

ACT NO. XX OF 1886.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor General on the 24th
September, 1886.)*

An Act to declare the law in force in Upper Burma.

WHEREAS the territories which were formerly governed by King Thebaw have become part of British India;

And whereas it is expedient to declare the law in force in those territories, and for this purpose to distinguish between those territories and the territories which were under the administration of the Chief Commissioner of British Burma on the thirty-first day of December, 1885;

It is hereby enacted as follows:—

1. (1) This Act may be called “The Upper Burma Laws Act, 1886.”

Short title
and com-
mencement.

(2) This section and sections 2, 3, 4 and 5 shall come into force at once, and the rest of the Act shall come into force on such date (hereinafter called the commencement of this Act), within four months from the passing of the Act, as the Local Government may, by notification in the official Gazette, appoint in this behalf.

2. (1) The following territories shall constitute a province to be known as Burma, namely:—

Constitution
of Province
of Burma.

(a) the territories formerly governed by King Thebaw, which shall be known as “Upper Burma”; and

(b) the territories administered by the Chief Commissioner of British Burma on the thirty-first day of December, 1885, which shall be known as “Lower Burma”.

(2) The

(Sections 3-4.)

(2) The Local Government, with the previous sanction of the Governor General in Council, may from time to time, by notification in the official Gazette, transfer any portion of Upper Burma to Lower Burma, or any portion of Lower Burma to Upper Burma, with effect from a date to be specified in the notification, and on and from that date the portion so transferred shall form part of Lower Burma or Upper Burma, as the case may be.

(3) When any portion of Upper Burma is transferred to Lower Burma, the Scheduled Districts Act, 1874, shall, unless the Governor General in Council otherwise directs, continue to be in force therein. XIV of 1

(4) When any portion of Lower Burma is transferred to Upper Burma, the Governor General in Council may direct that that Act shall come into force therein.

Division of Upper Burma into divisions, districts, sub-divisions, townships and circles.

3. The Local Government may, for administrative purposes,—

(a) with the previous sanction of the Governor General in Council, divide Upper Burma into divisions, and each of those divisions into districts, and from time to time vary the limits of those divisions and districts; and

(b) of its own authority, divide each of those districts into sub-divisions, each of those sub-divisions into townships and each of those townships into circles, and from time to time vary the limits of those sub-divisions, townships and circles.

Construction of expressions "British Burma Gazette," "British Burma" and "Burma" in existing enactments.

4. Where in any enactment in force at the passing of this Act in the territories referred to in section 2, sub-section (1), clause (b), there occurs the expression "British Burma Gazette" or the expression "British Burma" or "Burma" (except where the expression "Burma" occurs in the Petroleum Act, 1886, section 3), it shall be construed as referring to

the Burma XII of

(Sections 5-6.)

the Burma Gazette or to Lower Burma, as the case may be.

5. The enactments specified in the first schedule to this Act, having been rendered unnecessary by the incorporation of Upper Burma in British India, are repealed to the extent mentioned in the third column of the schedule.

Repeal of enactments.

6. (1) Subject to the provisions of any Regulation under the Statute 33 Victoria, chapter 3, so much of each of the enactments specified in the second schedule to this Act as is at the commencement of this Act in force in any part of Lower Burma which is not included in a scheduled district as defined in the Scheduled Districts Act, 1874, shall be deemed to be in force in Upper Burma generally, or in the Town of Mandalay only, according as the enactment is specified in the First or Second Part of the schedule.

Law in force in Upper Burma exclusive of the Shan States.

XIV of 1874.

(2) An enactment not specified in that schedule shall not be deemed to be or to have been in force in Upper Burma or in any part of Upper Burma unless it is expressed, by special mention of Upper Burma or a part of Upper Burma, to extend thereto, or after the commencement of this Act is extended thereto in exercise of the powers conferred by section 5 of the Scheduled Districts Act, 1874, or by any other enactment for the time being in force.

(3) The Local Government may, from time to time, with the previous sanction of the Governor General in Council, by notification in the official Gazette, declare that any enactment which is specified in that schedule or which may hereafter be extended in exercise of any such powers as aforesaid, shall no longer be in force in Upper Burma or in any part of Upper Burma specified in the notification.

(4) The limits of the Town of Mandalay for the purposes of this Act shall be the limits for the time being of the local area subject to the ordinary original jurisdiction of the Civil Court of Mandalay.

(5) This

(Section 7.)

(5) This section does not extend to the Shan States.

Modification
of certain
enactments
in force in
Upper
Burma exclu-
sive of the
Shan States.

7. (1) The following enactments specified in the First Part of the second schedule to this Act shall, in Upper Burma, be read subject to the following modifications, namely:—

- (a) in Act VIII of 1851 (*an Act for enabling Government to levy Tolls on Public Roads and Bridges*), for the last sixteen words of section 4, the words "or of any person or property exempted by order of the Local Government from payment of tolls" shall be substituted;
- (b) in Act V of 1861 (*an Act for the Regulation of Police*), to section 2 the words "All Thugyis and Myothugyis for the time being holding office shall be police-officers, and shall be deemed to have been formally enrolled under this Act" shall be added;
- (c) in Act VI of 1864 (*an Act to authorize the punishment of whipping in certain cases*), after section 5 the section and schedule in the third schedule to this Act shall be added;
- (d) in the Indian Evidence Act, 1872, after the words "police-officer" in section 25 the words "who is not a Magistrate" shall be inserted; I of 1872.
- (e) in the Dramatic Performances Act, 1876, the words "within such area" shall be omitted from the third paragraph of section 10, and for the first two paragraphs of that section the following shall be substituted, namely:— XIX of 187

"No dramatic performance shall take place except under a license granted by the District Magistrate or such officer as the District Magistrate may appoint in this behalf.

"Any

(Sections 8-10.)

“ Any person who promotes or takes part in any dramatic performance in contravention of the foregoing portion of this section shall be punishable, on conviction before a Magistrate, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.”

(2) This section does not extend to the Shan States.

8. (1) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, from time to time extend to all or any of the Shan States any enactment which is in force in any part of Upper Burma at the date of the extension, and at any time withdraw all or any of those States from the operation of any enactment so extended.

Law in the
Shan States.

(2) Unless and until extended under sub-section (1), an Act of the Governor General in Council shall not be in force in any Shan State.

(3) The Local Government, with the previous sanction of the Governor General in Council, may from time to time, by notification in the official Gazette, declare what territories constitute the Shan States for the purposes of this and the two last foregoing sections.

9. For the purpose of facilitating the application of any enactment for the time being in force in Upper Burma, any Court in Upper Burma may construe the enactment with such alterations not affecting the substance as may be necessary or proper to adapt it to the matter before the Court.

Power for
Courts to
construe
enactments
with neces-
sary altera-
tions.

10. All acts of executive authority, proceedings, decrees and sentences, which have been done, taken or passed in Upper Burma since the seventeenth day of November, 1885, and before the commencement of this Act, by any officer of the Government, or by any person acting under his authority or otherwise in

Validation
of acts done
after 17th
November,
1885.

pursuance

(Section 11.)

pursuance of an order of the Government, or which have been or shall be ratified by the Local Government, shall be as valid and operative as if they had been done, taken or passed in accordance with law; and no suit or other proceeding shall be maintained or continued against any person whatever on the ground that any such acts, proceedings, decrees or sentences were not done, taken or passed in accordance with law.

Validation
of rules made
before com-
mencement
of this Act.

11. All rules, orders or instructions made or issued after the seventeenth day of November, 1885, and before the commencement of this Act, for the guidance of officers engaged in the administration of Upper Burma shall be deemed to have had the force of law, and shall, so far as they are consistent with this Act, continue to have the force of law until they are withdrawn, or are superseded by any Act of the Governor General in Council, or by any Regulation under the Statute 33 Victoria, chapter 3, or by any enactment extended to Upper Burma, or by any rules, orders or instructions made or issued under any such Act, Regulation or enactment.

THE FIRST SCHEDULE.

(See section 5.)

ENACTMENTS REPEALED.

Number and year.	Subject.	Extent of repeal.
1	2	3
Act XXX of 1854	An Act to provide for the levy of Duties of Customs in the Arakan, Pegu, Martaban and Tensasserim Provinces.	So much as has not been repealed.
Act IV of 1863	An Act to give effect to certain provisions of a Treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor General of India, and His Majesty the King of Burma.	So much as has not been repealed.
Act XII of 1864	An Act to give further effect to the provisions of Act IV of 1863.	So much as has not been repealed.
Act XXIII of 1872	An Act for regulating the re-importation into British territory of goods cleared at Rangoon for the territory of the King of Ava.	The whole.

THE SECOND SCHEDULE.

(See section 6.)

FIRST PART.

Enactments declared in force in Upper Burma generally.

Number and year.	Subject.
BENGAL REGULATIONS.	
XI of 1812	Removal of Foreign Emigrants.
III of 1818	State Prisoners.
ACTS OF THE GOVERNOR GENERAL IN COUNCIL.	
V of 1843	Slavery.
XVIII of 1850	Protection of Judicial Officers.

THE SECOND SCHEDULE.

THE SECOND SCHEDULE—*contd.*

FIRST PART—*contd.*

Enactments declared in force in Upper Burma generally—contd.

Number and year.	Subject.
ACTS OF THE GOVERNOR GENERAL IN COUNCIL— <i>contd.</i>	
XIX of 1850	Apprentices.
XXXIV of 1850	State Prisoners.
XXXVII of 1850	Inquiries into behaviour of Public Servants.
VIII of 1851	Tolls on Roads and Bridges.
XXX of 1852	Naturalization of Aliens.
II of 1853	Burdens on Land.
XII of 1855	Executors and Administrators.
XIII of 1855	Compensation for death caused by actionable wrong.
XXIV of 1855	Penal Servitude.
XI of 1857	State Offences.
III of 1858 (s. 5)	State Prisoners.
XXXV of 1858	Lunatics.
XXXVI of 1858	Lunatic Asylums.
IX of 1859 (except s. 18, last para.)	Forfeited Property.
XV of 1859	Inventions.
IX of 1860	Disputes between Workmen and Employers.
XXVII of 1860	Collection of Debts on Successions.
XLV of 1860	Penal Code.
V of 1861	Police.
III of 1864	Foreigners.
VI of 1864 (except s. 6)	Whipping.
III of 1865	Carriers.
X of 1865	Succession.
XIV of 1866	Post Office.
III of 1867	Public Gambling.
XXV of 1867	Printing Presses and Newspapers.
XXXII of 1867	Chief Commissioners' Powers.
I of 1868	General Clauses.
IV of 1869	Divorce.
V of 1869	Indian Articles of War.
XV of 1869	Prisoners' Testimony.
XX of 1869	Volunteers.
VII of 1870	Court-fees.
XX of 1870	Court-fees Act Amendment.
XXIII of 1870	Coinage.
XXVI of 1870	Prisons.
XXVII of 1870	Penal Code Amendment.
I of 1871	Cattle-trespass.
V of 1871	Prisoners.

THE SECOND SCHEDULE—*concl'd.*FIRST PART—*concl'd.**Enactments declared in force in Upper Burma generally—concl'd.*

Number and year.	Subject.
ACTS OF THE GOVERNOR GENERAL IN COUNCIL—<i>concl'd.</i>	
XXIII of 1871	Pensions.
I of 1872	Evidence.
XIII of 1872	Patterns and Designs.
XV of 1872	Christian Marriage.
XVIII of 1872	Evidence Act Amendment.
XIX of 1872	Penal Code Amendment.
II of 1873	Burma Ferries.
X of 1873	Oaths.
XIV of 1873	Lunatic Soldiers.
IV of 1874	Foreign Recruiting.
IX of 1874	European Vagrancy.
XIV of 1874	Scheduled Districts.
V of 1875	Native Soldiers.
IX of 1875	Majority.
XIII of 1875	Probates.
XI of 1876	Presidency Banks.
XIX of 1876 (except s. 12)	Dramatic Performances.
I of 1877 (s. 9)	Specific Relief.
II of 1877	Probates.
XI of 1877	Military Lunatics.
XV of 1877	Limitation.
VI of 1878	Treasure Trove.
XI of 1878	Arms.
I of 1879	Stamps.
III of 1879 (ss. 2, 4 and 8)	Destruction of Records.
IV of 1879	Railways.
V of 1879	Presidency Banks Act Amendment.
XXI of 1879	Extradition.
III of 1880	Cantonments.
V of 1881 (s. 153)	Probate and Administration.
III of 1882 (s. 3)	Seditious Publications.
VI of 1882	Companies.
VIII of 1882	Penal Code Amendment.
IX of 1882	Prisoners Act Amendment.
XX of 1882	Paper Currency.
IV of 1883	Railways.
XIX of 1883	Land Improvement Loans.
XVI of 1884	Burma Gaming.
XIII of 1885	Telegraphs.
X of 1886 (ss. 21 to 25 both inclusive).	Penal Code and Prisoners Act Amendment.
XIII of 1886	Securities.

• (The Second Schedule.)

THE SECOND SCHEDULE—*concl'd.*

SECOND PART.

Enactments declared in force in the Town of Mandalay only.

Number and year.	Subject.
ACTS OF THE GOVERNOR GENERAL IN COUNCIL.	
XI of 1865	Mufassal Small Cause Courts.
IX of 1872	Contracts.
I of 1877	Specific Relief.
V of 1881	Probate and Administration.
XXVI of 1881	Negotiable Instruments.
XIV of 1882	Code of Civil Procedure.
II of 1885	Negotiable Instruments Act Amendment.
IV of 1886	Contract Act Amendment.

THE THIRD SCHEDULE.

(See section 7, sub-section (1), cl. (c).)

ADDITION TO ACT VI OF 1864.

“ 6. (1) Notwithstanding anything in the foregoing sections of this Act, a person convicted of an offence specified in the schedule to this Act, or of any offence which the Local Government, with the previous sanction of the Governor General in Council, may add to that schedule, may be punished with whipping, either in lieu of, or in addition to, any other punishment to which he may be liable.

“(2) The Local Government may at any time suspend the operation of this section in whole or in part in any district or part of a district, and, with the previous sanction of the Governor General in Council, remove the suspension of its operation.

“ THE SCHEDULE.

(See section 6, sub-section (1).)

Section of Indian Penal Code.	Offence.
302	Murder.
304	Culpable homicide not amounting to murder.
307	Attempt to murder.

THE THIRD SCHEDULE,

THE THIRD SCHEDULE—*concl'd.*

Section of Indian Penal Code.	Offence.
325	Voluntarily causing grievous hurt.
326	Voluntarily causing grievous hurt by dangerous weapons or means.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.
333	Voluntarily causing grievous hurt to deter public servant from his duty.
332	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, in order to the committing of such theft or to retiring after committing it, or to retaining property taken by it.
386	Extortion by putting a person in fear of death or grievous hurt.
387	Putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion.
392	Robbery.
393	Attempt to commit robbery.
394	Person voluntarily causing hurt in committing, or attempting to commit, robbery, or any other person jointly concerned in such robbery.
395	Dacoity.
396	Murder in dacoity.
397	Robbery or dacoity, with attempt to cause death or grievous hurt.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.
399	Making preparation to commit dacoity.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.
402	Being one of five or more persons assembled for the purpose of committing dacoity.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.
435	Mischief by fire or explosive substance with intent to cause damage to amount of one hundred rupees or upwards, or, in case of agricultural produce, ten rupees or upwards.
436	Mischief by fire or explosive substance with intent to destroy a house, &c.
440	Mischief committed after preparation made for causing death or hurt, &c.
455	Lurking house-trespass or house-breaking, after preparation made for causing hurt, assault, &c.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, &c.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, &c.
506	Criminal intimidation, if threat be to cause death or grievous hurt, &c. Abetment of any of the foregoing offences. Attempt to commit any of those offences which are not themselves expressed to be attempts to commit offences.