or craft to be landed, be transhipped or removed into any other boat or craft previously to their being landed, without the permission of the Proper Officer of Customs, and if any such goods shall be unshipped, landed, transhipped or removed contrary hereto, the same shall be liable to seizure.

Time and place of landing goods inwardly.

62. No goods shall be shipped, put off or water-borne to be shipped, for exportation from any port or place in the Federated Malay States except on the days and during the times prescribed under the provisions of section 13, without the permission of the Proper Officer of Customs nor shall any goods be shipped, for exportation or be exported by land from any place not duly appointed for such purpose, or without the presence or authority of the Proper Officer of Customs, and any goods so shipped, put off or water-borne to be shipped, or found being exported, contrary hereto shall be liable to seizure.

Goods not to be shipped except by authority of the Customs Officers.

63. No goods dutiable on export shall be shipped, put off or water-borne to be shipped for exportation from any port or place to any other port or place in the Federated Malay States unless

Removal by sea of goods dutiable on export to another port in the Federated Malay States.

- (a) the export duty shall have been paid on any goods intended to be transhipped at such other place or port or
- (b) security shall have been furnished in the amount of such export duty to the satisfaction of the Proper Officer of Customs that any goods intended to be landed at such other place or port shall be so landed. All goods dealt with in contravention of this section shall be liable to seizure.

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PART X.

WAREHOUSING.

Dutiable goods
to be deposited
in Customs
warehouse on
arrival.

64. (i) All dutiable goods imported into the Federated Malay States by sea, rail or road, on first landing or arrival thereof shall be deposited in the Customs warehouse at the port or place of import provided that when imported by rail, dutiable goods, if consigned to a Customs warehouse within the Federated Malay States may be forwarded to such warehouse, notwithstanding that the duty leviable thereon be unpaid.

(ii) A warehouse deposit receipt in the prescribed form shall be issued by the Proper Officer of Customs for all goods deposited in a Customs warehouse.

Copy of lost
deposit receipt
admissible
under bond.

65. Where the warehouse deposit receipt has been lost a certified copy shall be supplied to the owner of the dutiable goods or his agent on delivery of an indemnity bond to the Principal Officer of Customs at the port or place, securing the Customs Department against any claim for loss owing to wrong delivery of the goods deposited.

Holder of
receipt deemed
to be owner.

66. The holder or endorsee in due course of a warehouse deposit receipt or a certified copy thereof granted under the provisions of section 65 shall be considered for the purposes of this Enactment to be the owner of the goods deposited, and delivery granted to the holder or endorsee of such warehouse deposit receipt or certified copy thereof shall be accounted a good and lawful delivery.

Removal of
dutiable goods
from Customs
warehouse.

67. No dutiable goods shall be removed from a Customs warehouse except

- (a) after payment of the import duty or
- (b) under bond for deposit in another Customs warehouse or in a licensed warehouse or
- (c) for export from the Federated Malay States ;

provided that in no case shall any goods be removed from a Customs warehouse until all warehouse charges due upon the same have been paid.

Power to open
and examine
packages.

68. The Principal Officer of Customs may at any time personally or by order in writing direct that any goods or package lodged in any warehouse shall be opened, weighed or otherwise examined and after the same have been so opened or examined may cause the same to be sealed or marked in such manner as he thinks fit.

Dangerous
goods.

69. No goods of a combustible or inflammable nature shall be deposited in any Customs warehouse without the sanction of the Commissioner, and if any such goods shall be landed they may be deposited at the expense of the importer thereof in any place that the Commissioner may deem fit, and whilst so deposited the same shall be deemed to be in the Customs warehouse, and shall be liable to be dealt with at the expiration of fourteen days in the same manner as goods of a similar nature actually deposited in the Customs warehouse unless duly cleared or warehoused in some approved warehouse in the meantime, and such goods shall be chargeable with such expenses for securing watching and guarding the same until sold, cleared or warehoused as aforesaid, as the Commissioner may deem fit.

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70. (i) All goods not being of a perishable nature deposited in a Customs or licensed warehouse and not cleared within six months, and all goods of a perishable nature so deposited and not cleared forthwith, and all goods of an inflammable nature so deposited and not cleared within fourteen days may be sold by public auction, provided that in respect of goods which may be deposited for six months in a Customs warehouse, the Commissioner may grant at his discretion two further periods each not exceeding six months.

Goods may be sold if not cleared in due time.

(ii) The proceeds of such sale shall be applied in the payment of duties, charges and railway freight in the order named and the surplus if any shall be paid to the owner of the goods on his application.

(iii) If such goods cannot be sold for a sufficient sum to pay the duties and charges they shall be forfeited to the Government and shall be disposed of as the Commissioner may direct.

71. No Officer of Customs shall be liable to make good any damages which any goods may sustain whilst in any Customs warehouse, unless the same shall have been caused by his wilful neglect or default.

Liability of Customs Officers for damages to goods.

72. No compensation shall be made by the Government to the owner, importer, exporter, consignor or consignee of any goods by reason of any damage occasioned thereto in any Customs warehouse by fire or inevitable accident.

Government not liable for damage not caused by negligence.

73. (i) The owner of dutiable goods deposited in a Customs warehouse shall pay monthly on receiving a bill or written demand for the same, from the Proper Officer of Customs, rent and warehouse dues at the prescribed rates.

Warehouse dues on dutiable goods.

(ii) If any bill for rent or warehouse dues presented under this section, is not discharged within ten days from the date of presentation the Commissioner may in the discharge of such demand (any transfer or assignment of the goods notwithstanding) cause to be sold by public auction, after due notice in the *Gazette*, such quantity of the goods as he may consider necessary.

(iii) Out of the proceeds of such sale the Commissioner shall retain the amounts due in respect of the duty upon the goods sold, and the rent and warehouse dues owing, and pay over the balance if any to the owner of the goods provided that application for the payment of such surplus shall have been made within one year from the date of the sale of the goods.

74. The Principal Officer of Customs or any officer deputed by him for the purpose, shall at all times have access to any private warehouse licensed under this Enactment.

Access to private licensed warehouses by Customs Officers.

PART XI.

DRAWBACK.

75. When dutiable goods upon which import duties have been paid are re-exported, seven-eighths of such duties shall except as otherwise hereinafter provided, be repaid as drawback on the authority of the Commissioner, provided that in every such case the goods be identified to the satisfaction of the Principal Officer of Customs at the port or place of re-export and that the re-export be made within twelve months of the date of importation, as shewn by the records of the Customs Office.

Drawback on goods re-exported within twelve months.

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Power to
prohibit
drawback on
specified goods.

76. The Chief Secretary may from time to time by notification published in the *Gazette* prohibit the payment of drawback upon the re-exportation of any specified goods or class of goods.

Cases where
drawback not
allowable.

77. Notwithstanding anything hereinbefore contained no drawback shall be allowed

- (i) upon goods not included in the export manifest, railway invoice or way-bill, as the case may be;
- (ii) where the goods to be exported are of less value than the amount of drawback claimed;
- (iii) where the drawback claimed in respect of any one consignment of re-exported goods amounts to less than five dollars;
- (iv) upon goods, other than liquors and tobacco, when there has been a change of ownership;
- (v) except as provided by section 80, upon goods that have been used after importation.

Claims for
drawback.

78. No drawback shall be allowed unless the claim to receive such drawback be made and established at the time of re-export and payment be applied for within three months of the date of re-export.

Declaration by
claimant.

79. Every person or his duly authorized agent claiming drawback on any goods re-exported shall make or subscribe a statutory declaration substantially in the form prescribed that such goods have been actually re-exported and have not been relanded or detrained and are not intended to be relanded or detrained at any port or place in the Federated Malay States, and that such person was at the time of the said re-exportation and continues to be entitled to drawback thereon.

Refund to
visitors and
owners of
samples.

80. When goods or articles imported by visitors to the Federated Malay States for their personal use, samples imported by commercial travellers and trade samples on which duty shall have been paid on importation are, within three months from the date of importation, or within such further period as may be determined by the Chief Secretary, re-exported to any place outside the Federated Malay States, such refund of the import duties paid as may be sanctioned by the Commissioner, shall be made.

Drawback on
liquors or other
goods manu-
factured in
Federated
Malay States.

81. (i) A drawback of excise duty paid on liquors or goods distilled or manufactured in the Federated Malay States, and exported to any place outside the Federated Malay States may be allowed by the Commissioner provided that the exportation be made within one year from the date of payment of such excise duty and that the liquors or goods when brought to the Customs station for exportation are accompanied by a certificate or other proof of the payment of such excise duty.

(ii) The amount of such refund shall be regulated in the case of liquors by the strength and quantity of such liquors as ascertained by an Officer of Customs.

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PART XII.

SEARCH, SEIZURE, AND ARREST.

82. Any Principal Officer, or other Proper Officer of Customs, may go on board any vessel in any port or place in or within the territorial waters of the Federated Malay States and may rummage and search all parts of such vessel for prohibited or restricted or uncustomed goods, and may examine all goods on board and all goods then lading or unlading and demand all documents which ought to be on board such ships, and may require all or any such documents to be brought to him for inspection, and the master of any vessel refusing to allow such officer to board or search such vessel, or refusing to produce such documents on demand shall be guilty of an offence against this Enactment.

Power to search vessels.

83. Any Principal Officer of Customs, or other Proper Officer of Customs may examine any goods in course of being imported or exported whether by sea or land into or from the Federated Malay States, and may for the purposes of such examination open any package or receptacle.

Power to open packages and examine goods.

84. If the contents of any package intended for importation or exportation in any vessel shall be reported by the master as being unknown to him, the Proper Officer of Customs may open and examine such packages on board such vessel, or may bring the same to the collecting station for that purpose and if there be found therein any goods which are prohibited to be imported or exported or any goods subject to duty on exportation, the export duty on which has not been paid, such goods shall be liable to seizure.

Packages contents of which are unknown may be opened and examined.

85. Any law or regulation to the contrary notwithstanding the baggage of passengers arriving in or leaving the Federated Malay States whether by land or water, may be examined and delivered in such manner as the Commissioner shall direct, but if any dutiable goods shall be found therein after the owner or other person in charge thereof shall have denied that any such goods were contained therein, or if any prohibited or restricted or uncustomed goods shall be found concealed therein either before or after the removal of the baggage from the train, vehicle or vessel whereby it has arrived in the Federated Malay States, or before or after the placing of the baggage in or upon the train, vehicle or vessel whereby it is to leave the Federated Malay States, the same shall be liable to seizure together with the packages containing the same, and all the contents thereof, and the owner or other person in charge thereof shall be guilty of an offence against this Enactment.

Baggage of passengers.

86. The Proper Officer of Customs may on the removal of any goods from the train, vehicle or vessel whereby the same have arrived in the Federated Malay States, or on or before the placing of any goods in or upon the train, vehicle or vessel whereby the same are to leave the Federated Malay States, or at any time afterwards take samples of the same for examination, or for ascertaining the duties payable on such goods or for other such purposes as the Commissioner may have declared to be necessary, and such samples may be disposed of in such manner as the Commissioner shall direct.

Samples may be taken by the Customs Officers.

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Customs
Officers may
stop
conveyances
and search
for goods.

87. Any Officer of Customs may

- (a) within any area declared by the Chief Secretary by notification in the *Gazette* to be an area for the purposes of this section or
- (b) upon reasonable suspicion in any other place

stop and examine any conveyance for the purpose of ascertaining whether any smuggled, restricted or prohibited goods are contained therein and all persons owning or being in charge of such conveyances, refusing to stop or to allow such examination when required, shall be guilty of an offence against this Enactment.

Magistrate may
by search
warrant
empower
Customs
Officers.

88. (i) Whenever it appears to any Magistrate upon written information upon oath, and after any enquiry which he may think necessary that there is probable cause to believe that in any dwelling-house, shop or other building or place there are concealed or deposited any prohibited or restricted or uncustomed goods or goods liable to forfeiture under this Enactment or under any rules made thereunder, or as to which any offence under this Enactment has been committed, such Magistrate may by his warrant directed to any Senior Officer of Customs empower such officer by day or night :

To search
buildings and
seize goods.

- (a) to enter such dwelling-house, shop or other building or place and there to search for and take possession of any goods reasonably suspected of being prohibited or restricted or uncustomed goods or goods liable to forfeiture under this Enactment or any rules made thereunder or as to which any offence under this Enactment is suspected to have been committed and of any books or documents which may reasonably be believed to have a bearing on the case ;

Arrest persons
concerned.

- (b) to arrest any person or persons being in such dwelling-house, shop, building or place in whose possession such goods as aforesaid may be found, or whom such officer may reasonably suspect to have concealed or deposited such goods.

Use necessary
force and
detain persons
concerned.

(ii) Such officer may if it is necessary to do so

- (a) break open any outer or inner door of such dwelling-house, shop, building or other place and enter thereinto ;
- (b) forcibly enter such place and every part thereof ;
- (c) remove by force any obstruction to such entry, search, seizure and removal as he is empowered to effect ;
- (d) detain every person found in such place until such place has been searched.

When search
may be made
without
warrant.

89. Whenever it appears to any Senior Officer of Customs that there is probable cause to believe that in any dwelling-house, shop or other building or place there are concealed or deposited any prohibited or restricted or uncustomed goods or goods liable to forfeiture under this Enactment or as to which an offence under this Enactment has been committed, and if he has good grounds for believing that by reason of the delay in obtaining a search warrant such goods are likely

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to be removed, the said officer by virtue of his office, may exercise in and upon and in respect of such dwelling-house, shop or other building or place all the powers in the last preceding section mentioned in as full and ample manner as if he were empowered to do so by a warrant issued under the said section.

90. Any person who shall refuse any officer access to any place or vessel or shall refuse or neglect to give any information which may be reasonably required of him, and which it is in his power to give, shall be guilty of an offence under this Enactment, and any person furnishing as true, information which he knows or has reason to believe to be false, shall be guilty of an offence under section 177 of the Penal Code.

Obstruction of inspection or search to be an offence.

Giving false information to be an offence.

91. (i) Every Senior Officer of Customs shall be entitled to exercise in and upon and in respect of any vessel landing place, wharf or railway all the powers in section 88 mentioned in as full and ample manner as if he were empowered to do so by a warrant under the said section.

Senior Customs Officer to exercise powers of search.

(ii) For the purposes of this section the expression "railway" shall have the meaning assigned thereto by "The Railways Enactment, 1912."

92. (i) Any person landing or being about to land or having recently landed from any vessel or leaving any vessel in the waters of the Federated Malay States whether for the purpose of landing or otherwise, or entering or having recently entered the Federated Malay States by land shall

Persons landing.

- (a) on demand by any Customs Officer either permit his person and goods and baggage to be searched by such officer or together with such goods and baggage accompany such officer to a police station or Customs Office and there permit his person, goods and baggage to be searched by any Customs Officer in the presence and under the supervision of a Senior Officer of Customs;
- (b) on demand by any Senior Officer of Customs permit his person and goods and baggage to be searched by him or by some other Customs Officer, in his presence and under his supervision;

To submit to search of person and goods.

Provided always that

- (c) any person who may claim that his person be searched in the presence of an European Officer, shall not be searched except in the presence of and under the supervision of such officer but may be detained until the arrival of such officer or taken to any police station or other place where such officer may be found;

Provisos for search by European Officer.

- (d) the goods and baggage of any person who may claim to be present when they are searched shall not be searched except in his presence;

Presence of owner at search of goods.

- (e) no female shall be searched except by a female.

Search of females.

(ii) Any person who may refuse to comply with any lawful demand under this section may be arrested without warrant by the officer making the demand.

Persons refusing may be arrested.

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Powers of
arrest.**93. (i)** Any Customs Officer may arrest without warrant

- (a) any person found committing or attempting to commit or employing or aiding any person to commit an offence against this Enactment,
- (b) any person whom he may reasonably suspect to have in his possession any prohibited or restricted or uncustomed goods or any article liable to forfeiture under this Enactment,
- (c) any person against whom a reasonable suspicion exists that he has been guilty of an offence against this Enactment,

and may search any person so arrested, provided that no female shall be searched except by a female.

(ii) Every person so arrested shall together with any article as to which an offence may have been committed or attempted to be committed, be taken to a police station.

(iii) If any person liable to arrest under this Enactment is not arrested at the time of committing the offence for which he is so liable, or after arrest makes his escape, he may at any time afterwards be arrested and be dealt with as if he had been arrested at the time of committing such offence.

Power to detain
vessel or
conveyance
pending
determination
of charge.

94. If the owner, agent or master of any vessel or the owner or person in charge of any conveyance shall have been charged with any offence against this Enactment the Principal Officer of Customs or any person authorized by him in writing in that behalf may seize and detain such vessel or conveyance pending the determination of such charge, and until payment of the fine, if any, imposed in respect of any such offence.

Seizures to be
delivered to
Customs.

95. (i) All vessels and conveyances and all goods liable to seizure under this Enactment may be seized in any place either on land or water by any Officer of Customs or by any public servant, and all vessels, conveyances and goods so seized shall, as soon as conveniently may be, be delivered into the care of the Principal Officer of Customs appointed to receive the same.

(ii) The seizure of any goods shall be taken to include the package in which the same are found and all the contents thereof.

(iii) The seizure of any conveyance shall be taken to include any animals by which the same may be drawn.

Notice to be
given by seizing
officer to owner
of vessel, con-
veyance or
goods seized.

96. Whenever any vessel, conveyance or goods shall be seized under this Enactment, the seizing officer shall forthwith give notice in writing of such seizure, and of the grounds thereof to the master of such vessel, or to the owner of such conveyance or goods, if known, either by delivering the same to him personally or by letter addressed to him at his place of abode, if known, and transmitted by post; provided always that such notice shall not be required to be made on the seizure of goods where the seizure is made on the person or in the presence of the offender; and all goods seized under this Enactment shall be taken to be forfeited unless the person from whom such goods shall have been seized or the owner of them or some person authorized by him, shall within one calendar month from the day of seizing the same give notice to the Principal Officer of Customs of the port or district that he claims the goods or intends to claim them.

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97. The Resident of a State may order any vessel, conveyance or goods seized under this Enactment whether forfeited or not to be delivered to the proprietor thereof upon such terms and conditions as he may deem fit.

Resident may direct seizure to be restored.

PART XIII.

PROVISIONS AS TO TRIALS AND PROCEEDINGS.

98. Prosecutions in respect of offences committed under this Enactment may be conducted by any person who is a Senior Officer of Customs within the meaning of this Enactment or any Customs Officer specially authorized thereto in writing by the Commissioner.

Who may prosecute.

99. A conviction for any offence under this Enactment may be had before the Court of a Magistrate of the First Class which shall have jurisdiction to impose any penalty provided by this Enactment.

Court of First Class Magistrate to have full jurisdiction.

100. If in any prosecution in respect of any goods seized for non-payment of duties, or for any other cause of forfeiture or for the recovering of any penalty or penalties under this Enactment, any dispute shall arise as to whether the Customs duties have been paid in respect of such goods, or whether the same have been lawfully imported or lawfully landed, or concerning the place whence such goods were brought, then and in every such case the proof thereof shall be on the defendant in such prosecution.

Burden of proof.

101. When any goods suspected of being prohibited or restricted or uncustomed or otherwise liable to seizure have been seized, it shall be sufficient to open, examine and if necessary test the contents of ten per cent. only of each description of package or receptacle in which such goods are contained, and the Court shall presume that the goods contained in the unopened packages or receptacles are of the same nature, quantity and quality as those found in the similar packages or receptacles which have been opened.

Proportional examination or testing of goods seized, to be accepted by Court.

102. (i) In any prosecution for a breach of a provision of this Enactment or of any rule thereunder, a certificate of analysis purporting to be under the hand of an Analyst, shall on production thereof by the prosecutor be sufficient evidence of the facts stated therein unless the defendant requires that the Analyst be called as a witness, in which case he shall give notice thereof to the prosecutor not less than three clear days before the day on which the summons is returnable.

Evidence of analysis may be given in writing.

(ii) In like manner a certificate of analysis purporting to be under the hand of an Analyst, shall on production thereof by the defendant be sufficient evidence of the facts stated therein unless the prosecutor requires that the Analyst be called as a witness.

(iii) A copy of such last-mentioned certificate shall be sent to the prosecutor at least three clear days before the day fixed for the hearing of the summons and if it is not so sent the Court may adjourn the hearing on such terms as it may think proper.

(iv) Analysts are by this Enactment bound to state the truth in certificates of analysis under their hands.

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(v) In this section the word "Analyst" includes only

(a) the persons employed for the time being as Chemist or Assistant Chemist at the Government Institute for Medical Research; and

(b) any other Analyst to whom this section may be declared by the Chief Secretary by notification in the *Gazette* to apply.

Proof as to
registration of
vessels in the
Federated
Malay States
or the Colony.

103. Where in any prosecution under this Enactment it is relevant to ascertain particulars as to the registration of any vessels registered in any port of the Federated Malay States or the Colony a certificate purporting to be signed by the officer responsible for such registration shall be *prima facie* evidence as to all particulars concerning such registration contained therein and the burden of proving the incorrectness of any particulars stated in such certificate shall be on the person denying the same.

Imprisonment
for non-
payment of fine.

104. The period of imprisonment imposed by any Court in respect of the non-payment of any fine under this Enactment or in respect of the default of a sufficient distress to satisfy any such fine shall be such period of such description, simple or rigorous, as in the opinion of the Court will satisfy the justice of the case but shall not exceed in any case the maximum fixed by the following scale:

Where the fine	The period may extend to
does not exceed twenty-five dollars ...	two months
exceeds twenty-five dollars but does not exceed fifty dollars	four months
exceeds fifty dollars but does not exceed one hundred dollars	six months

with two additional months for every one hundred dollars after the first one hundred dollars of the fine until a maximum period of two years is reached.

Manner of
seizure not to be
enquired into
on trial before
Court of
Magistrate, or
on appeal to
Supreme Court.

105. On any trial before any Court of a Magistrate and in any proceeding on appeal in the Supreme Court, relating in any of the above cases to the seizure of articles subject to forfeiture under this Enactment, it shall be lawful for the said Court, and the said Court is hereby required to proceed to such trials, and to the hearing of such appeals on the merits of the case only, without reference to matters of form and without enquiring into the manner or form of making any seizure except in so far as the manner and form of seizure may be evidence on such merits.

Protection of
informers from
discovery.

106. (i) Except as hereinafter mentioned, no witness in any civil or criminal proceedings shall be obliged or permitted to disclose the name or address of an informer or the substance of the information received from him or to state any matter which might lead to his discovery.

(ii) If any books, documents or papers which are in evidence, or liable to inspection in any civil or criminal proceeding whatsoever, contain any entry in which any informer is named or described or which might lead to his discovery, the Court shall cause all such passages to be concealed from view or to be obliterated so far as may be necessary to protect the informer from discovery but no further.

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(iii) If on the trial for any offence against this Enactment, the Court after full enquiry into the case believes that the informer wilfully made in his complaint a material statement which he knew or believed to be false or did not believe to be true, or if in any other proceeding the Court is of opinion that justice cannot be fully done between the parties thereto without the discovery of the informer it shall be lawful for the Court to require the production of the original complaint, if in writing, and permit enquiry and require full disclosure concerning the informer.

107. Whenever two or more persons shall be charged with any offence against this Enactment the Court may require one or more of them to give evidence as a witness or witnesses for the prosecution. Any such person who refuses to be sworn, or to answer any lawful question shall be dealt with in the same manner as witnesses so refusing may by law be dealt with by a Court of a Magistrate.

Examination of offenders.

108. Any person lawfully arrested under this Enactment, shall on demand by a Senior Customs Officer allow his photograph and also impressions of his fingers to be taken, and it shall be lawful for any Court by whom a person is convicted of an offence under this Enactment, and sentenced to pay a fine to order that the photograph or the finger impressions of such person or both shall be taken in the presence of such officer of the Court as may be prescribed, and a statement in any certificate purporting to be signed by an officer of the Court, that a person has been convicted, and that the photograph or finger impressions, which appear on such certificate are those of the person so convicted, shall be evidence of the facts so stated.

Finger impressions and photographs of offenders.

PART XIV.

OFFENCES AND PENALTIES.

109. (i) No person shall have in his possession or control in a Customs or licensed warehouse any dutiable goods or methylated spirits imported contrary to the provisions of this Enactment, or which may be or have come into his possession or control contrary to the provisions of this Enactment.

Dutiable goods which may not be warehoused.

(ii) No person shall sell or offer for sale and no person shall buy any dutiable goods stored elsewhere than in a Customs or licensed warehouse.

Sale or purchase of dutiable goods to be an offence.

All goods dealt with in contravention of this section shall be liable to seizure. Any person contravening this section shall be liable to a fine not exceeding five thousand dollars.

110. If any goods shall be landed from any vessel for which no manifest shall have been presented, or which are not included in the manifest of the vessel from which they shall have been landed, or if any prohibited goods whatsoever shall be imported or brought into any part of the Federated Malay States or if any goods which are prohibited to be exported shall be brought to any quay, wharf or other place in the Federated Malay States in order to be put on board any vessel for the purpose of being exported, or if any goods which are prohibited to be exported, or in respect of which the export duty has not been paid shall be put on board any vessel with intent to

Goods landed without being entered in the manifest and prohibited goods imported or exported.

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be laden or shipped for exportation, or if any goods which are prohibited to be exported or in respect of which the export duty has not been paid, shall be found in any package produced to the Officers of Customs as containing goods not so prohibited, or in respect of which the export duty has been paid; or if any goods subject to any duty or restriction in respect of importation, or which are prohibited to be imported into the Federated Malay States, shall be found or discovered to have been concealed in any manner in or upon any train or vehicle within the Federated Malay States or on board any vessel within the waters of the Federated Malay States, or to have been imported into the Federated Malay States contrary to such restriction or prohibition, then and in each of the foregoing cases all such goods shall be liable to seizure together with any goods that shall be found packed with or used in concealing them.

Penalty on making and signing false documents and falsely answering questions.

111. (i) If any person shall make or sign any declaration, certificate or other instrument required by this Enactment to be verified by signature only the same being false in any particular, or if any person shall make or sign any declaration made for the consideration of any Officer of Customs on any application presented to him, the same being false in any particular; or if any person required by this Enactment to answer any questions put to him by any Officer of Customs shall not truly answer such questions, or if any person shall counterfeit, falsify or wilfully use when counterfeited or falsified any document required by this Enactment, or by or under the discretion of the Commissioner, or any instrument used in the transaction of any business or matter relating to Customs; or shall fraudulently alter any document or instrument or counterfeit the seal, signature, initials or other mark of, or used by, any Officer of Customs for the verification of any such document or instrument or for the security of any goods or any other purpose in the conduct of business relating to Customs or to the Officers thereof, any person so offending shall be guilty of an offence against this Enactment and shall on conviction for the first offence be punished with imprisonment of either description for a term not exceeding three months or with fine not exceeding one thousand dollars or with both and for a second or subsequent offence with imprisonment of either description for a term not exceeding twelve months or with fine not exceeding two thousand dollars or with both.

(ii) When any such document or verbal statement as aforesaid has been proved to be false or incorrect in whole or in part it shall be presumed, until the contrary is proved, that such document or verbal statement was false or incorrect to the knowledge of the person delivering or making the same.

Importing or exporting prohibited goods.

112. Whoever—

- (a) is concerned in importing or exporting prohibited or restricted goods contrary to such prohibition or restriction whether the same be unshipped delivered or not; or
- (b) ships, unships, delivers or assists or is concerned in the shipping, unshipping or delivery of any prohibited or restricted goods contrary to such prohibition or restriction or of any goods in respect of which no manifest shall have been presented; or

Shipping, unshipping and delivery of prohibited goods.

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- (c) delivers removes or withdraws from any train, vehicle or vessel or from any railway station, quay, wharf or other place previous to the examination thereof by a Customs Officer unless under the care and authority of such officer, any goods imported into the State or any goods put on board such train, vehicle or vessel with intent to be laden or shipped for exportation or brought to such quay, wharf or other place in order to be put on board of any vessel for the purpose of being exported; or Removing goods before examination by Customs Officer.
- (d) illegally removes or withdraws or in any way assists or is concerned in the illegal removal or withdrawal of any goods from any warehouse or place of security in which they shall have been deposited; or Illegal removal from warehouse.
- (e) knowingly harbours, keeps, conceals or is in possession of or knowingly permits, suffers, causes or procures to be harboured kept or concealed any prohibited or uncustomed goods or any goods that have been illegally removed; or Harbouring prohibited or uncustomed goods.
- (f) is in any way knowingly concerned in conveying, removing, depositing, concealing or dealing with any prohibited or uncustomed goods or any goods that have been illegally removed, with intent to defraud the Government of any duties thereon or to evade any prohibition or restriction of or applicable to such goods; or Smuggling.
- (g) being a passenger or other person searched under the provisions of section 85, is found to have upon his person or in his possession any prohibited or uncustomed goods after he has denied the possession of such goods; or Passenger smuggling goods on person.
- (h) is in any way knowingly concerned in any fraudulent evasion or attempt at evasion of any Customs duty; Fraudulent evasion of duty.

shall in each and every of the foregoing cases be on conviction liable to a fine not less than three times the combined value of such goods and duty, or five thousand dollars, whichever is the less, and which may amount to twenty times the combined value of such goods and duty, and all such goods shall be liable to seizure.

113. Every person who shall assault or obstruct any Officer of Customs or other public servant or any person acting in his or their aid or assistance, or duly employed for the prevention of smuggling, in the execution of his or their duty or in the due seizing of any goods liable to forfeiture under this Enactment, or who shall rescue or endeavour to rescue, or cause to be rescued, any goods which have been duly seized, or who shall before or after any seizure stave, break or otherwise destroy any package or goods to prevent the seizure thereof or the securing of the same, shall on conviction of any of the said offences, for the first offence be punished with imprisonment of either description for a term not exceeding nine months or with fine not exceeding one thousand dollars or with both, and for a second or subsequent offence with imprisonment of either description for a term not exceeding eighteen months and shall also be liable to a fine not exceeding two thousand dollars. Penalty for assaulting or obstructing officers and rescuing goods.

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Penalty for
offering or
receiving
bribes.

114. If any Officer of Customs or other person duly employed for the prevention of smuggling shall make any collusive seizure or deliver up, or make any agreement to deliver up or not to seize any vessel or other means of conveyance, or any goods liable to seizure, or shall accept, agree to accept or attempt to obtain, any bribe, gratuity, recompense or reward for the neglect or non-performance of his duty, or conspire or connive with any person to import or bring into the Federated Malay States or be in any way concerned in the importation or bringing in of any goods prohibited to be imported or brought in or liable to Customs duties for the purpose of seizing any vessel or other means of conveyance, or goods, and obtaining any reward for such seizure or otherwise, every such officer shall on conviction under this Enactment be liable to imprisonment of either description for a term not exceeding three years or to fine not exceeding two thousand dollars or to both such imprisonment and fine and every person who shall give or offer or promise to give or procure to be given any bribe, gratuity, recompense or reward to, or shall make any collusive agreement with any such officer or person as aforesaid to induce him in any way to neglect his duty or to do, conceal or connive at any act whereby any of the provisions of any other law relating to imports and exports may be evaded, shall be guilty as an abettor and so punishable under this Enactment.

Penalties.

115. (i) Any person who imports, exports or removes any goods in contravention of the provisions of any notification or rule made under this Enactment, or of any licence issued thereunder, shall be guilty of an offence and on conviction before a Magistrate of the First Class shall be liable to a fine not exceeding five thousand dollars or to imprisonment of either description for a term not exceeding twelve months or to both such fine and imprisonment.

(ii) Where a company or society is guilty of any such contravention, every director, manager, secretary, and other officer of the company or society who is knowingly a party to the contravention, shall be guilty of an offence and liable to the like penalty.

(iii) All goods, the subject-matter of an offence under this section, shall be liable to seizure.

Penalty where
no express
penalty
provided.

116. Any breach of the provisions of this Enactment or of any rules made under this Enactment and any offence committed thereunder for which no penalty is expressly provided shall be punishable with fine not exceeding five hundred dollars.

Goods liable to
seizure liable to
forfeiture.

117. All goods liable to seizure under this Enactment shall be liable to forfeiture.

Packages and
contents
included in
forfeiture of
goods.

118. (i) The forfeiture of any goods under this Enactment includes any package in which they are found and all the other contents thereof.

(ii) Every vessel not exceeding one hundred tons burden every conveyance and every animal used in the removal of any goods liable to forfeiture under this Enactment shall in like manner be liable to forfeiture.

(iii) The forfeiture of any vessel under this Enactment includes her tackle, apparel and furniture.

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119. Whoever attempts to commit any offence punishable under this Enactment, or abets within the meaning of the Penal Code the commission of such offence, shall be punished with the punishment provided for such offence. Attempts and abetment.

120. Nothing in this Enactment contained shall be deemed to prevent the prosecution, conviction and punishment of any person according to the provisions of any other law for the time being in force in the Federated Malay States; but so that no person shall be punished more than once for the same offence. Conviction under other law.

PART XV.

MISCELLANEOUS.

121. (i) No person authorized to act as an agent for the transaction of any business relating to the entrance or clearance of any vessel or the import or export of goods or baggage shall so act in any Custom-house unless such authorization is approved by the Principal Officer of Customs. Control of agents.

Such officer may require any person so authorized to give a bond with sufficient security in any sum not exceeding five thousand dollars that he will duly observe the Customs laws, rules and regulations.

Such officer may in case of misbehaviour of the person so authorized suspend or withdraw such approval.

An appeal to the Commissioner shall lie from the decision of the Principal Officer of Customs in respect of the following matters, viz.:

- (a) Refusal to approve an agent;
- (b) Amount of security required from an agent;
- (c) Suspension or withdrawal of approval of an agent.

Every appeal under this section shall be made within one month from the date of the decision of the Principal Officer of Customs.

(ii) When any person applies to any Officer of Customs for permission to transact any specified business with him on behalf of any other person, such officer may require the applicant to produce a written authority from the person on whose behalf such business is to be transacted and in default of the production of such authority may refuse such permission.

The clerk, servant or agent of any person or mercantile firm may transact business generally at the Custom-house on behalf of such person or firm; provided that the Principal Officer of Customs may refuse to recognize such clerk, servant, or agent unless such person or a member of such firm identifies such clerk, servant or agent to the Principal Officer of Customs as empowered to transact such business and deposits with the Principal Officer of Customs an authority in writing signed, authorizing such clerk, servant or agent to transact such business on behalf of such person or firm.

122. Every notice or document required by this Enactment or by any rule made hereunder to be served on any person, may be served personally upon such person or may be served by sending such notice or document to him by registered post at his usual place of abode and in the latter case shall be deemed to have been served on him at the time at which such registered document would, in the ordinary course of the post, have been delivered. Service of notices.

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Commissioner
may sue in Civil
Courts.

Persons legally
bound to give
information.

Power to make
rules.

123. All duties and penalties incurred under this Enactment may be recovered by action in the name of the Commissioner.

124. Every person required by a Customs Officer to give any information on any subject which it is the officer's duty to enquire into under this Enactment and which information it is in his power to give shall be legally bound to give such information.

125. (i) The Chief Secretary may make rules

- (a) to regulate the conduct of all matters relating to the collection of Customs duties;
- (b) to regulate the powers and duties to be exercised and performed by Officers of Customs;
- (c) to regulate the organization, classification and discipline of the Customs Officers and the manner of conducting the several duties to be performed by them;
- (d) to prescribe the manner in which dutiable or restricted goods shall or shall not be packed and to regulate or prohibit the inclusion of dutiable or restricted goods in the same package or receptacle with non-dutiable goods;
- (e) to regulate the issue of licences;
- (f) to prescribe the fees to be paid under this Enactment and the amount thereof;
- (g) to prescribe the stock-books to be kept by licensees for inspection by Customs Officers and the method of keeping the same;
- (h) to prescribe the method of importing, exporting or removing any goods under a licence;
- (i) to regulate the manner in which goods may be transhipped;
- (j) to prescribe the forms to be used under this Enactment;
- (k) to prescribe the manner in which liquors shall be denatured in Customs warehouses;
- (l) to regulate the deposit, custody and withdrawal of goods in and from Customs and licensed warehouses and the management and control of the same;
- (m) to regulate the opening and examination of packages imported or exported by parcel post for assessment of duty on dutiable goods, and detection of attempts to evade the payment of Customs duty;
- (n) to prescribe the penalty not exceeding a fine of five hundred dollars with which the contravention of any rule made under this section shall be punishable;
- (o) to provide for the control by Customs Officers of traffic carried on in coasting vessels in the Federated Malay States waters;
- (p) generally to give effect to the provisions of this Enactment.

(ii) Goods in respect whereof there shall be a contravention of any rule made under this section, relating to the manner of packing or the inclusion of dutiable goods in the same package or receptacle with non-dutiable goods, shall be deemed to be prohibited goods.

(iii) All rules made under this section shall be published in the *Gazette*, and shall thereupon have the same force and effect as if they had been enacted in this Enactment.

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126. The Commissioner may order such rewards as he may deem fit, to be paid to any officer or other person for services rendered in connection with the detection of cases of smuggling or the evasion of payment of Customs duties or other breaches of this Enactment and may order to be paid in respect of any seizure made under this Enactment to the person or persons making the same or by whose assistance the same was made, such reward as he may deem fit not exceeding the value of the goods so seized. Rewards.

127. (i) No action shall be brought against any person for anything done or *bona fide* intended to be done in the exercise or supposed exercise of the powers given by this Enactment or by any rules made hereunder— Provisions as to actions.

- (a) without giving such person one month's previous notice in writing of the intended action and the cause thereof;
- (b) after the expiration of three months from the date of the accrual of the cause of action;
- (c) after tender of sufficient amends.

(ii) In every action so brought it shall be expressly alleged that the defendant acted either maliciously or negligently and without reasonable or probable cause and if at the trial the plaintiff shall fail to prove such allegation judgment shall be given for the defendant.

(iii) Though judgment shall be given for the plaintiff in any such action such plaintiff shall not have costs against the defendant unless the Court before which the action is tried shall certify its approbation of the action.

THE SCHEDULE.

No. and year.	Short title.
40 of 1918 ...	The Registration of Imports and Exports Enactment, 1918
31 of 1920 ...	The Customs Enactment, 1920

OBJECTS AND REASONS.

"The Customs Enactment, 1920," was a mere federalization of the existing State Enactments and did not make adequate provision for the conduct of Customs business. The present Bill includes in one Enactment the provisions of "The Registration of Imports and Exports Enactment, 1918," and of an amended Customs Enactment. The scope of the repealed Enactment has been extended by the inclusion of Chapters dealing with Drawback and Warehousing (formerly matters regulated by rule) while the issue of Port Clearances will be entrusted to the Customs Department. The new provisions of the Bill have been taken from the Customs Consolidation Act, 1876, from the Indian Sea Customs Act, 1878, and from the Colonial Revenue Ordinances.

KUALA LUMPUR,
26th October, 1922.

W. S. GIBSON,
Acting Legal Adviser, F.M.S.

No. 7878.—The following Private Bill about to be introduced in the Federal Council by the Hon'ble Mr. R. C. M. Kindersley, M.F.C., is published for general information :

A BILL
intituled

An Enactment to incorporate The Planters' Association of Malaya.

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :

Short title and
commence-
ment.

1. This Enactment may be cited as "The Planters' Association of Malaya Incorporation Enactment, 1923," and shall come into force on the publication thereof in the *Gazette*.

Incorporation
of the Associa-
tion.

2. Upon the coming into force of this Enactment, the present Chairman, Vice-Chairman, Honorary Members of the Association and members of the Standing Committee of the Association, and such and so many persons and associations and bodies having separate recognised legal existence as now are members of the Association or shall hereafter be admitted members of the Corporation hereby constituted, shall be a Corporation with limited liability in manner hereinafter provided, with perpetual succession and a common seal under the style and name of "The Planters' Association of Malaya," and by that name shall and may sue and be sued in all Courts.

Objects of the
Corporation.

3. The general objects for which the Corporation is constituted are hereby declared to be to promote foster and protect the planting industries and the interests of the planting community in the Malay Peninsula and the Colony of the Straits Settlements and in particular :

- (1) To promote the consideration and discussion of all questions connected with or relating to such industries.
- (2) To represent to the Governments and Legislatures and other public bodies of this and other countries and Dependencies the views and interests of those interested in or connected with such industries.
- (3) To promote support or oppose legislative and other measures affecting such industries or the persons engaged therein and to take all such steps as may seem expedient for altering and improving any existing laws customs or usages affecting such industries or the persons engaged therein.
- (4) To collect and circulate statistics and other information relating to such industries.
- (5) To provide and collect from its members or otherwise funds for the purpose of carrying on or furthering the objects of the Corporation or any of them.

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- (6) To subscribe to any fund company association or institution and to act by delegate or otherwise upon any committee or other body whereby the objects and purposes of the Corporation or any of them may be carried out or furthered.
- (7) To encourage the settlement by arbitration of any questions in which the members of the Corporation whether as a body or as individuals are concerned and to conduct arbitrations and nominate arbitrators and umpires.
- (8) To undertake and execute any trusts which may appear to be conducive to the objects of the Corporation or the interests of its members or other persons engaged in the planting industries.
- (9) To raise or borrow any moneys required for the purposes of the Corporation upon such securities as may be determined.
- (10) To purchase take on lease exchange hire or otherwise acquire any moveable and immoveable property whether situate in the Federated Malay States or elsewhere and any rights or privileges necessary or convenient for the purposes of the Corporation and to construct alter and maintain any buildings required for such purposes: Provided always that the Corporation shall not hold nor be registered as owner of more than two acres of land in the Federated Malay States without the licence of the Chief Secretary to Government, Federated Malay States.
- (11) To sell, improve, manage, develop, lease, mortgage, dispose of, turn to account or otherwise deal with all or any part of the property of the Corporation.
- (12) To establish, undertake, superintend and administer, and to contribute to any charitable benevolent or provident fund from whence may be made donations or payments to persons who may be or may have been engaged in the planting industries or connected with any such persons and to contribute to or otherwise assist any charitable or benevolent institutions or undertakings or any provident fund.
- (13) To act as representatives in the Malay Peninsula, the Colony of the Straits Settlements or elsewhere of any company or association having objects similar to any of the objects of the Corporation.
- (14) To promote and obtain any Enactment, Ordinance, charter or licence which may appear desirable for regulating or amending the constitution of the Corporation or for any other purpose which may seem conducive to the objects of the Corporation or the interests of its members or other persons engaged in the planting industries.
- (15) To invest the moneys of the Corporation not immediately required for the general purposes thereof in stocks, shares, securities or investments authorised by law for the investment of trust funds or to place the same on deposit at a Joint Stock Bank.

PLANTERS' ASSOCIATION OF MALAYA INCORPORATION. 3

- (16) To take or otherwise acquire and hold shares in any other association, company or body having objects altogether or in part similar to those of the Corporation or carrying on any business capable of being conducted so as directly or indirectly to benefit the Corporation.
- (17) To procure the Corporation to be registered or recognised in any part of the world.
- (18) To do all or any of the matters or things aforesaid either alone or in conjunction with others or by or through trustees agents or otherwise and generally to do all such other things as the Corporation or its Governing Body may deem incidental or conducive to the attainment of any of the aforesaid objects of the Corporation.

Administration.

4. The affairs of the Corporation shall be administered, subject to the Articles for the time being of the Corporation as hereinafter provided, by a General Committee or other Governing Body to be constituted in accordance with Articles for the time being of the Corporation.

Register of Members.

5. The General Committee or other Governing Body shall cause a Register to be kept in which every person, association, firm or other body which at the date of the coming into force of this Enactment, is a member of the Association, or may thereafter become a duly admitted member of the Corporation hereby constituted shall have his or its name inscribed and in which shall be recorded such other matters as may from time to time be determined.

Power to make Articles.

6. (i) It shall be lawful for the Corporation from time to time, at any general meeting of the members, and by a two-thirds' majority of the votes of the members present and entitled to vote to make, alter, or revoke such Articles as it may deem expedient for the management of the affairs of the Corporation and the accomplishment of its objects.

(ii) Subject to sub-section (iii) hereof all Articles made under this section shall be binding at all times upon the members for the time being of the Corporation.

(iii) No Article and no revocation or alteration of any Article shall come into force until the same shall have been approved by the Chief Secretary to Government and shall have been published in the *Gazette*. A certificate of such approval under the hand of the Chief Secretary shall be conclusive evidence of such approval.

Property vested in Corporation.

7. On the coming into force of this Enactment all and every property belonging to the Association whether held in the name of the Association or in the name or names of any person or persons in trust for the Association shall be and the same is hereby vested in the Corporation hereby constituted, and the same, together with all after-acquired property moveable or immoveable, and all subscriptions contributions, donations, fines, amounts of loans and advances received or to be received shall be held by the Corporation for the purposes of this Enactment and subject to the Articles for the time being of the said Corporation.

Debts due by and payable to the Corporation.

8. All debts and liabilities of the Association existing at the time of the coming into force of this Enactment shall be paid by the Corporation hereby constituted, and all debts due to and subscriptions and contributions payable to the Association shall be paid to the Corporation for the purposes of this Enactment.

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9. The income and property of the Corporation, whencesoever derived, shall be applied solely towards the promotion of the aforesaid objects of the Corporation and no portion thereof shall be paid or transferred directly or indirectly by way of dividend bonus or otherwise howsoever by way of profit to the members of the Corporation: Provided that nothing herein contained shall prevent the payment in good faith of remuneration to any officers or servants of the Corporation or to any members of the Corporation in return for any services actually rendered to the Corporation.

Application of income.

10. The liability of each member of the Corporation shall be limited to the transactions of the Corporation which shall have occurred during the period of his membership or within one year afterwards and shall in no case exceed the sum of ten dollars over and above such annual subscriptions as may be due from such member to the Corporation and such limitation of liability shall include any contribution that such member may be called upon to make under the Articles of Association to meet any deficit in the annual expenses of the Corporation.

Limit of liability of members.

11. True accounts shall be kept of the sums of money received and expended by the Corporation, and the matter in respect of which such receipts and expenditure take place, and of the property, credits and liabilities of the Corporation, and, subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed in accordance with the regulations of the Corporation for the time being, such accounts shall be open to the inspection of the members. Once at least in every year the accounts of the Corporation shall be examined, and the correctness of the balance sheet ascertained by one or more properly qualified Auditor or Auditors.

Accounts.

OBJECTS AND REASONS.

This Enactment is designed to constitute The Planters' Association of Malaya, a Corporation with limited liability, with perpetual succession and a common seal; to define the aims and objects of the Association; to provide for regulations to be made for the management of the affairs of the Association; and to make other necessary provisions consequent upon incorporation. The legal status of the Association hitherto has been considered not sufficiently definite and its powers and aims and objects not as clearly defined as is thought desirable for an Association of the character of The Planters' Association of Malaya.

20th December, 1922.

R. C. M. KINDERSLEY.

No. 7879.—The following Bill about to be introduced in the Federal Council is published for general information :

A BILL

intituled

An Enactment to consolidate and amend the law relating to Merchant Shipping.

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :

Short title and commencement.

1. (i) This Enactment may be cited as "The Ports Enactment, 1923," and shall come into force upon publication thereof in the *Gazette*.

Repeal.

(ii) Upon the commencement of this Enactment the Enactments specified in the first schedule shall be repealed to the extent specified in the last column thereof, provided that all appointments, rules and orders made, licences issued and fees and charges fixed under any Enactment hereby repealed which were in force immediately prior to the commencement of this Enactment shall so far as they are not inconsistent with the provisions of this Enactment be deemed to have been made, issued or fixed under this Enactment.

Interpretation.

2. In this Enactment unless the context otherwise requires—

"Buoys and Beacons" includes all other marks and signs of the sea ;

"Court" in relation to any proceeding includes any Court having jurisdiction in the matter to which the proceeding relates ;

"Harbour Master" includes the Harbour Master duly appointed at any port in the State and any person lawfully acting for him ;

"Master" includes every person (except a pilot) having command or charge of any ship ;

"Passenger" includes any person carried in a ship other than master, pilot and crew ;

"Pilot" means any person not belonging to a ship who has the conduct thereof ;

"Port" means any port or place declared to be a port under section 3, and includes all such navigable rivers and channels leading thereto as are declared to be part thereof ;

"Prescribed" means prescribed by rule made by the Resident under this Enactment ;

Reference to failure to do any act or thing shall include a reference to refusal to do that act or thing ;

"Seaman" includes every person (except masters, pilots and apprentices duly indentured and registered) employed or engaged in any capacity on board any ship ;

"Ship" includes every description of vessel used in navigation not propelled by oars ;

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"Vessel" includes any ship or boat, or any other description of vessel used in navigation;

"Voyage" means the whole time and the whole distance between the ship's port or place of departure and her final port or place of arrival.

3. It shall be lawful for the Resident of a State to declare any port or place in the State and any navigable river or channel leading into such port or place to be a port within the meaning of this Enactment. Resident may declare ports, etc.

4. Every declaration, by which any port or place shall be made a port within the meaning of this Enactment, shall define the limits of such port and of any navigable river or channel declared to be part thereof; such limits shall extend always up to high-water mark, and may include any piers, jetties, landing-places, wharfs, quays, docks, and other similar works whether within or without the line of high-water mark and (subject to any rights of private property therein) any portion of the shore or bank within fifty yards of high-water mark; the limits so declared may be altered from time to time by the Resident. Particulars in declaration.

5. When any port or place has been declared to be a port within the meaning of this Enactment all the provisions of this Enactment or such provisions only as the Resident may specially declare shall have effect in such port. Resident may limit operation of Enactment.

6. Every declaration of the Resident made in pursuance of section 3 of this Enactment shall be published in the *Gazette*, or in such other public manner as the Resident may direct, and a copy thereof shall be fixed up in some conspicuous place in the office of the Harbour Master of the port to which such declaration shall relate. Declarations under section 3 to be published in *Gazette*.

7. The Resident may appoint at any port an officer to be called the Harbour Master, and may appoint a deputy to any Harbour Master either generally for all the purposes of this Enactment and of the rules made under it or for the purposes of particular sections or rules. Appointment of Harbour Master.

8. (i) The Chief Secretary may appoint at any port an officer to be called the Port Health Officer, and may suspend or remove from office any officer so appointed. Appointment of Health Officer.

(ii) The Port Health Officers shall perform their duties under the direction of the Senior Health Officer who shall have the power of a Port Health Officer at every declared port.

9. The Government shall not be responsible for any act or default of any Harbour Master of any port subject to this Enactment or of his deputy. Government not responsible for act or default of Harbour Master or his deputy.

10. (i) The Resident may from time to time make port rules for all or any of the following purposes in any port in the State— Resident to make port rules.

(a) For regulating traffic within the limits of the port.

(b) For regulating the berths and stations to be occupied by vessels and the removal of vessels from one berth, station or anchorage to another berth, station or anchorage, and the time within which such removal is to be effected.

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- (c) For regulating vessels whilst taking in or discharging ballast or cargo.
- (d) For keeping free passages of such width as may be deemed necessary, within any such port and along or near to the piers, jetties, landing-places, wharves, quays, docks, moorings, and other similar works in or adjoining the same; and for marking out the spaces so to be kept free.
- (e) For regulating the anchoring, fastening, mooring and unmooring, and warping, of all vessels and the use of warps, mooring buoys, chains and other moorings.
- (f) For regulating traffic, preventing obstruction and keeping order on piers, jetties and wharves, and for ensuring the safety of piers, jetties and wharves and any cargo thereon.
- (g) For regulating the use of fires and lights, and the signals to be used and measures to be taken in case of fires in the port by day and by night.
- (h) For enforcing and regulating the use of navigating lights, of signals, and of signal lights by vessels.
- (i) For regulating the flags and signals to be used by vessels arriving at, lying in and departing from the port.
- (j) For regulating the manner in which vessels arriving are to be boarded by an officer of the Harbour Master's Department, and the Port Health Officer, the information to be supplied to them by the master of the vessel, and the entries to be made in such officer's book of arrivals.
- (k) For regulating the use by vessels of steam whistles, steam syrens, and other like instruments.
- (l) Generally for carrying out the purposes of this Enactment.

(ii) Such port rules shall be published in the *Gazette* and shall thereupon have the force of law.

Penalty.

(iii) Any person convicted of a breach of any of the port rules shall be liable to a fine not exceeding one hundred dollars.

Power of
Harbour Master
to give
directions as to
anchorage or
berthage.

11. Subject to any rules made under section 10 the Harbour Master may direct where any vessel shall be berthed, moored or anchored, and may direct the removal of any vessel from one berth, station or anchorage to another berth, station or anchorage, and the time within which such removal is to be effected.

Penalty for
refusing or
neglecting to
obey directions
of Harbour
Master.

12. If any person shall wilfully and without lawful excuse refuse or neglect to obey any direction of the Harbour Master, given under the provisions of this Enactment or of any rule made under it, such person shall, for every such offence, be liable, on conviction, to a penalty not exceeding fifty dollars, and a further sum not exceeding ten dollars for every day on which he shall wilfully continue to disobey such direction; and in case of such refusal or neglect, it shall be lawful for the said Harbour Master to do or cause to be done all such acts as shall be reasonable or necessary for the purpose of carrying such direction into execution, and to hire and employ proper persons for that purpose; and all reasonable expenses which shall be incurred in doing such acts shall be paid and borne by the person or persons so offending.

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ARRIVAL AND DEPARTURE OF VESSELS.

13. Every vessel of fifty tons gross tonnage and upwards, arriving within signalling distance of any port signal station and intending to enter such port, shall have hoisted the ensign or flag of the country to which the vessel belongs, and the house-flag, if any, and the Commercial Code signal letters of the vessel, and shall keep them flying till acknowledged at such signal station.

Vessels arriving to hoist signals.

14. The master of every vessel anchoring in any port or going alongside any wharf in any port shall forthwith

Master to report arrival.

(i) report or cause to be reported the arrival of his vessel at the office of the Harbour Master and shall deposit or cause to be deposited there a list of passengers on board,

(ii) deposit or cause to be deposited in the Customs office of the port such documents as may be required from time to time by law.

15. Every master of a vessel who is found to have carried passengers of any description in excess of the number, or in a manner not authorized by his ship's certificate, shall be liable, on conviction, to a penalty of one hundred dollars, and to a further penalty not exceeding ten dollars for every passenger beyond the number for whom accommodation existed in the ship as required by law.

Penalty for carrying excess number of passengers.

16. No vessel carrying more than 50 passengers other than cabin passengers shall carry as cargo or ballast any gunpowder or other explosive substance other than safety cartridges.

Vessels with more than fifty deck passengers on board not to carry explosive substances.

17. No boat shall go alongside any vessel arriving at any of the ports unless and until permitted by the master, and no boat shall be made fast astern of any vessel in any of the ports at a greater distance from the stern of such vessel than three fathoms. The boats of the Harbour Masters, Customs Officers, Police and Health Officers are exempted from the operation of this section.

No boat to go alongside unless permitted by the master.

18. Every vessel within the limits of any of the ports shall have at all times on board a sufficient number of men to veer cable, let go anchors, brace the yards up, or lower a boat in case of accident. Provided always that, in the event of any vessels being laid up and not intended for navigation, it shall be lawful for the Harbour Master to assign a place within the limits of the port where such vessels may be anchored and be exempted from the operation of this section.

Vessels to be fully manned.

Proviso.

19. The owner or master of any vessel or any other person offending against any of the provisions of the last six preceding sections shall be liable to a fine not exceeding fifty dollars.

Penalty.

DISCHARGE OF SEAMEN.

20. No master of a vessel shall discharge therefrom, or force therefrom, or wilfully or negligently leave behind at any place in the Federated Malay States, any seaman brought to the Federated Malay States therein, or shipped in the Federated Malay States, unless on a certificate by the Harbour Master, under a penalty not exceeding fifty dollars for each seaman so discharged, forced or left behind; and any seaman wilfully or negligently remaining behind in the Federated Malay States after the departure of the vessel in which he shall have arrived or shipped, without such certificate, shall, on conviction, be liable to a penalty not exceeding twenty-five dollars.

No seaman to be discharged unless on certificate of Harbour Master.

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When
certificate may
be issued.

21. The Harbour Master shall not be required to issue a certificate under the preceding section unless in case of serious illness incapacitating the seaman from duty on board his ship, or unless the seaman shall at the time of the ship's departure be undergoing sentence of imprisonment, and in every other case a certificate shall not be issued until and unless the master or owner of the vessel shall have made such provision for the seaman by procuring other employment, or otherwise, as will prevent the seaman from becoming a charge on the Federated Malay States.

BUOYS AND MOORINGS.

Resident may
place buoys,
etc.

22. The Resident of a State may cause or permit to be fixed and laid down such moorings, buoys, beacons, and sea or land marks, as may seem to him to be necessary to assist in the navigation of any port in the State.

Penalty for
interfering with
buoys, etc.

23. (i) If any person shall wilfully and without lawful excuse lift, injure, loosen, or set adrift, any such moorings, buoys, beacons, or sea or land marks, he shall for every such offence be liable to a fine not exceeding five hundred dollars, or to imprisonment for a term which may extend to three months.

Buoys, etc., to
be replaced.

(ii) Any moorings, buoys, beacons, or land or sea marks, affected shall be forthwith replaced or repaired by the Harbour Master; and all expenses incurred thereby shall be chargeable to the person convicted.

Penalty for
loosening vessel.

24. If any person shall wilfully and without lawful excuse loosen or remove from its moorings or from its fastenings alongside any wharf or landing-place any vessel within any port without leave or authority from the owner, or master, of such vessel, or of the manager or person in charge of such wharf or landing-place, such person shall for every such offence be liable to a fine not exceeding five hundred dollars, or to imprisonment for a term which may extend to three months.

Civil rights
reserved.

25. Nothing in sections 23 and 24 shall exempt a person from any civil liability to which he would otherwise be subject.

OBSTRUCTIONS AND NUISANCES.

Private
moorings.

26. (i) No person shall keep or place any moorings or buoys in the waters of any port, except with the permission in writing of the Harbour Master, and except upon such conditions and subject to the payment of such fees as the Resident may direct.

(ii) If any person shall keep or place any moorings or buoys in contravention of the provisions of this section, the Harbour Master may cause such moorings or buoys to be removed, and such person shall be liable to a fine not exceeding two hundred and fifty dollars, and also to pay all reasonable expenses which shall be incurred in such removal.

Hulks, etc.

27. (i) No person shall moor or anchor any hulk or vessel of like description within the waters of any port without the permission in writing of the Harbour Master, and except upon such conditions and subject to the payment of such fees as the Resident may generally or in particular cases direct.

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(ii) If any person shall moor or anchor any hulk or vessel in contravention of the provisions of this section, the Harbour Master may cause such hulk or vessel to be removed, and such person shall be liable to a fine not exceeding two hundred and fifty dollars, and also to pay all reasonable expenses which may be incurred in such removal.

28. If any person shall without lawful excuse, cause any obstruction or impediment to the navigation of any port, or shall do or omit to do any act which act or omission is likely to cause any obstruction or impediment to such navigation, the Harbour Master may cause such obstruction or impediment to be removed, and every person causing any such obstruction or impediment shall be liable to a fine not exceeding one hundred dollars, and also to pay all reasonable expenses which shall be incurred in abating or removing such obstruction or impediment.

Removal of obstructions.

29. The Harbour Master may remove or cause to be removed any timber or raft floating or being in any part of any port which shall impede the free navigation of such port or anything which shall obstruct or impede the lawful use of any pier, jetty, landing-place, wharf, quay, dock, mooring or other work on any part of the shore or bank which has been declared to be within the limits of such port, and is not private property; and the owner of any such timber or raft or other thing shall be liable to pay the reasonable expenses of such removal.

Harbour Master may remove floating timber, raft, etc.

30. (i) A master of a vessel shall not cause or suffer any warp or hawser attached to his vessel to be left out in any port after sunset, in such a manner as to endanger the safety of any other vessel navigating in the port.

Leaving warp out after sunset.

(ii) If the master of any vessel shall contravene the provisions of this section, he shall be liable to a fine not exceeding one hundred dollars.

31. If any obstruction or impediment to the navigation of any port shall have been lawfully made, or shall have become lawful by reason of the long continuance of such obstruction or impediment or otherwise, the Harbour Master shall report the same for the information of the Resident, who may cause the same to be removed or altered, making to the person or persons who suffer damage by such removal or alteration reasonable compensation for the same. If any dispute arise concerning such compensation, the matter in dispute shall be determined according to the law now or hereafter to be in force in the Federated Malay States relating to the determination of disputes as to the price of land required for public purposes.

Removal of certain obstructions on compensation.

32. If any ballast or rubbish or if any other thing likely to form a bank or shoal or to be detrimental to navigation shall without permission of the Harbour Master or other lawful excuse be cast or thrown into any port or into or upon any place or shore from which the same shall be liable to be washed into any port, either by ordinary or high tides, or by storms or land-floods, the person who shall so cast or throw the same or cause the same to be so cast or thrown as aforesaid, and the master of any vessel from which the same shall be cast or thrown, shall be liable to a fine not exceeding two hundred and fifty dollars, in addition to any expenses which may be incurred in removing the same.

Throwing ballast into ports.

Penalty.

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Throwing dead
bodies, etc.,
into port.

Penalty.

33. If any dead body or the carcass of any animal shall be thrown overboard, or into the seas, rivers, or channels, within the limits of any port, the person throwing or causing the same to be thrown, and the master of the vessel from which the same shall be thrown, shall for each offence be liable to a fine not exceeding two hundred and fifty dollars, and any expense incurred in burying or otherwise disposing of any dead body or carcass so thrown shall be chargeable on the owner or master of the vessel from which the same may have been thrown.

Shingle, etc.,
neither to be
carried from
nor deposited
within port
limits, without
consent of
Harbour
Master.

Penalty.

34. No person, without the permission of the Harbour Master, shall remove or carry away any rock, stones, shingle, gravel, sand or soil, or any artificial protection from any part of the bank or shore of such port, river or channel, and no person shall sink or bury in any part of such bank or shore any mooring-post, anchor or any other thing which is likely to injure or to be used so as to injure such bank or shore, except with the permission of the said Harbour Master, and with the aid or under the inspection of such person or persons (if any) as he may appoint to take part in or overlook the performance of such work.

Every person offending against any of the provisions of this section shall be liable, on conviction, to a penalty not exceeding one hundred dollars for every such offence, and to pay the expenses of repairing the injury (if any) done to such bank or shore.

LIGHTS AND SIGNALS.

Lights and
signals at
anchor.

35. (i) The provisions contained in this section concerning lights shall be complied with in all weathers from sunset to sunrise, and during such time no other lights which may be mistaken for the prescribed lights shall be exhibited.

Collision
regulations.

(ii) A vessel under one hundred and fifty feet in length, when at anchor or at moorings within any port, shall carry forward, where it can best be seen, but at a height not exceeding twenty feet above the hull, a white light in a lantern so constructed as to show a clear, uniform, and unbroken light visible all round the horizon at a distance of at least one mile.

(iii) A vessel of one hundred and fifty feet or upwards in length, when at anchor or at moorings within any port, shall carry in the forward part of the vessel, at a height of not less than twenty, and not exceeding forty, feet above the hull, one such light, and at or near the stern of the vessel, and at such a height that it shall be not less than fifteen feet lower than the forward light, another such light.

(iv) The length of a vessel appearing in her certificate of registry shall be deemed to be the length of such vessel.

(v) The Resident may exempt from the foregoing provisions contained in this section any particular description of vessels within any particular limits, and may specify the description and position of lights to be carried by such vessels.

(vi) The master of every vessel (not exempted under the last sub-section) not carrying lights as required by the foregoing provisions of this section shall be liable to a fine not exceeding one hundred dollars.

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(vii) The master of every vessel exempted under sub-section (v) not carrying the lights prescribed by the Resident shall for every offence be liable to a fine not exceeding one hundred dollars.

(viii) The word "visible" in this section shall mean visible on a dark night with a clear atmosphere.

36. If any person shall without lawful excuse discharge any gun in any port, except a gun loaded only with gunpowder for the purpose of making a signal of distress or for such other purpose as may be allowed by any rule made by the Resident under this Enactment, such person shall for every such offence be liable to a fine not exceeding fifty dollars.

Discharge of guns except as signals prohibited.

FIRES.

37. If any person shall grave, bream, or smoke any vessel in any port, or shall boil or heat any pitch, tar, resin, dammar, turpentine oil, or other such combustible matter on board any vessel within any port, at any time or within any limits at or within which such act shall be prohibited by any order of the Resident, or contrary to the orders or directions of the Harbour Master, every such person and also the master of such vessel shall be liable to a fine not exceeding one hundred dollars.

Graving, smoking, etc., vessels.
Boiling pitch, etc.

Penalty.

38. If any person shall use a naked light when drawing off spirits, turpentine, or inflammable oils, or inflammable liquids of any kind on board any vessel in any port, every such person and also the master of every such vessel shall be liable to a fine not exceeding one hundred dollars.

Use of naked lights in drawing off spirits, etc.

Penalty.

39. In the event of fire breaking out on board any vessel in any port, the Harbour Master may proceed on board such vessel with such assistants and persons as to him may seem fit, and may give such orders as may seem to him necessary for scuttling such vessel or for removing such vessel, or any other vessel, to such place as may to him seem proper to prevent in either case danger to other vessels; and if such orders are not forthwith carried out by the master of such vessel, the Harbour Master may himself proceed to carry them into effect.

In case of fire on board ship, Harbour Master may give directions.

LICENSING OF JUNKS AND TONGKANGS.

40. (i) A Harbour Master may in such cases as he shall think fit grant to the owner of any junk or tongkang a licence substantially in the form A in the second schedule authorising such junk or tongkang to ply between the Federated Malay States and neighbouring ports during such period and subject to such conditions as the Resident may determine, and such conditions shall be endorsed on or contained in such licence, and on a licence being so granted for any junk or tongkang the master thereof shall cause the number of the said licence to be painted (to the satisfaction of the Harbour Master) on each bow and on the stern; provided that no such licence shall be granted unless the intended licensee shall enter into a bond substantially in the form B in the second schedule, together with one or more sureties resident in the State and to be approved of by the District Officer, conditioned in any sum not exceeding one thousand dollars, for the observance of conditions of such licence.

Licences to junks and tongkangs to ply between the Federated Malay States and neighbouring ports.

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Register of junk
and tongkang
licences.

(ii) A register of all licences for junks and tongkangs granted under this Enactment shall be kept by the Harbour Master of the port and shall contain the following particulars: the number of the licence; the name of the licensee; the name, rig and tonnage of the junk or tongkang; the names of the sureties of the licensee; the date of the licence; and such other particulars as may be directed by the Resident.

Change of name
of licensed junk
or tongkang.

(iii) It shall not be lawful to change the name of any junk or tongkang for which a licence shall have been granted as aforesaid except with the approval in writing of the Resident, and every change of name of any such junk or tongkang shall be endorsed on or contained in such licence and shall be entered in the register aforesaid. Any person offending against the provisions of this section shall be liable, on conviction, to a fine not exceeding one hundred dollars.

LICENSING OF BOATS.

Boats for
passengers,
cargo and
fishing to be
licensed.

41. (i) No boat shall ply for hire or be hired for the conveyance of passengers or cargo and no boat capable of carrying more than one person shall be used for fishing in any tidal waters of the Federated Malay States without a licence in that behalf under this Enactment to be obtained as hereinafter provided.

Penalty for
using
unlicensed
boats.

(ii) The owner of any boat using or permitting the use of the same for the hired conveyance of passengers or cargo, or for fishing, in contravention of this section, shall be liable, on conviction, to a fine not exceeding fifty dollars.

Boat licences,
how obtained.

42. Any person desirous of having a boat licensed for the conveyance of passengers or cargo, or for fishing, shall apply to the Harbour Master of the nearest port, who shall examine the boat and, if he thinks it seaworthy and proper for the conveyance of passengers or cargo or for fishing, may grant a licence for such boat substantially in one of the forms C, D or E in the second schedule as a passenger or cargo or fishing boat as the case may be.

Register of boat
licences.

43. A register of all licences for boats granted under this Enactment shall be kept by the Harbour Master of the port and shall contain the following particulars and such other particulars as may be directed by the Resident:

- (a) The name and residence of the owner and of the person to be in charge of the boat as manager;
- (b) The number of the crew to be employed;
- (c) The number of persons which the boat, if a passenger boat, is to be permitted to carry in addition to the crew;
- (d) The capacity of the boat for carriage of cargo;
- (e) The number of the licence, which shall be the number of the boat;
- (f) The date of the licence.

Junks,
tongkangs and
boats licence
fees.

44. There shall be charged for licensing junks, tongkangs and boats such fees as the Resident may by notification in the *Gazette* prescribe.

Term of boat
licences;
renewal;
change of
owner.

45. Licences for boats shall be in force till the end of the year of issue, and thereafter shall be renewed yearly, and every change of owner and of manager shall be reported to the Harbour Master of the port, who shall note the same on the licence and in the Register of

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Licences, with the name of the transferee, the date, and such other particulars as may be necessary. Any owner or manager failing to report such change shall be liable, on conviction, to a fine not exceeding twenty-five dollars.

46. The persons whose names shall appear in the said register as owners and managers of boats shall, for all the purposes of this Enactment and of prevention of offences and for all police purposes, be deemed to be the owners and managers thereof, respectively.

Who are deemed to be owner and manager.

47. The owner of every boat shall, before receiving a licence, cause the number of the boat to be painted or marked, in such legible and durable manner as the Harbour Master of the port may direct, on each side near the forepart of the boat, in letters of such size and character, and in such positions, as the Harbour Master shall direct.

Numbering boats.

48. At the time of the issue of a licence for any boat a copy thereof shall also be given to the owner, who shall cause such copy to be kept at all times on board the boat to which the same relates in custody of the person in charge of such boat, and such person shall exhibit the same to any police or port officer or intending employer who shall demand to see the same. Any person offending against the provisions of this section shall be liable, on conviction, to a fine not exceeding one hundred dollars.

Copy of licence to be kept in boat.

49. It shall be lawful for the Harbour Master of the port, with the sanction of the Resident, to cancel any licence issued under this Enactment.

Licences may be cancelled.

50. It shall be lawful for the Chief Secretary to Government to prescribe the colour of the number plates to be used in any year and to allocate to every Harbour Master the numbers to be used by him in the issue of licences.

Chief Secretary to allocate numbers and prescribe colour of plates.

51. (i) It shall be lawful for the Resident of a State from time to time to make rules to provide for any of the following matters:

Rules.

- (a) Regulating the fares to be paid for the use of cargo and passenger boats in the tidal waters of the State;
- (b) The management of passenger, cargo and fishing boats within such waters, the mode of licensing such boats, and the suspension of licences therefor; the inspection of such boats; the number of passengers and quantity of cargo to be carried by them; the places where they may be tied up, moored or lie at anchor; the number of men required to work them; the persons to be in charge of them; the lights to be used at night in the ports and elsewhere in tidal waters; the disposal of articles left in such boats and the reporting of accidents;
- (c) Generally securing the safety of persons and goods carried in such boats and preventing the commission of offences by persons employed in or being in such boats;
- (d) Altering, adding to or rescinding any of the forms contained in the schedules and substituting others therefor.

(ii) All rules made under this section shall come into force upon publication in the *Gazette*, and any person offending against the provisions of any such rule shall be liable, on conviction, to a fine not exceeding one hundred dollars.

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Penalty for refusing to let boats for hire.

52. Every person refusing without reasonable excuse to let for hire his cargo or passenger boat licensed under this Enactment on tender of the amount of hire fixed from time to time by any rule in that behalf, shall be liable, on conviction, to a fine not exceeding twenty-five dollars.

Harbour Master to have the right to board any vessel.

53. Any Harbour Master or Police Officer may, whenever he shall suspect that any offence has been or is about to be committed in any vessel contrary to this Enactment, or whenever he considers it is necessary for him so to do in the discharge of any duty imposed upon him by this Enactment or otherwise by law, go, either alone or with any other person or persons, on board any vessel within the waters of the Federated Malay States. If the master of such vessel shall, without lawful excuse, refuse to allow any such officer, or any of his assistants, or other officers or persons authorised by him, so to enter such vessel, he shall, for every such offence, be liable, on conviction, to a penalty not exceeding one hundred dollars.

Penalty for obstructing any person discharging a duty under this Enactment.

54. Any person who shall wilfully obstruct or hinder any person in the execution of any duty imposed or power conferred by this Enactment, or shall assault or ill-treat him in the discharge of such duty, or in the exercise of such power, shall, for every such offence, be liable, on conviction, to a penalty not exceeding one hundred dollars.

Government officer acting under authority of Harbour Master.

55. All acts, orders or directions by this Enactment authorised to be done or given by any Harbour Master, may be done or given by any person in the service of Government subject to his control and duly authorised by him. And any person authorised to do any act may call to his aid such assistance as may be necessary.

Offences punishable in a summary manner.

56. All offences against this Enactment shall be punishable in a summary manner by a Magistrate, on information by or by order of the Harbour Master, or by any other person authorised by him thereto. And in addition to the means prescribed by law for the recovery of penalties imposed by Magistrates in their summary jurisdiction, it shall be lawful for a Magistrate, by warrant under his hand, to cause the amount of any penalty imposed under this Enactment, upon the owner or master of any vessel, for any offence committed on board of such vessel, or in the management thereof, or otherwise in relation thereto, whereof such owner or master shall be convicted, to be levied by distress and sale of such vessel, and the tackle, apparel and furniture thereof, or so much thereof as shall be necessary.

Recovery of penalties.

57. In every case in which any person shall be liable, under the provisions of this Enactment, to pay any sum of money, damages or expenses, the same may be recovered and levied in the same manner as a fine under this Enactment, and, if necessary, the amount thereof may be fixed and assessed by the Magistrate before whom the case shall be tried.

Disputes as to expenses to be laid before a Magistrate.

58. All expenses incurred for works or acts authorized or required to be done by a Harbour Master under this Enactment shall, if any dispute arise as to the amount, be ascertained before a Magistrate, and, when so ascertained, shall be recoverable in the same manner as a fine under this Enactment, and the Harbour Master may cause any timber,

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raft or other thing, or the materials of any vessel, boat or wreck, or of any nuisance or obstruction, to be removed, or so much thereof as may be necessary to be sold by public auction, and may retain all the expenses of such removal and sale out of the proceeds of such sale; and shall pay the surplus of such proceeds, or deliver so much of the said timber or other materials as shall remain unsold to the owner or other person entitled to receive the same; and if no such person appear, shall cause the same to be kept and deposited in such manner as the Resident shall direct; and may, if necessary, from time to time, realize the expenses of keeping the same, together with the expenses of such sale, by a further sale of so much of the said timber or other materials as may remain unsold, and the balance shall be paid to the person entitled to the property, and, if no person shall appear and claim the same, it shall be paid into the Treasury. Provided, however, that the amount so paid into the Treasury shall be refunded without interest to any person who may thereafter establish his right to the same.

59. Where for the purposes of this Enactment any document is to be served on any person, that document may be served— Service of documents.

- (a) in any case by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode; and,
- (b) if the document is to be served on the master of a ship, where there is one, or on a person belonging to a ship, by leaving the same for him on board that ship with the person being or appearing to be in command or charge of the ship; and,
- (c) if the document is to be served on the master of a ship, where there is no master, and the ship is in any of the Federated Malay States, on the managing owner of the ship, or, if there is no managing owner, on some agent of the owner residing in that State, or where no such agent is known or can be found, by affixing a copy thereof to the mast of the ship.

60. Any Harbour Master, Port Health Officer or Police Officer, may arrest without warrant any person offending in his view against any of the provisions of this Enactment and take him before a Magistrate to be dealt with according to law, and any article concerning, by or for which an offence has been committed may be seized and taken to a Police Station, unless given up sooner by order of a Magistrate, until the charge is decided in due course of law. Power of arrest.

61. Harbour Masters, Port Health Officers and their respective deputies shall be deemed to be public servants within the meaning of the Penal Code. Officers to be deemed public servants.

62. (i) No action shall be brought against any person for anything done or *bona fide* intended to be done in the exercise or supposed exercise of the powers given by this Enactment, or by any rules made thereunder— Provisions as to actions.

- (a) Without giving to such person one month's previous notice in writing of the intended action, and the cause thereof;
- (b) After the expiration of three months from the date of the accrual of the cause of action;
- (c) After tender of sufficient amends.

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(ii) In every action so brought it shall be expressly alleged that the defendant acted either maliciously or negligently and without reasonable or probable cause, and if, at the trial, the plaintiff shall fail to prove such allegation, judgment shall be given for the defendant.

(iii) Though judgment shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the Court before which the action is tried shall certify its approbation of the action.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

State.	No. and year.	Short title.	Extent of repeal.
Perak ...	17 of 1891	Harbour Order in Council, 1891	The whole
Selangor ...	1 of 1891	Harbours Regulation, 1891	..
N. Sembilan	7 of 1896	Harbours Enactment, 1896	..
Pahang ...	1 of 1898	Harbours Enactment, 1898	..
Perak ...	12 of 1902	The Lights and Small Shipping Enactment, 1902	Sections 3 to 27, both included, 29 and 34
Selangor ...	18 of 1902
N. Sembilan	12 of 1902
Pahang ...	12 of 1902

FEDERAL.

No. and year.	Short title.	Extent of repeal.
19 of 1918	The Lights and Small Shipping Enactments, 1902, Amendment Enactment, 1918	The whole
6 of 1919

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FORM A.

STATE OF.....

JUNK LICENCE NO.....
TONGKANG.

(Issued under "The Ports Enactment, 1923.")

[illegible]

Term of licence.....

Fee received \$.....

Harbour Master.

FORM B.

BOND.

"The Ports Enactment, 1923."

STATE OF.....

Know all men by these presents that we..... of.....and.....
of.....are held and firmly bound to the Resident of.....in the
sum of.....dollars to be paid to the Resident of.....for which
payment well and truly to be made we jointly and severally bind
ourselves and each and every one of us and our heirs, executors and
administrators firmly by the presents.

Sealed with our seals. Dated this.....day of.....19....

WHEREAS by the above-mentioned Enactment it was enacted that it should be lawful for the Harbour Master in such cases as he should think fit to grant to any owner of any junk or tongkang a licence

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Now the condition of the above-written bond is such that if the said.....shall well and truly observe and perform all and singular the conditions endorsed upon or contained in the licence to be granted to him the said.....in respect of the junk (or tongkang) called the.....and which said licence is intended to be numbered.....then the above-written bond is to be void, otherwise to remain in full force and effect.

Magistrate.

STATE OF.....

(Issued under "The Ports Enactment, 1923.")

[illegible]

Harbour Master.

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FORM D.

STATE OF.....

CARGO BOAT LICENCE No.....

(Issued under "The Ports Enactment, 1923.")

No. of licence.	Date of licence.	Name of owner.	Residence of owner.	Name of manager.	Residence of manager.	No. of crew to be employed.	Cargo capacity (in pikuls or koyans).	Length.	Breadth.	Girth.	Remarks.

Fee received.....

.....
Harbour Master.

FORM E.

STATE OF.....

FISHING BOAT LICENCE No.....

(Issued under "The Ports Enactment, 1923.")

No. of licence.	Date of licence.	Name of owner.	Residence of owner.	Name of manager.	Residence of manager.	No. of crew to be employed.	Rig.	Length.	Breadth.	Girth.	Remarks.

Fee received.....

.....
Harbour Master.

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OBJECTS AND REASONS.

This Bill consolidates and amends the law relating to harbours and small shipping. The Harbours Enactments of the four States are re-enacted as a Federal Enactment, the only material change being the omission of the sections dealing with Port Clearances. These are to be issued, in accordance with the usual practice, by the Customs Authorities, and provision has been made for this in the new draft Customs Bill. The provisions of the Lights and Small Shipping Enactment relating to registration of boats have been re-enacted and incorporated as clauses 40 to 51 of the Bill, while the provisions relating to the imposition of light tolls have been repealed and not re-enacted.

The model for the Bill as it stands has been Part XI of the Colonial Merchant Shipping Ordinance, 1910.

KUALA LUMPUR,
12th December, 1922.

W. S. GIBSON,
Acting Legal Adviser, F.M.S.

No. 7880.—The following Bill about to be introduced in the Federal Council is published for general information :

A BILL
intituled

An Enactment to provide for the improvement and development of towns and other areas.

IT is hereby enacted by the Rulers of the Federated Malay States in Council as follows :

CHAPTER I.

PRELIMINARY.

1. (i) This Enactment may be cited as "The Town Planning and Development Enactment, 1923," and shall come into force upon the publication thereof in the *Gazette*. Short title, commencement and repeal.

(ii) Upon the coming into force of this Enactment "The Town Improvement Enactment, 1917," shall be repealed.

2. In this Enactment unless the context otherwise requires— Interpretation.

"Advocate" means Advocate and Solicitor of the Supreme Court.

"Arbitrator" means the person appointed under Chapter IV of this Enactment.

"Building" includes any house, factory, workshop, warehouse, godown, hut, shed or roofed enclosure whether used for the purpose of human habitation or otherwise, and also any wall, fence, platform, staging, gate, post, pillar, paling, frame, hoarding, slip, dock, wharf, pier, jetty, landing-stage or bridge or any structure connected with the foregoing.

"Building line" means any line, between which and the alignment of any road or reserve, a building, other than any erection in the nature of a boundary wall, fence and the like, shall not be erected, altered, or added to except in manner provided by this Enactment.

"President" and the "Deputy President" mean the persons respectively for the time being carrying out the duties of a President or Deputy President of a Committee.

"Chief Secretary" means the Chief Secretary to Government, Federated Malay States.

"Collector" means the Collector of Land Revenue.

"Committee" means a Town Planning Committee appointed under this Enactment.

"Construction" or "Reconstruction" as applied to any road includes provision for grading, levelling, draining, paving, kerbing, metalling, surfacing, channelling, planting, lighting and otherwise making or completing such road.

"Court" means the Court of a Judicial Commissioner.

"Erect" as applied to any building includes re-erection or structural alteration thereof.

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"Town Planner" means the Government Town Planner appointed under this Enactment.

"House" includes—

- (a) any temporary or permanent detached or semi-detached dwelling-house, bungalow, and the like;
- (b) any "terrace dwelling-house" being one or more houses built or intended to be built continuously in a row or terrace and used solely for residential purposes;
- (c) any "shop-house" being a detached or semi-detached dwelling or a terrace house used, wholly or in part, for any commercial, or industrial purpose;
- (d) any other building whether temporary or permanent used or intended to be used for human habitation.

"Land" means all land within a Town Planning area whether alienated or not, and includes all State land and all lands reserved for public purposes.

"Lay-out" as applied to land includes—

- (a) the planning or development or the replanning and redistribution of any land under the provisions of this Enactment; or
- (b) the survey, demarcation, partition, division, subdivision or resubdivision of any land into parts for use for any specified private or for any public purpose;
- (c) the plotting out of land for lots or other use whether such land is intended to be used for building or any public purpose;
- (d) the opening, closing, construction, diversion or improvement of any road.

"Main Road" means any road within or without a Town Planning area, which in the opinion of the Committee is necessary for securing adequate means of inter-communication between different localities, or the improvement or development thereof.

"Notify" "Notification" and similar expressions refer to notification by publication in the *Gazette*.

"Owner" means registered owner or registered proprietor.

"Plan" includes lay-out and any map, diagram, drawing, section or detail.

"Public authority" means any department or officer of Government or any person who under any Enactment carries out any powers or duties for the benefit of the public.

"Public Road" means a road repairable out of Government Funds and includes any road surrendered as a public road by any person subject to the provisions of any General Town Plan or other plan approved under the provisions of this Enactment.

"Registrar" means Registrar of Titles.

"Resident" means British Resident of the State.

"Reserve" includes any land reserved or surrendered by any person or public authority for public use or convenience, or reserved or surrendered for public recreation, health, sanitation, amenity or other public purpose.

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"Responsible authority" means the Committee or the authority or authorities responsible for carrying out or enforcing the observance of an approved General Town Plan as finally approved under this Enactment, or any part or provisions of such General Town Plan, including the execution of any works thereunder which are to be constructed by the Committee or any person or public authority.

"Road" includes—

- (a) any main road, street, square, right of way, lane, highway or thoroughfare including a bridge, or causeway; or
- (b) any secondary road, being a road for general or local traffic; or
- (c) any residential road being a road primarily for access to houses, or for residential purposes generally; or
- (d) any pathway being a road used exclusively for foot passengers and such classes of vehicles as the Committee or other responsible authority may determine; or
- (e) any public or private road or road reserve.

Provided that any definition in "The Sanitary Boards Enactment, 1916," "The Land Enactment, 1911," "The Valuation of Land Enactment, 1922," or "The Registration of Titles Enactment, 1911," shall be incorporated and read as part of this section except in so far as such definition is inconsistent with the provisions of this Enactment.

CHAPTER II.

TOWN PLANNING COMMITTEE.

3. (i) The Resident may from time to time with the approval of the Chief Secretary by notification in the *Gazette* declare any area within the State to be a Town Planning area for the purposes of this Enactment.

Declaration of
Town Planning
areas.

(ii) The boundaries of any Town Planning area may be declared to be coincident with any town limits or with the limits of any Sanitary Board area or may be separately defined.

4. (i) The Resident may from time to time by notification in the *Gazette* appoint a Town Planning Committee to give effect to the purposes of this Enactment within the area mentioned in such appointment.

Appointment of
Town Planning
Committees.

(ii) Every Town Planning Committee shall be a body corporate and have perpetual succession, and may sue and be sued by the name of "the Town Planning Committee of" the area mentioned in the appointment.

(iii) Every Town Planning Committee shall consist of a President, a Deputy President, and four members, all of whom shall be appointed by the Resident after consultation with any Sanitary Board affected thereby, together with the Town Planner.

(iv) The President, Deputy President and members of a Town Planning Committee shall hold office for such term not exceeding three years as may be mentioned in the appointment, and shall perform such duties as may be prescribed.

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Variation or
revocation of
declaration.

5. Any declaration or appointment made under the provisions of the two immediately preceding sections may in like manner be added to, varied or revoked.

Temporary
association of
other persons
with
the Committee.

6. (i) A Committee may co-opt, in such manner and for such period as may be prescribed, any person or persons whose assistance or advice it may desire in carrying out any of the provisions of this Enactment.

(ii) Any person so co-opted may take part in the discussions of the Committee, but shall not vote or otherwise exercise the right of a member.

Additional
members for
special
purposes.

7. (i) In the consideration of a General Town Plan or other plan affecting any lands belonging to any Railway, Harbour or public authority not represented on the Committee, the Resident may, by notification in the *Gazette*, appoint any officer or representative as an additional member to the Committee for the purpose of the consideration of any proposals under the said General Town Plan or other plan affecting such Railway, Harbour or public authority.

(ii) Every person so appointed shall for such purpose be an additional member and have the same powers and duties as other members and hold office for such term as the Resident may decide.

(iii) Any appointment made under this section may at any time in like manner be revoked.

Members and
others not to
take part in
proceedings in
which they are
personally
interested.

8. If any member or any person associated with a Committee under section 6 or 7 has, directly or indirectly, any interest in any land situated in an area comprised in any General Town Plan or other plan prepared under this Enactment, or in any area in which it is proposed to acquire land for any of the purposes of this Enactment,

(a) he shall, before taking part in any proceeding at a meeting of the Committee relating to such area, inform the person presiding at such meeting of the nature and extent of such interest;

(b) he shall not vote at or take any other part in any proceedings at a meeting of the Committee relating directly or indirectly to the land in which he has an interest.

Public servants.

9. All members and servants of a Committee shall be deemed to be public servants within the meaning of the Penal Code.

Duties of
Committee.

10. The duties of a Committee shall include—

(a) the modification and adoption of any General Town Plan, or other plan, as hereinafter provided;

(b) the authorization of plans or proposals under Chapter V;

(c) carrying out and enforcing the observance of any General Town Plan, or other plans and particulars approved under this Enactment: Provided that no other responsible authority has been appointed, under the provisions of the said General Town Plan or other plans and particulars, for such purpose;

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- (d) advising the Resident in respect of—
- (i) the use, reservation, alienation or other dealing with all State or reserved land comprised within the Committee's area; and
 - (ii) the reservation or acquisition of all land for the purposes of this Enactment.

11. (i) A Committee may also

Powers of Committee.

- (a) inquire into and report to the Resident upon any question relating to town planning or housing, or other matter referred to such Committee;
- (b) call and examine witnesses; and
- (c) exercise such other powers, duties, functions and authorities as are conferred or imposed by this Enactment.

(ii) All evidence given before a Committee on any such inquiry may be on oath or affirmation, and the President of the Committee is hereby authorized to administer all oaths and affirmations which may be necessary for the purpose.

12. The Chief Secretary may appoint an officer qualified in Town Planning, to be called the Government Town Planner, who shall perform such duties and exercise such powers as may be prescribed, and such other officers as may be necessary for the purposes of this Enactment.

Government Town Planner.

CHAPTER III.

PREPARATION AND APPROVAL OF GENERAL TOWN PLAN.

13. The Government Town Planner, acting in consultation with the Committee, shall prepare a General Town Plan (referred to in this Chapter as the draft Plan) of the area or part thereof in respect of which the Committee is empowered to carry out the provisions of this Enactment.

Preparation of General Town Plan.

14. The general objects of the draft Plan shall be the better ordering and the improvement and development of the area subject to the Committee's control, and in particular

Scope of draft Plan.

- (a) the improvement or extension of communication and facilities for traffic;
- (b) the improvement or extension of any existing lay-out of land or the provision of a lay-out for undeveloped districts;
- (c) the regulation of building and development;
- (d) the improvement and extension of housing accommodation; and generally
- (e) the securing of public safety, sanitary conditions, health, convenience or amenity.

15. (i) the draft Plan may also make provision for—

Objects of draft Plan.

- (a) zones or districts to be set apart for use for residential, commercial, industrial, agricultural or other specified purposes;
- (b) roads or building lines, including the opening, closing, widening, diversion or other alteration of roads or any reserves in connection therewith;

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- (c) the acquisition, sale, exchange, surrender or leasing of any lands for the purposes of this Enactment;
- (d) opening, closing, altering, widening, raising, lowering, improving, cleansing, or beautifying lakes, ponds, rivers, streams, drains, or other tidal or non-tidal water-courses; or reserves on or adjoining the same;
- (e) the excavation or the reclamation and improvement of any land, including foreshores, above or below high water mark or any reserves on or adjoining the same;
- (f) setting apart land for—
 - (1) public, municipal or private buildings, water supply, lighting, drainage, disposal of sewage, or of surface waters;
 - (2) railways, tramways, or for use by motor or other vehicles or by any railway, tramway, harbour or other public authority or persons;
 - (3) different kinds of agriculture or horticulture, or for dairies, dhoby grounds, coolie lines, market gardens, squatters, cattle, or other specified uses, or
 - (4) any public purpose not specified above.

Regulations.

(ii) The draft Plan may have attached thereto or endorsed thereon regulations for securing or executing any provisions thereunder, or regulating the use, conservation, development or improvement of land therein comprised. Such regulations may prescribe or otherwise provide for—

- (a) the boundaries of any zone or district, and the prohibition or regulation therein of any building, including buildings with inadequate sanitary or hygienic arrangements, or the erection, maintenance or use of any buildings, skysigns, or other structures used or proposed to be used for advertising purposes which are injurious to the amenity of such zone or district;
- (b) the commencement, continuance, or extension of specified trades, callings, industries, manufactures, or occupations within such zone or district;
- (c) the recovery by the Committee or any responsible authority from any person or public authority of any expenses in the adoption, approval, carrying out, or enforcing the observance of the draft Plan, or any part thereof;
- (d) the responsible authority—
 - (1) for carrying out or enforcing the observance of the draft Plan or any specified part or provisions thereof; or
 - (2) for enforcing the execution of any works which under the draft Plan are to be executed by any public authority, owner or other person;

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- (e) subject to the approval of the Resident with the consent of the Chief Secretary the suspension or modification, so far as is necessary for the proper carrying out or enforcing the observance of any approved Plan or part thereof, of any by-law passed under "The Sanitary Boards Enactment, 1916," or any other rule under any Enactment;
 - (f) any requirements in respect to any matter contained in the schedule;
 - (g) other matters explanatory of the draft Plan, or necessary for the carrying out or enforcing the observance of such Plan when approved under this Enactment; and
 - (h) any penalty and the enforcement thereof.
- (iii) Such regulations shall be deemed to be included in and become part of the draft Plan.
- (iv) The draft Plan may consist of one or more plans drawn to such scale and reproduced in such manner as the Government Town Planner finds convenient for the purpose of showing any provision therein.
- (v) Before such draft Plan is prepared the Committee shall by resolution fix the day upon which such preparation shall commence.
- (vi) A copy of such resolution shall be notified by the Committee forthwith.

16. (i) The draft Plan when prepared shall be submitted to the Committee and, when adopted by the Committee, shall be signed by the President.

Draft Plan to be adopted by Committee.

(ii) The Committee shall—

- (a) cause a notification of such adoption to appear in the *Gazette*; and
- (b) exhibit such draft Plan, as adopted, for public inspection during reasonable hours at the office of the Committee, or some other suitable place for a period of three months.

Notification of adoption and exhibition of draft Plan.

(iii) Notice of such exhibition shall be published during the said period of three months in every ordinary issue of the *Gazette* and in not less than one issue in every week of a local newspaper.

17. (i) Any person or public authority interested may during the said period of three months send to the President a written objection to anything appearing in the draft Plan. Such objection shall set out precisely—

Consideration of objections.

- (a) the nature of and reasons for the objection, and
- (b) if the objection would be removed by an alteration of the draft Plan, any alteration proposed.

(ii) Any such objection received during the said period shall be considered at a meeting of the Committee of which the objector shall have notice, and the objector may attend and be heard in person or by advocate or by duly authorized agent or officer.

(iii) The Committee may thereupon frame amendments of the draft Plan to meet such objection.

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Draft Plan for
approval of the
Resident.

18. The Committee shall submit the said draft Plan with or without amendments to the Resident. They shall submit therewith:

- (a) a schedule of the objections (if any) made under the provisions of section 17 and not withdrawn;
- (b) a schedule of the amendments (if any) framed by the Committee to meet such objections.

Approved
Plan.

19. (i) The Resident may with the consent of the Chief Secretary approve the draft Plan with or without modification or amendment notwithstanding the omission to comply with any requirement of this Chapter which, in the opinion of the Resident, does not involve material loss or damage.

(ii) The draft Plan as approved is referred to in this Chapter as "the approved Plan".

Correction of
errors or
omissions.
Approved Plan
to be open for
inspection.

(iii) The Resident may by notification correct any omission from or error in the approved Plan.

(iv) The approved Plan shall be open to inspection at the office of the Committee or some other suitable place.

(v) Copies of the approved Plan certified by the President or Deputy President shall be deposited forthwith with the Collector and the Registrar and with the Chairman of any Sanitary Board affected thereby.

Refusal of draft
Plan.
Restrictions
referring to
approved Plan.

20. The Resident may notify his refusal to approve the draft Plan.

21. From the commencement of this Enactment no person or public authority shall, without the approval of the Committee as provided in section 38—(a) lay out any land; or (b) erect any building; or (c) use any land or building in a manner not in conformity with the approved Plan as amended from time to time.

22. The Resident shall prescribe a period or different periods not exceeding 25 years within which the approved Plan or any part thereof shall be carried out.

Effect of
approved Plan.

23. An approved Plan, when notified under section 19, shall have the same effect as if contained in this Enactment.

Amendment or
revocation of
approved Plan.

24. The Resident with the consent of the Chief Secretary may from time to time—

(1) amend by notification in the *Gazette* an approved Plan in whole or in part after such enquiry as he deems necessary, by—

(a) the alteration or omission of any provision or matter therein appearing;

(b) the addition of any provision or matter thereto; or

(2) revoke, in whole or in part, an approved Plan by the approval of any subsequent draft Plan prepared and submitted by the Committee in accordance with this Chapter.

Extension of
period
prescribed by
section 22.

25. If the Committee or any responsible authority is unable to carry out and execute the projects contained or described in an approved Plan within any period prescribed by the Resident, the Chief Secretary may extend the period so prescribed, and the restrictions imposed by section 21 shall remain in operation during such extended period.

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26. The Committee may make any agreement with any public authority or person in respect of any matter which may be provided for in the draft Plan subject to the power of the Resident to modify or disallow such agreement when approving the draft Plan and, unless it is otherwise expressly provided in the approved Plan, such agreement shall take effect from the day on which the said Plan comes into force.

Power of Committee to make agreements.

27. If, in the carrying out or enforcing the observance of an approved Plan any question or dispute arises whether any building or work or the use of any land contravenes any provision of such Plan, or whether any provision of an approved Plan is not complied with in the erection or carrying out of any such building or work or the use of such land, that question shall be referred to the Resident whose decision shall be final.

Settlement of disputes.

28. A public authority, whether acting as a responsible authority or otherwise, may defray its expenses in connection with any approved Plan out of its general revenue, or in such manner as the provisions of the approved Plan provide.

Expenses of a public authority.

29. (i) Subject to this Enactment, any person, whose land or other property is wholly or partly within the area of an approved Plan and is injuriously affected by the approved Plan shall, if he makes a claim before the Arbitrator within three months after the date of the notification of the approval of such Plan under section 19, be entitled to obtain reasonable compensation from the Government of the State or other responsible authority as the Arbitrator may, in each case, determine.

Compensation under approved Plan.

(ii) A person shall not be entitled to obtain compensation under this section on account of any contract made, or any work or other thing done with respect to land or buildings included in a draft Plan after the date of the notification of the resolution referred to in section 15.

Exclusion of compensation.

Provided that this sub-section shall not apply to any work done for the purpose of executing a written contract made, or finishing a building begun, before the date aforesaid, and that it shall apply only in so far as such building or work has proceeded at the time of the notification of the resolution aforesaid.

(iii) Any question as to the amount or manner of making compensation or the payment (whether by instalments over any specified period or otherwise) of the sum which is to be paid as compensation shall be determined in case of dispute by the Arbitrator in the manner provided in Chapter IV.

(iv) Where land or other property is alleged to be injuriously affected by any provisions contained in an approved Plan no compensation shall be paid in respect thereof if, or in so far as the provisions are such as would be enforceable under

Exclusion or limitation of compensation in certain cases.

(a) this Enactment, or

(b) any rule, or regulation, made under this Enactment.

(v) Land or other property shall not be deemed to be injuriously affected by reason of any provisions contained in an approved Plan which sets apart land or buildings or zones or districts for specified uses, or determines building lines or lays down under section 15 other restrictions or requirements concerning land or buildings or fixes any period within which such Plan is to be carried out.

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CHAPTER IV.

DETERMINATION OF DISPUTES AND OBJECTIONS.

Chief Secretary
may appoint
Arbitrator.

30. The Chief Secretary may appoint a Judicial Commissioner (with the consent of the Chief Judicial Commissioner) or other competent person (hereinafter called "the Arbitrator") to hear and determine all disputes as to the amount and manner of making compensation or the payment of any compensation payable under this Enactment and to carry out such other duties as may be prescribed.

Valuation.

31. In determining any claim for compensation under this Enactment—

(1) The value of any land in respect of which compensation is claimed or which is given in payment of compensation shall be deemed to be the improved or unimproved value of the land, whichever is the higher, at the date of the notification of the preparation of the General Town Plan under section 15 according to the existing valuation made under "The Land Valuation Enactment, 1922."

(2) The Arbitrator shall take into consideration such provisions of the law in force with regard to land acquisition as are hereinafter provided and the relative injury or benefit occasioned to any remaining portion of the owner's land by the preparation, approval and carrying out of an approved General Town Plan.

Powers of
Arbitrator.

32. (i) The Arbitrator shall have all the powers of a Court and may enforce the attendance of witnesses and administer oaths and affirmations and compel the production of documents.

Procedure.

(ii) Any matter before the Arbitrator shall be conducted as far as possible in accordance with the procedure of a Court.

(iii) The Committee or any public authority concerned may appear by its officer and any other party to a proceeding may appear in person, or the Committee, public authority or party aforesaid may appear by advocate.

Commencement
of proceedings.

33. Proceedings before the Arbitrator shall be commenced by a notice of claim and shall be supported by a statement setting out precisely in accordance with such particulars as may be prescribed, the grounds on which such claim is made. Such notice and statement shall be delivered at the office of the Arbitrator in duplicate and a copy thereof shall be served by the claimant on the Committee or any public authority concerned. On receipt of any such notice the Arbitrator shall appoint a day and hour for the hearing of the matter and shall serve notice of such appointment on all parties thereto.

Hearing by
Arbitrator.

34. (i) At the time named in such notice the Arbitrator shall proceed to hear and determine the matter and may adjourn the proceedings from time to time as he may think fit.

(ii) In the event of any party not attending at the appointed time the Arbitrator may determine the matter in the absence of such party.

(iii) The Arbitrator may award such lump sum as costs to any party as he deems necessary in all the circumstances.

Award of
Arbitrator to be
final.

35. The award of the Arbitrator as to the amount and manner of making compensation or the payment thereof shall be final and binding on all parties.

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CHAPTER V.

CONTROL OF DEVELOPMENT AND BUILDING.

36. (i) From the commencement of this Enactment

Powers of Committee in case of land or buildings used or erected in contravention of this Enactment.

- (a) no person or public authority shall within any Town Planning area erect or proceed with any building or work, or remove, pull down, or alter any building, or lay out any land or use any land or building, except in conformity with the provisions of this Chapter or the provisions (if any) of an approved General Town Plan;
- (b) if in the opinion of the Committee any person or public authority contravenes the provisions contained in sub-section (a), the Committee may give notice directing such person or public authority within such time to be therein prescribed to stop any work, remove, pull down, or alter any building, or restore any land laid out or land or building used as aforesaid to its former condition;
- (c) if any person or public authority shall fail to comply with such notice, the Committee (with the consent of the Resident) may enter upon the land in question and execute any works required or permitted by such notice at the expense of the person or public authority against whom the notice was given;
- (d) the expenditure thereby incurred by the Committee shall be recoverable as a debt, and the certificate of the President or the Deputy President stating the amount of any expenditure so incurred shall be conclusive evidence of the amount of such expenditure.

(ii) No person shall be entitled to compensation in respect of any damage, loss or injury resulting from any action taken by the Committee under the provisions of this section, except in the case of the proviso contained in section 29, sub-section (ii).

Exclusion of compensation.

37. From the commencement of this Enactment no surrender for the purpose of subdivision of any grant, lease of State land, certificate of title or extract from the mukim register shall be accepted, the provisions of any other Enactment notwithstanding, unless such surrender be accompanied by a certificate given under the provisions of section 38 or be in conformity with the provisions (if any) of an approved General Town Plan as finally approved.

No surrender to be accepted without the Committee's certificate of approval.

38. (i) From the commencement of this Enactment any person or public authority desiring to—(a) lay-out any land; (b) erect any building or; (c) use any land within the Town Planning area; shall in every case, except where the provisions (if any) of an approved General Town Plan otherwise provide, submit to the Committee a plan in duplicate of—(a) the land as proposed to be laid out; (b) the building proposed to be erected; or (c) the use proposed for any land; together with an application made in the prescribed form and accompanied by such particulars as are hereinafter provided for.

Application for approval of lay-out.

(ii) Within reasonable time not exceeding three months of the receipt of any such plan and application, the Committee shall, subject to such modifications or conditions as it deems necessary, after taking into consideration the matters specified in the schedule or any prescribed requirements in respect thereto, approve or disapprove the proposed plan and particulars, and notify the applicant accordingly.

Approval or disapproval by the Committee.

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Right of appeal
to the Resident.

(iii) In case of any disapproval or any modification or condition made by the Committee the applicant shall, unless the parties agree upon some other method of determination, have the right of appeal within one month of the date of the said notification of the Committee's decision to the Resident who may direct the Committee to approve the proposed plan and particulars or any alternative plan and particulars, subject to such modifications or conditions (if any) as he considers necessary.

(iv) Where the land the subject of any application is comprised within the area of a draft General Town Plan, the preparation of which has been notified under section 15, sub-section (vi), the Committee may require the applicant to await the approval of such General Town Plan, or may at any time with the sanction of the Resident approve such plan and particulars: Provided in all cases the applicant has agreed in writing with the Committee to accept and abide by any conditions and to provide any guarantees for the performance of the agreement which the Committee may require.

(v) Any approval given under this section shall be in the form of a certificate under the hand of the President or Deputy President endorsed on the proposed plan and particulars, a copy of which shall be handed to the applicant on his application therefor.

Particulars to
be shown on
plan.

(vi) Every plan and particulars approved under this Chapter—

(a) shall, to the extent required by the Committee, show distinctly delineated thereon—

- (1) all lots or reserves into which the land is to be sub-divided, marked with distinct numbers or symbols, and the measurements of each lot or reserve;
- (2) all roads reserved, laid out or constructed on such land or abutting thereon and their intersections;
- (3) the positions, terminations, intersections and widths of all new roads proposed to be reserved, laid out or constructed on such land;
- (4) the position or sites of any existing or proposed buildings on such land;
- (5) the building lines laid down and determined by such plan;
- (6) the method of drainage or disposal of surface water proposed for such land and for every such new road, and for any reserve necessary for such purpose; and
- (7) such other particulars as may be prescribed.

Application for
permission to
erect a
building under
"The Sanitary
Boards Enact-
ment, 1916,"
deemed to be an
application
under this
Chapter.

39. (i) Before approving any plan for the erection of any building on a building lot under the provisions of "The Sanitary Boards Enactment, 1916," the Sanitary Board shall refer the said plan to the Committee.

(ii) The Committee shall within one month from date of the receipt of such plan inform the Sanitary Board whether, in its opinion, the class of the proposed building or the siting or location thereof interferes with the proper lay-out or use of the area in which the building lot is situated, and where the Committee so decides no further action in respect to such plan shall be taken by the Sanitary Board.

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(iii) The person making the application to the Sanitary Board in respect to the said plan shall be deemed to have submitted a plan and application under this Chapter and shall have the right of appeal to the Resident against the decision of the Committee in manner provided by section 38, sub-section (iii).

(iv) Before approving any building plan under this section, the Committee may require the applicant to submit a plan and application in accordance with the provisions of section 38.

40. (i) Before approving any plan and particulars under this Chapter, the Committee may—

Before approving any plan provision for adjustment of boundaries and exchanges may be required.

(a) include such plan or any variation thereof in a lay-out prepared for the purpose of ensuring that the planning and development or the replanning and redistribution of the lands comprised in such lay-out shall conform to the provisions of any draft General Town Plan pending the approval thereof under section 19, and

(b) require that proper provision shall be made by the applicant or any other owners or persons whose lands are included in such lay-out for altering the boundaries of such lands or parts thereof, and for effecting such transfers and adjustment of rights or interests or such exchanges or replanning and redistribution of lands as may be necessary or convenient for the purpose of executing the proposed lay-out.

(ii) The area to be dealt with under such lay-out shall be determined by the Committee which shall serve a notice upon the owner of any land included in such area notifying such owner that the proposed lay-out accompanied by particulars of the provision to be made and the terms and conditions to be attached to the said lay-out are on exhibition at the office of the Committee or some other suitable place.

(iii) Within three months after the receipt of such notice any owner or other person may send to the President a written objection thereto in accordance with the provisions of section 17 having reference to a draft General Town Plan and such objection shall thereafter be dealt with by the Committee in accordance with the provisions of the said section.

Objections and mode of determination.

(iv) The Committee may, subject to the amendments referred to in section 17, thereupon certify its approval of the proposed lay-out in the manner provided by section 38, sub-section (ii).

(v) Where at the time of giving such certificate any objection has not been withdrawn or settled by agreement between the Committee and the person making such objection, the approved lay-out, together with the particulars referred to in sub-section (ii) shall be determined on the application of the Committee or any owner whose land or part is included in such lay-out by the Resident, in accordance with the provisions of sub-section (iii) of section 38.

41. (i) After the expiration of two years from the date of any approval given under this Chapter or such longer period as may be fixed therein, the Committee may by resolution cancel the said approval if the requirements specified in such approval have not been complied with.

Lapsing of approval.

(ii) Such resolution shall be notified.

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(iii) The Committee may grant an extension or renewal of such approval beyond the period aforesaid.

(iv) Sub-sections (i) and (iii) of this section shall apply to any extension or renewal under this section as if such extension or renewal were an original approval.

Approved plan to be deposited with the Collector and the Registrar.

42. (i) When the Committee has given a certificate of approval of any plan and particulars under this Chapter, copies of such plan and particulars each certified as to the correctness thereof by the President or Deputy President and by the owner and any chargee interested in the land affected shall be deposited with the Collector and the Registrar.

Dealing contrary to deposited plan not to be registered.

(ii) Notwithstanding anything contained in any other Enactment the Collector or the Registrar, as the case may be, shall not register any dealing which appears to contravene the provisions of any plan and particulars deposited with him in accordance with sub-section (i).

Correction of errors.

(iii) The Collector or the Registrar shall have the power to permit the correction of any errors which may have been proved to the satisfaction of the President or Deputy President to have been made in any plan and particulars deposited under this section.

(iv) In making such corrections the original plan as deposited aforesaid shall not be altered, but the corrections shall be made by means of a new plan certified to by the President or Deputy President.

(v) Such new plan shall be deposited and attached to the original plan and shall show the required corrections.

Land for roads and other purposes to be surrendered.

(vi) When any plan and particulars certified as approved has been so deposited, any proposed road, reserve or other open space shown thereon shall, where it is not specified on such plan any particulars that such proposed road, reserve or open space is to be vested in any other public authority thereby be deemed to be land surrendered for public purposes without compensation or payment to the owner or any other person.

Cancellation of existing and issue of new titles to be effected in accordance with deposited plan.

43. (i) Upon the deposit of the plan and particulars aforesaid, then, except as such plan and particulars may provide to the contrary—

(a) any land comprised in such plan and particulars which is required to be replanned and redistributed shall for the purpose of such replanning or redistribution be deemed to be State land and all right, title and interests in respect thereof which were theretofore vested in any person shall be extinguished without the payment of any compensation therefor, and the documents of title under which such land was held shall forthwith be delivered up at the Land Office of the district in which the area comprised in the plan and particulars is situated in order that the same may be cancelled; and

(b) the Collector or the Registrar of Titles, as the case may be, shall issue to the several persons amongst whom the land is redistributed under the said plan such new grants, leases or other documents of title as may be necessary in order that they may hold the sites assigned to them, respectively, under the deposited plan upon the same terms and conditions and for the same interests on and for which they severally held their original sites immediately prior to the deposit of the said plan.

(ii) Every new document of title issued to any person in pursuance of the said plan and of this section shall, except in so far as

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the plan may provide to the contrary, be subject to the same charges or other incumbrances, trusts and restrictions, if any, whereto the document of title in lieu whereof such new document of title has been issued to such person was subject immediately prior to the deposit of the said plan, and so that chargees and other incumbrancers or persons (other than the owners) who were immediately prior to the deposit of the said plan interested in land which is redistributed under the said plan shall, except as aforesaid, have, as nearly as may be, the same remedies and rights against and in the land held by any person under a new document of title issued in pursuance of the plan and of this section as they severally had against and in the land held by such person under the document of title in lieu of which such new document of title has been issued.

(iii) The Registrar or Collector as the case may be, for the district in which the area comprised in the scheme is situated shall perform all such acts and make such entries in the books of his office as may be necessary to give effect to the provisions of this section.

(iv) The Resident may, in the case of any act of registration or record required to be performed under the provisions of this section, remit at his discretion any fee prescribed to be paid therefor.

(v) Any person who without reasonable excuse shall fail or neglect to deliver up at the Land Office any document of title required by the provisions of this section so to be delivered up shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred dollars.

(vi) Any person who shall dishonestly and fraudulently use any document of title to land after the right, title or interests purporting to be evidenced by such document have been extinguished by the operation of this section shall be deemed to have committed or to have attempted to commit the offence defined in section 415 of the Penal Code. Penalty.

44. (i) Notwithstanding the provisions of any Enactment and subject to the provisions of an approved General Town Plan the Committee may require that— Widths of roads and lanes.

- (a) the width of every main road shall not be less than sixty-six or more than one hundred and fifty feet;
- (b) the width of every secondary road shall not be less than fifty or more than sixty-six feet;
- (c) the width of every residential road shall not be less than twenty nor more than fifty feet;
- (d) the width of every pathway shall not be less than ten or more than twenty feet;
- (e) the width of every lane shall not be less than fourteen or more than twenty feet.

Provided that, pending the notification of the said General Town Plan if the Committee require any main road to be of a greater width than one hundred feet, then, in the absence of any agreement between the Committee and the owner of the land abutting such road, the Committee shall acquire the additional land in manner provided by section 52.

(ii) The Committee may, subject to the consent of the Resident, permit any new secondary or residential road to be of a width less than that required under this section where the owner surrenders land required for widening any road or other public purposes. Variation of widths of roads.

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Treatment of
corners.

(iii) At any junction or intersection of any road made by a lay-out of any land under this Enactment, the owner of such land shall make any necessary provision for the planning or treatment of the corners formed by such junction or intersection to the satisfaction of the Committee in such manner as will in its opinion facilitate public convenience and the safety of traffic.

The Committee
may lay down
and determine
building lines.

45. (i) The Committee may lay down and determine building lines for the purpose of regulating the distance between any buildings to be erected or reconstructed or buildings likely to be erected or reconstructed on opposite sides of any road or public place.

(ii) Any building lines proposed to be laid down and determined by the Committee in respect to any existing road within a Sanitary Board area shall be shown distinctly on a plan signed by the President who shall forward such plan and particulars to the Sanitary Board.

(iii) Within one month from the date of the receipt thereof the Sanitary Board shall return to the Committee the said plan and particulars together with such recommendations, if any, as they consider necessary. Where the plan and particulars are not returned within the period aforesaid by the Sanitary Board their approval thereof may be deemed to have been given.

(iv) The Committee may upon consideration of the said recommendations, if any, approve the plan and particulars with or without modifications and any decision thereon shall be conveyed to the Sanitary Board, which may refer any dispute between the Board and the Committee to the Resident for determination in such manner as he thinks fit.

(v) When any plan has been approved under this section the Committee may by resolution formally lay down and determine the proposed building lines shown thereon and the Committee shall forthwith—

- (a) cause the approved plan to be exhibited for public inspection during reasonable hours at the Sanitary Board office or some other suitable place;
- (b) notify such resolution and exhibition of the plan aforesaid; and
- (c) serve a notice upon every owner interested informing him that his land or part thereof is traversed by such building lines.

Effect of
building line.

(vi) From and after the date of the notification of the aforesaid resolution all land contained between the alignment of the road and the building line shall be deemed to be land which cannot be built upon and thereafter any existing building or work or portion of a building or work on or in such land shall not be reconstructed, replaced, or repaired and no improvement, excavation, obstruction or new building or work other than a boundary wall, fence and the like, as may be determined by the Committee, shall be made, placed or erected on or in such land:

Provided that the Committee may in their discretion approve the execution of minor alterations or repairs in order to permit of the reasonable preservation of any existing building or work but not so as to contravene the intention of this section.

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(vii) The Committee or other responsible authority may at any time acquire any land or part thereof contained between the alignment of the road and the building line for the purpose of widening any road or improving any junction or intersection thereof with any other road or public place.

Land contained between alignment and building line may be acquired.

(viii) Compensation for any injury or loss or damage by reason of such widening or improvement shall, in the absence of any agreement to the contrary, be ascertained as on the date when the Committee or other responsible authority resolves to make such acquisition, and shall not exceed the value of the land acquired for the purposes of such widening or improvement, and such value shall be ascertained and such compensation shall be payable or otherwise made in such manner as the Arbitrator may determine under the provisions of section 31 having reference to an approved General Town Plan.

Compensation.

(ix) Subject to the provisions of sub-section (viii), no compensation shall be payable in consequence of the laying down and determination of any building lines under this section the provisions of which shall not be deemed to injure or cause any loss or damage to land or buildings affected thereby.

Provided that, where the Committee lays down and determines building lines aforesaid, the Resident may, on the application of any owner or other person interested, require the Committee to acquire within any specified time—

- (a) any such land or part not built upon which is so situated that more than one-third of its total area lies between the alignment of the road and the building line; or
- (b) any such land or part which subsequent to the demolition or destruction of any building or obstruction thereon, is rendered useless for building purposes by more than one-third of its total area being contained between the alignment of the road and the building line.

(x) All land contained between the alignment of the road and the building line laid down and determined under this section shall not form part of any public road and such road shall not be widened or reconstructed until the Committee has acquired such land, or a surrender thereof as a public road has been effected.

(xi) Pursuant to such widening the Committee or other responsible authority shall, subject to any appeal determined by the Resident, reconstruct in fair and reasonable manner any building or part thereof, or any wall, fence or other erection or work necessitated by such widening in accordance with the said determination.

Buildings and works to be reconstructed by Committee or responsible authority.

(xii) The owner of any land proposed to be acquired under this section shall have the right of appeal to the Resident against any work or reconstruction proposed in connection therewith, and such appeal shall be determined by the Resident in the manner provided by section 38 (iii).

Appeal.

(xiii) Any person who erects any building or obstruction on land contained between the alignment of the road and the building line, or by any act or proceeding contravenes the provisions of this section shall be guilty of an offence.

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Power to fix
levels.

46. (i) The Committee may from time to time in consultation with the Sanitary Board fix the levels of any road or any land abutting thereon.

(ii) Before so doing the Committee shall cause—

(a) a plan of the proposed levels to be prepared and exhibited for public information at some convenient place;

(b) a notification to be published in the *Gazette* calling upon any owner interested to set forth in writing addressed to the Chairman within one month from the date of the notice (1) any objection to the plan or any proposals thereunder; (2) any claim in the case of any original fixing of levels for the provision of reasonable means of access to the property of such owner; or (3) in the case of refixing of levels a claim for compensation for any loss or damage which the owner may sustain by reason of his property being directly injured thereby.

(iii) After considering the objections the Committee may approve the plan, with or without alteration and thereupon the levels shall be in accordance with the plan approved.

(iv) The levels shall be fixed and take effect upon the approval of the Committee being notified.

(v) If, in the case of any original fixing of levels, the access to the premises of any person is thereby directly affected in an injurious manner the Committee shall, in any case where a claim is made in manner aforesaid, provide reasonable means of access to the premises.

(vi) If in the case of any refixing of levels the land in which the owner thereof is thereby directly affected in an injurious manner the Committee shall, in any case where a claim is made in manner aforesaid, pay such reasonable compensation for any loss or damage sustained as may be determined by the Arbitrator in manner provided under Chapter IV.

(vii) Every notification under this section may be proved as conclusive and binding upon all parties by the production of the *Gazette*.

(viii) Every plan of levels purporting to be approved under this section shall be conclusive evidence of its contents on production thereof by any officer of the Committee.

Refixing levels.

(ix) The provisions of this section shall, unless inconsistent with the context, be deemed to include alteration and refixing of levels.

Existing levels.

47. (i) In the case of every road any level for the time being in existence, fixed before or after the commencement of this Enactment in accordance with the provisions of this or any other Enactment, shall be deemed a level for the purposes of this Enactment.

(ii) From and after the day this Enactment comes into operation the levels of any road within a Sanitary Board area which is metalled and constructed in a permanent manner, shall be deemed to have been fixed by and in accordance with such construction and to be levels for the purposes of this Enactment.

(iii) From and after the day this Enactment comes into force, where any building abutting on or situated near any road is erected in contravention of any levels fixed by the Committee under this section

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no claim for compensation in the case of (a) the refixing of such levels; or (b) for the demolition, alteration or reconstruction of any such building in connection with the widening or other alteration of the said road shall be admissible or paid under this Enactment.

(iv) Any person who erects any building or uses any land in contravention of any levels fixed by the Committee under this section, or by any act or proceeding contravenes the provisions thereof shall be guilty of an offence.

CHAPTER VI.
PENALTIES.

48. Any person who—

- (a) lays out land, erects any building or uses any land or building in contravention of the provisions of this Enactment,
- (b) makes any deviation from an approved General Town Plan or other approved plan and particulars deposited under this Enactment with the Collector or Registrar or any other plan approved thereunder,
- (c) makes any false declaration in connection with any plan and particulars referred to in Chapter V,

Contravention
of Enactment.

shall be punishable with a fine which may extend to two thousand dollars.

49. Any person who fails to comply with a notice served under section 36 shall be punishable with a fine which may extend to one hundred dollars, and in case of continuing failure with a fine which may extend to fifty dollars for each day after the first day during which such failure continues.

Failure to
comply with
notice under
section 36.

50. Any person who obstructs or molests any person with whom a contract has been entered into by the Committee in the performance by such person of anything which he is empowered or required to perform by virtue of such contract or of any of the provisions of this Enactment shall be punishable with a fine which may extend to one hundred dollars or with imprisonment for a term which may extend to one month.

Obstructing
servants of the
Committee or
other
responsible
authority.

51. All fines and damages realized in cases in which prosecutions are instituted by the Committee under this Enactment shall be paid to the Committee.

Fines payable
to the
Committee.

CHAPTER VII.
MISCELLANEOUS.

52. (i) The Committee may at any time acquire any land or property within the area under its control by gift, purchase or exchange.

Acquisition of
land by the
Committee.

(ii) In the absence of agreement between the Committee and all persons interested in any land acquired under this section the Committee shall make a written offer containing the terms on which they are prepared to purchase such land, and any person interested may give notice of objection to such offer, and thereafter the determination of the price to be paid shall be carried out in accordance with the provisions of the law in force with regard to land acquisition except in so far as such provisions are inconsistent with the provisions of this Enactment relating to such acquisition.

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Power to sell,
charge, etc.

53. Subject to the approval of the Resident the Committee may at any time sell, charge, exchange, lease, or otherwise dispose of any land acquired by them under the provisions of this Enactment on such terms and conditions as they may by resolution approve.

Committee may
open, close,
alter, or dispose
of any road or
reserve.

54. For the purpose of carrying out an approved General Town Plan or for giving effect to any plan approved under Chapter V, the Committee or other responsible authority may, in accordance with the provisions of such General Town Plan or the particulars of the said plan, open, close, alter or dispose of any road, and shall wherever practicable provide such other means of communication as may be reasonably necessary. No compensation shall be payable in respect of any land or property alleged to be injuriously affected by such closure or alteration if such other means of communication have been provided.

Public purpose.

55. For the purposes of this Enactment the Resident may by notification declare any reservation, or acquisition of land for any purpose stated in such notification to be a reservation, or acquisition for a public purpose and such declaration shall be conclusive evidence that the land is reserved or acquired for a public purpose.

Powers of
Chairman in
relation to legal
proceedings.

56. The President may with the approval of the Committee (a) institute, defend, or withdraw from any legal proceedings brought under the provisions of this Enactment; (b) compound any offence against this Enactment; (c) compromise any claim made under any provision of this Enactment; (d) obtain such legal advice and assistance as he may require in reference to any matter arising out of the exercise by the Committee of the powers vested in them under this Enactment.

Relief of
Committee's
servants against
personal
liability.

57. No matter or thing done and no contract entered into by the Committee or other responsible authority and no matter or thing done by any member or by any officer of the Committee or responsible authority or other person acting under the direction of the Committee or responsible authority shall, if the matter or thing was done or the contract was entered into, *bona fide* for the purpose of carrying out the provisions of this Enactment subject them or any of them personally to any action, liability, claim or damage whatsoever.

Evidence.

58. Whenever under the provisions of this Enactment the power or right to do any act or the validity of any act depends upon the approval or consent of (a) the Committee or the President; (b) any officer or servant of the Committee, a written document signed in case (a) by the President, and in case (b) by such officer or servant purporting to express such approval or consent shall be sufficient evidence of such approval or consent.

Validation.

59. No act done or proceeding taken under this Enactment shall be invalidated on the ground merely of (a) the existence of any vacancy in or any defect in the constitution of the Committee; (b) the omission to serve any notice required by the provisions of this Enactment, provided that no substantial injustice has resulted from such omission; (c) any omission, defect or irregularity not substantially affecting the merits of the case.

Presumption of
regularity.

60. Every meeting of the Committee, a record of the proceeding of which has been kept in accordance with the rules, shall be taken to have been duly convened and to be free from all defect of irregularity.

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61. (i) Every notice served or given under this Enactment shall be signed by the President or Deputy President. Notices.

(ii) Any such notice shall be deemed to have been properly signed if it bears a facsimile of the signature of the President or Deputy President.

(iii) Any such notice may be served—

(a) by leaving the same at the last named place of abode of the person to be served; or

(b) by giving or tendering the same to some adult (male) member or servant of his family; or

(c) by forwarding the same by post in a pre-paid letter addressed to such person at his last named place of abode or last named place of business; or

(d) by posting the same on the land affected by such notice.

(ii) A notice served by post shall be deemed to be served at the time when the letter containing the same would be delivered in the ordinary course of the post.

62. Any notice required or authorized by this Enactment to be served on the owner or occupier of any premises shall be deemed to be properly addressed, if addressed to such person by the description of the owner or the occupier of such premises without further name or description. Any notice so addressed may be served by delivering the same to some adult person found on the premises or if there is no such person by fixing the same on some conspicuous part of the premises. Service on owner or occupier.

63. The Town Planner or the President or Deputy President or any officer or servant of the Government Town Planner or the Committee thereunto generally authorized by the Government Town Planner or the President or Deputy President may by himself or his servants, workmen or contractors enter at all reasonable hours in the daytime into or upon any land for the purpose of making any survey or inspection, taking levels, digging or boring into the sub-soil or executing any work authorized by this Enactment, provided that no dwelling-house in occupation shall be so entered save with the consent of the occupier thereof, unless twenty-four hours' previous notice in writing shall have been given to such occupier. Power of entry.

64. (i) No action shall be brought against any person for anything done or *bona fide* intended to be done in the exercise or supposed exercise of the powers given by this Enactment or by any rules made thereunder: Provisions as to actions.

(a) without giving to such person one month's previous notice in writing of the intended suit, and of the cause thereof;

(b) after the expiration of three months from the date of the cause of action;

(c) after tender of sufficient amends.

(ii) In every action so brought it shall be expressly alleged that the defendant acted either maliciously or negligently and without reasonable or probable cause, and if, at the hearing of the suit, the plaintiff shall fail to prove such allegation judgment shall be given for the defendant.

(iii) Though judgment shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the Court shall certify its approbation of the suit.

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Rules.

65. The Chief Secretary may make rules for carrying out the purposes of this Enactment and in particular—

- (a) for the holding of meetings of the Committee and for the procedure to be followed there at.
- (b) for the co-option of any person or persons by the Committee under section 6;
- (c) for the guidance of persons employed by the Committee under this Enactment;
- (d) for the charging and collection of fees for any work or other duty performed by the Town Planner or the Committee under this Enactment;
- (e) for the procedure to be observed by any person or public authority applying for approval of any plan under section 38;
- (f) for the details to be shown on such plan, or the details to be furnished in any particulars or any application under section 38;
- (g) for determining any requirements in respect to any of the matters contained in the schedule;
- (h) the payment of fees and expenses of the Arbitrator;
- (i) any matter which under this Enactment is required or permitted to be prescribed, or which is necessary or convenient to be prescribed for giving effect to this Enactment.

THE SCHEDULE.

Matters to be taken into consideration under section 15, sub-section (ii), and section 38, sub-section (ii):

(1) Roads including—

- (a) the conservation, alignment, re-alignment, construction, reconstruction, surrender, and vesting of roads;
- (b) the opening, closing, widening, diversion, or alteration of roads and any exchange or other dealing therein;
- (c) the positions, directions, terminations, extensions, lengths, junctions, intersections, widths and levels of roads;
- (d) the character or use of roads;
- (e) drainage, inclusive of sewerage and sewage disposal, and of surface drainage, and any proposed provision for the disposal of any sewage or surface waters from or passing through the district in which such roads are situated; or
- (f) reservation of land for main roads which it is desired to be kept free of buildings or obstructions.

TOWN PLANNING AND DEVELOPMENT.

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- (2) Building lines including—
- (a) provision for laying down, determining, or ascertaining such building lines ; or
 - (b) any requirements necessary for the conservation, the use or the acquisition of any land or part thereof contained between the alignments of the road and such building lines ;
 - (c) the demolition or clearance of any buildings or obstructions on or in the land contained between the alignment of the road and the building line.
- (3) Any lay-out or use of land including—
- (a) proposed reclamations, fillings, excavations, drainage, or other requirements for securing the conservation, improvement, or development of such land for building or other purposes ;
 - (b) the size, shape, and area of any building lot ;
 - (c) the situation, planning, drainage and levels of each separate building lot in relation to sanitation, public health or amenity ;
 - (d) the means of access to such building lot ;
 - (e) the proportion of such land, proposed to be surrendered for a reserve or other public purposes ; or
 - (f) any crossings over railways, or railway stations and approaches thereto.
- (4) The erection of any buildings including—
- (a) the class, position, number, use, height and levels of such buildings ;
 - (b) the area of the building lot or parcel and the proportion thereof that shall not be built upon ;
 - (c) the architectural features or the grouping of such buildings ; and
 - (d) the distances to be maintained between such buildings ; and
 - (e) any sanitary or hygienic requirements in connection with such buildings ;
 - (f) the alteration, reconstruction, demolition or removal of buildings.

OBJECTS AND REASONS.

The object of this Bill is to authorise the preparation of town plans and to give effect to the same when prepared. Its provisions are taken from various Colonial and Imperial Town Planning Acts with such adaptations as local circumstances require. An approved town plan will guide and control future development within those areas to which the Bill applies.

KUALA LUMPUR,
21st December, 1922.

W. S. GIBSON,
Acting Legal Adviser, F.M.S.

No. 7881.—The Chief Secretary to Government records with deep regret the death, which occurred at Elsternwick, Victoria, Australia, on the 2nd December, 1922, of Mr. R. A. Crawford of the Survey Department, Federated Malay States, who had held the post of Director of Works and Surveys, Kelantan, since 1910. [S. 2913/22.]

APPOINTMENT.

No. 7882.—The Hon'ble Mr. Justice P. A. Farrer-Manby, Judicial Commissioner, has been appointed to act as Chief Judicial Commissioner, Federated Malay States, with effect from the 21st December, 1922, during the absence of the Hon'ble Sir L. M. Woodward, K.T. BACH. [S. 2963/22.]

LEAVE.

No. 7883.—The Hon'ble Sir L. M. Woodward, K.T. BACH., Chief Judicial Commissioner, Federated Malay States has been granted six weeks' vacation leave, with effect from the 21st December, 1922. [S. 2963/22.]

"THE COURTS ENACTMENT, 1918."

No. 7884.—In exercise of the powers vested in him by section 6 (ii) of "The Courts Enactment, 1918," the Chief Secretary to Government has, with the approval of the High Commissioner, appointed the Hon'ble Mr. Justice P. A. Farrer-Manby to act as Chief Judicial Commissioner, Federated Malay States, with effect from the 21st December, 1922. [S. 2963/22.]

"THE CUSTOMS ENACTMENT, 1920."

No. 7885.—Prices of articles in respect of which export duty is leviable on an *ad valorem* basis. Commencing from the 1st January, 1923, and until further notice, duty will be assessed in the States of Perak, Selangor, Negri Sembilan and Pahang in accordance with this list:

Articles.	Quantity.	Average price.	Articles.	Quantity.	Average price.
		\$ c.			\$ c.
AGRICULTURAL PRODUCTS.			FISH—(cont.).		
Coconuts	per 1,000	37 00	Salted and dried—(cont.)—		
Coffee, Liberian	per pikul	46 65	Bagok		
" Robusta	"	27 85	Selangin		
Copra	"	8 75	Parang		
Gutta-percha, best quality (cultivated)	"	480 00	Selampai		
Sugar, brown	"	17 30	Tebal pipi	per pikul	14 35
" coconut	per 100 turus	6 75	Blanak		
" European, No. 1	per pikul	9 80	Belukang		
" " 2	"	9 00	Pari		
" kabong (palm)	per 100 turus	5 50	Duri		
" white	per pikul	9 30	Kedra		
" basket, 1st quality	"	6 00	Terubak		
" " 2nd "	"	4 20	Talang		
" " 3rd "	"	3 00	Malong		
" " 4th "	"	2 50	Puput		
" sold by contract	The contract price		Sembilang		
" agents	The price certified by the agents		Temberi		
			Yu		
			Other varieties not specified		9 20
Tapioca—			FOREST PRODUCE.		
Flake	per pikul	6 70	Ataps rembia (sago)	per 1,000	40 00
Fine flour	"	12 80	Nipah ataps other than Bertindeh	10 per cent. of the whole-	
Seed pearl, best, S'pore	"	17 40	Tulang, Bertumu Tulang and	sale price in the centres	
" " Penang	"	16 30	Bertumu Daun	of production	
Medium pearl	"	9 00	Formosa Camphor, No. 1	per pikul	400 00
Wet, partially manufactured	"	1 50	" " 2	"	350 00
Roots	"	1 00	Charcoal mangrove	per basket	
				of 24 to 30 kts.	1 00
FISH.			Kepong bark	18 feet	2 00
Fish maws, leaf, long	"	157 35	MISCELLANEOUS.		
" round	"	115 80	Hides—		
" purse	"	51 25	Buffalo (dried)	per pikul	19 05
Fish refuse	"	2 75	" " " (wet)	"	11 90
Ikan gelama panjang	"	17 05	Cow (dried)	"	28 80
" " papan	"	19 20	" " " (wet)	"	23 25
Oysters (dried), best	"	55 45	" " " " "	"	75
Prawns—			Goat-skins	each	55
Dried, 1st quality	"	55 00	Sheep-skins	"	28 40
" 2nd "	"	38 35	Deer-skins	per pikul	13 00
Kulit udang	"	3 75	Pig-skins	"	80 85
" pari	"	8 10	Tiger-skins	each	5 00
Sharks' fins, No. 1 quality	"	115 65	Other animal skins	"	42 00
" " 2	"	67 85	Leopard skins	"	10 00
Sea-slugs, No. 1 (bêche-de-mer)	"	63 10	Crocodile skins	"	
" " 2	"	40 00			
" " 3	"	36 00	Horns—		
Salted and dried—			Buffalo	per pikul	5 65
Ikan lidah	"	9 65	Cow	"	5 80
Bawal			Rhinoceros	per horn	250 00
Kurau			Tallow	per pikul	9 30
Siakap			Sheep tallow	"	10 45
Tinggiri			Bones	"	95
Blibis			Mother-of-pearl shell	"	47 00
Jinahak			Gold dust	per bongkal	65 00
Jumpol			Elephant tusks	per pikul	350 00
			China clay	per ton	30 00

“THE QUARANTINE AND PREVENTION OF DISEASE ENACTMENT, 1903.”

No. 7886.—Rinderpest among cattle having ceased to exist in Malacca, the Resident of Perak hereby rescinds Notification No. 2068 of the 13th May, 1921, prohibiting the importation of cattle from Malacca into the State of Perak.

ORDER UNDER RULE 77 OF THE RULES UNDER.

No. 7887.—Whereas it appears to the Resident of Perak that a contagious disease—viz., pleuro-pneumonia—exists among goats at Tupai, in the district of Larut, it is hereby ordered that, until further notice, no movement of goats into, out of or within that part of Tupai bounded by Tupai Road on the East, Kota Road on the North, Marks Road on the West, and the Sungei Batu Tugoh on the South, is permitted except with the written authority of the Veterinary Surgeon, Perak North. [Pk. 2349/22.]

No. 7888.—EXAMINATION IN MALAY.—

It is hereby notified, for the information of the officers concerned, that an examination in Malay will be held in Kuala Lumpur, Taiping, Seremban and Kuala Lipis on the 15th and 16th January, 1923. Officers desirous of presenting themselves for examination, whether on the State or Federal Establishments, should send in their names, through the Heads of their Departments, to the Secretary to Resident on or before the 30th December, 1922, stating the standard in which they desire to be examined. [G. 2609/22.]