

Treasure Trove Act, 1878

February 26, 2013

Section 1. Short title

[ACT NO. 6 of 1878]¹

[13th February, 1878]

STATEMENT OF OBJECTS AND REASONS

"The law of treasure trove is in a very unsatisfactory state. At present, there is one law in Madras and another in Bengal, while it is doubtful what the law is in Bombay, and in the three Presidency-towns probably the English law prevails. Moreover, the law everywhere is bad and ineffective, and gives every inducement to finders to conceal or make away with their discoveries; and yet there is a good deal of treasure buried in India and much of it of very high antiquarian and historical interest.

Under these circumstances, the present Bill has been prepared. It provides, among other things, that-

(a) the finder shall give notice to the Collector of the District of the discovery of treasure, and either deposit the treasure in the Government Treasury, or give security for producing it when required;

(b) notice shall be given by the Collector to the owner or owners of the land where the treasure was found;

(c) the discovery of the treasure shall be advertised, and all claimants desired to come forward within six months;

(d) if there is reason to believe that the treasure was hidden or deposited more than a hundred years previously, no claim of any outside person shall be admitted;

(e) in the case of treasure found in a public place, such as in digging a road, a railway, or a canal, such treasure shall vest, if more than a hundred years old, or if unclaimed, in the proportion of three-fourths in the finder and one-fourth in Government; and

(f) if the land or other property on which the treasure is found belongs to a private party, then the latter shall receive the Government share, unless the finder has made any previous agreement with such owner or owners in which case the division shall be regulated according to that agreement.

The Bill adopts the principle of certain recent legislation in the north of Europe, which has practically worked well." -Gazette of India. 1876. Part V, p. 1463. An Act to amend the law relating to Treasure-trove.

COGNATE ACTS AND PROVISIONS

1. Antiquities and Art Treasures Act, 52 of 1972.
2. Ancient Monuments and Archaeological Sites and Remains Act, 24 of 1958.
3. Kerala Treasure-Trove Act, 30 of 1968 (Kerala).
4. Mysore Treasure Trove Act, 23 of 1963 (Mysore).

ACT HOW AFFECTED BY SUBSEQUENT LEGISLATION

—Adapted by A.O., 1937; 2 A.L.O., 1956.

—Adapted in Madras by Mad. (Add. Ter.) A.L.O., 1961.

—Amended in its application to—

Andhra Pradesh by Andh. Pra. Acts 7 of 1959; 10 of 1963; 15 of 1972;

Bihar by Bihar Act 22 of 1917;

Bombay by Bom. Act 33 of 1958;

Himachal Pradesh by H. P. Act 16 of 1972;

Laccadive Minicoy and Amindivi Island by Regn. 8 of 1965;

Punjab by Punj. Act 24 of 1960;

Tamil Nadu by T. N. Act 36 of 1949.

—Extended by Acts 59 of 1949; 30 of 1950; Regns. 6 of 1963; 7 of 1963; 11 of 1963;-8 of 1965.

—Extended in Andhra Pradesh by A. P. Act 7 of 1959.

—Extended in Bombay by Bom. Acts 4 of 1950; 33 of 1958.

—Extended in Madhya Pradesh by M. P. Acts 12 of 1950; 40 of 1961.

—Extended in Punjab by Punj. Acts 5 of 1950; 24 of 1960.

—Extended in Tamil Nadu by T. N. Acts 35 of 1949; 23 of 1960.

—Repealed in part by Acts 12 of 1891; 10 of 1914; Kerala Act 30 of 1963; M. P. Act 40 of 1961; Mys. Act 23 of 1963.

An Act to amend the law relating to Treasure-trove.

Preamble

WHEREAS it is expedient to amend the law relating to treasure-trove; It is hereby enacted as follows:-

1. For the Statement of Objects and Reasons, see Gazette of India, 1876, Part V, page 1463.

This Act has been declared to be in force in Sonthal Parganas (now in Bihar) by the Sonthal Parganas Settlement Regulation (3 of 1872), section 3; Kondmala District by the Khondmals Laws Regulation, 1936 (4 of 1936), section 3 and Schedule; and Annual District by the Angul Laws Regulation, 1936 (5 of 1936), section 3 and Schedule. This Regulation has now been repealed by Orissa Act (19 of 1967); Angul is now a sub-division of Dhenkanai District in Orissa, Khondmals is now a district in Orissa—See Orissa Act 22 of 1963, section 3.

It has also been declared by notification under section 3(a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the Scheduled Districts of Hazaribagh, Lohardaga and Manbhum and Pargana Dhalbhum and the Kolhan in the District of Singhbhum (All these in Bihar now)—See Gazette of India, 1881, Part I, page 504. (The District of Lohardaga included at that time the present District of Palamau, which was separated in 1894; Lohardaga is now called the Ranchi District; see Calcutta Gazette, 1899, Part 1, page 44.)

This Act has been extended to and shall be in force in—

(a) the new provinces and merged States—See Act 49 of 1949, S. 3 (1-1-1950);

(b) the Union territories of Manipur, Tripura and Vindhya Pradesh—See Act 30 of 1950, section 3 (16-4-1950); Manipur and Tripura are full States now (see Act 81 of 1971), V.P. is a part of Madhya Pradesh State (see Act 37 of 1956), S. 9.

(c) the States merged in the State of Bombay (Bombay is now split up into 2 States—Gujarat and Maharashtra)—See Bom. Act 4 of 1950;

(d) the Hyderabad and Saurashtra area of the State of Bombay—See Bom. Act 33 of 1958, S. 2 (10-4-1958); Hyderabad State has been disintegrated—parts of it going to Andhra Pradesh, Maharashtra and Mysore States—See Act 37 of 1956;

(e) the transferred territories of the State of Andhra Pradesh—See Andh. Pra. Act 7 of 1959, S. 3;

(f) the States merged in the former State of Madhya Pradesh—See M. P. Act 12 of 1950;

(g) the States of Pudukottal, Banganappalle and Sandur merged in the State of Madras (Tamil Nadu)—See Mad. Act 35 of 1949, S. 3 and Sch. I (1-1-1950); Sandur is now a part of Mysore State;

(h) Kanyakumari district and the Chencottah taluk in the Tirunelveli district transferred to the State of Madras—See Mad. Act 23 of 1960, S. 3 and Sch. I;

(i) States merged in the State of Punjab—See Punj. Act 5 of 1950;

(j) Union territory of Dadra and Nagar.Haveli—See Regn. 6 of 1963 (1-7-1965);

(k) Union territory of Pondicherry—See Regn. 7 of 1963 (1-10-1963);

(l) Union territory of Goa, Daman and Diu—See Regn. 11 of 1963 (1-2-1965);

(m) Union territory of Laccadive, Minicoy and Amindivi Islands—See Regn. 8 of 1965 (1-10-1967). The Islands are now known as Lakshadweep—See Act 34 of 1973.

The Act has been repealed in Kerala and Mysore—See Ker. Act 30 of 1968 and Mys. Act 23 of 1963

This Act may be called THE INDIAN TREASURE-TROVE ACT, 1878.

Extent

It extends to the whole of India except ¹[the territories which, immediately before the 1st November 1956, were comprised in Part B States].

²[* * * * *].

STATE AMENDMENTS

Andhra Pradesh

In its application to the State of Andhra Pradesh, in section 1, after the expression "comprised in Part B States", insert the expression "other than the territories specified in sub-section (1) of section 3 of the States Reorganisation Act, 1958".— Andh. Pra. Act 7 of 1959, S. 4.

Gujarat

In its application to the Saurashtra area of the State of Gujarat, see under Maharashtra—Act 11 of 1960, S. 87 (1-5-1960).

Madhya Pradesh

In its application to the State of Madhya Pradesh, in section 1, after the words "Part B States" insert the words "other than Madhya Bharat and Sironja regions of the State of Madhya Pradesh. —M.P. Act 40 of 1961, S. 3 and Sch. I, Part A (1-2-1962).

Maharashtra

In its application to the State of Bombay, in section 1,—

(i) to the second paragraph add the following proviso, namely :—

"Provided that on the commencement of the Indian Treasure-trove (Extension to Hyderabad and Saurashtra areas of Bombay State) Act, 1957, this Act shall also extend to, and be in force in the Hyderabad and Saurashtra areas of the State of Bombay";

(ii) against the proviso so inserted the marginal note "commencement in certain areas" shall be inserted.—Bom. Act 33 of 1958, 8.2(10-4-1958).

Punjab, Haryana, Chandigarh

In its application to the State of Punjab, add to section I, the following proviso, namely :—

"Provided that it shall extend to the territories which, immediately before that date, were comprised in the State of Patiala and East Punjab States Union."—Punj. Act 24 of 1960, S. 2 (30-5-1960).

Tamil Nadu

In its application to the added territories in the State of Tamil Nadu, in section 1, as amended by Andhra Pradesh Act 7 of 1959, omit the words "other than the territories specified in sub-section (1) of section 3 of the States Reorganisation Act, 1956".—T. N. (Added Territories) A.L.O., 1961 (w.r.e.f. 1-4-1960).

1. Substituted for the words "Part B States" by 2 A. L. O., 1956 (w.e.f. 1-11- 1956).

2. The words "And it shall come into force at once" were omitted by the Re- pealing and Amending Act, 1914 (10 of 1914).

Section 2. Repeal of enactments

[Repealed by the Repealing and Amending Act, 1891 (12 of 1891), S. 2 and Sch. I.]

Section 3. Interpretation-clause

In this Act-

"Treasure"

"treasure" means anything of any value hidden in the soil, or in anything affixed thereto; "Collector". "Collector" means (1) any Revenue-officer in independent charge of a district, and (2) any officer appointed by the ¹[State Government] to perform the functions of a Collector under this Act. "Owner." When any person is entitled, under any reservation in an instrument of transfer of any land or thing affixed thereto, to treasure in such land or thing, he shall, for the purposes of this Act, be deemed to be the owner of such land or thing.

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

STATE AMENDMENT

Andhra Pradesh

In its application to Andhra Pradesh for section 3 substitute the following :—

“(a) “Collector” means the Chief Local Officer in charge of the revenue administration of a district, and includes any officer appointed by the State Government to perform the functions of a Collector under this Act;

(b) “Treasure” means anything of value exceeding rupees ten, or of any value if it is of historical or archaeological interest having been in existence for not less than one hundred years, hidden or embedded, in the soil, or in anything affixed thereto, and includes in cut diamonds, or other valuable minerals found on the surface of the soil;

(c) when any person is entitled, under any reservation in an instrument of transfer of any land or thing affixed thereto, to treasure in such land or thing, he shall, for the purposes of this Act be deemed to be the owner of such land or thing.”— A.P. Acts 20 of 1963, S. 2 (6-4-1963); 15 of 1972, S. 2 (26-8-1972).

STATE AMENDMENTS

Section 3-A

Himachal Pradesh

Same as in Punjab, etc.—H. P. Act 16 of 1972, S. 2 (16.11-1972).

Punjab, Haryana, Chandigarh

In its application to the State of Punjab, after section 3 insert the following section, namely :—

“3-A. Permission to discover.—

The Government may on application allow any person to discover a treasure on such terms and conditions as it may deem fit.”—Punj. Act 24 of 1960, S. 3 (30-5-1960).

Section 4. Notice by finder of treasure

PROCEDURE ON FINDING TREASURE

Whenever any treasure exceeding in amount or value ten rupees is found, the finder shall, as soon as practicable, give to the Collector notice in writing-

(a) of the nature and amount or approximate value of such treasure,’

(b) of the place in which it was found;

(c) of the date of the finding; and either deposit the treasure in the nearest Government treasury, or give the Collector such security as the Collector thinks fit, to produce the treasure at such time and place as he may from time to time require.

STATE AMENDMENTS

Andhra Pradesh

In its application to the State of Andhra Pradesh, in clause (b) of sub-s (1) of section 4, for the words “the place in which it was found” substitute the words “the place in which and the

circumstances under which it was found".—A. P. Act 7 of 1959, S. 5.

Omit the words "exceeding in amount or value ten rupees".

After sub-section (1) insert the following sub-sections :—

"(1A) A person who purchases any treasure from its finder shall give notice in writing to the Collector of the district in which it was found, specifying the particulars referred to in clauses (a), (b) and (c) of sub-section (1), before the expiry of two months from the date on which he makes such purchase; and shall also deposit the treasure or give security in the same manner as the finder is required under sub-section (1).

(1B) The purchaser of the treasure shall be entitled to the same rights or be subject to same liabilities as the finder of such treasure."

For the marginal note of the section, substitute the following, namely :—

"Finder or purchaser of the treasure and the owner or occupier of the place in which the treasure is found, to give notice and to deposit or give security there for"—A. P. Act 10 of 1963, S. 3 (6-4-1963).

Lakshadweep (U.T.)

In its application to L.M. A. territory in section 4, for the words beginning with "and either deposit" and ending with "from time to time require", substitute the words "and deposit the treasure with Tahsildar of the Union territory of the Laccadive, Minicoy and Amindivi Islands or any part thereof for being deposited in the Government treasury."—Regn. 8 of 1965, S. 3 and Schedule (1-7-1965).

Madhya Pradesh

In its application to the State of Madhya Pradesh. in section 4, omit the words "exceeding in amount or value ten rupees".—M. P. Act 40 of 1964, 8.3(1-2-1962).

Tamil Nadu

(1) In its application to the State of Tamil Nadu, section 4 of the Act shall be renumbered as sub-section (1) thereof and after that sub-section, the following sub-section shall be added, namely :—

"(2) The owner of the place in which the treasure is found, if he is not the finder, and the occupier of such place, if he is neither the finder nor the owner, shall also give notice in writing to the Collector specifying the particulars referred to in clauses (a), (b) and (c) of sub-section (1), before the expiry of two months from the date on which the owner or the occupier, as the case may be, becomes aware of the finding of the treasure."—T.N. Act 36 of 1949, S. 2 (3-1-1950).

(2) In section 4(1)(b), for the words "the place in which and the circumstances under which it was found", substitute the words "the place in which it was found".—T.N. Act 8 of 1964, S. 4 and Sch. II (10-4-1964).

Section 5. Notification requiring claimants to appear

On receiving a notice under, the Collector shall, after making such enquiry (if any) as he thinks fit, take the following steps (namely):-

a) he shall publish a notification in such manner as the¹[State Government] from time to time prescribes in this behalf, to the effect that, on a certain date (mentioning it) certain treasure (mentioning its nature, amount and approximate value) was found in a certain place (mentioning it); and requiring all persons claiming the treasure, or any part thereof, to appear personally or by agent before the Collector on a day and at a place therein mentioned, such day not being earlier than four months, or later than six months, after the date of the publication of such notification;

(b) when the place in which the treasure appears to the Collector to have been found was at the date of the finding in the possession of some person other than the finder, the Collector shall also serve on such person a special notice in writing to the same effect.

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

STATE AMENDMENTS

Bihar

After the word and figure 'section 4', insert the words "or information from any other source".—
Bihar Act 22 of 1947, 8.3(29-11-1947).

Tamil Nadu

In its application to the State of Tamil Nadu in section 5, for the words, figure and brackets "On receiving a notice under section 4, the Collector shall, after making such enquiry (if any) as he thinks fit, take the following stage (namely)" :—

substitute the following, namely :—

"The Collector shall, on receipt of a notice under section 4, and may, on receipt of information in any other manner that treasure has been found in any place, take the following steps, after making such enquiry (if any) as he thinks fit to make."—T.N. Act 36 of 1949, S. 3 (3-1-1950).

Section 6. Forfeiture of right on failure to appear

Any person having any right to such treasure or any part thereof, as owner of the place in which it was found or otherwise, and not appearing as required by the notification issued under, shall forfeit such right.

Section 7. Matters to be enquired into and determined by the Collector

On the day notified under, the Collector shall cause the treasure to be produced before him, and shall enquire as to and determine—

(a) the person by whom, the place in which, and the circumstances under which, such treasure was found; and

(b) as far as is possible, the person by whom, and the circumstances under which, such treasure was hidden.

Section 8. Time to be allowed for suit by person claiming the treasure

If, upon an enquiry made under, the Collector sees reason to believe that the treasure was hidden within one hundred years before the date of the finding, by a person appearing as required by the said notification and claiming such treasure, or by some other person under whom such person claims, the Collector shall make an order adjourning the hearing of the case for such period as he deems sufficient, to allow of a suit being instituted in the Civil Court by the claimant, to establish his right.

Section 9. When treasure may be declared ownerless

If upon such enquiry the Collector sees no reason to believe that the treasure was so hidden; or

if, where a period is fixed under, no suit is instituted as afore-said within such period to the knowledge of the Collector; or

if such suit is instituted within such period, and the plaintiff's claim is finally rejected;

the Collector may declare the treasure to be owner less.

Appeal against such declaration.

Any person aggrieved by a declaration made under this section may appeal against the same within two months from the date thereof to the Chief Controlling Revenue-authority.

Subject to such appeal, every such declaration shall be final and conclusive.

STATE AMENDMENT

Himachal Pradesh

In its application to the State of Himachal Pradesh, in section 9, for the words "Chief Controlling Revenue-authority", substitute the words "Financial Commissioner".—H. P. Act 16 of 1979, S. 3 (16-11-1972).

Section 10. Proceedings subsequent to declaration

Where a declaration has been made in respect of any treasure under, such treasure shall, in accordance with the provisions hereinafter contained, either be delivered to the finder thereof, or be divided between him and the owner of the place in which it has been found in manner hereinafter provided.

STATE AMENDMENTS

Himachal Pradesh

Amendment is the same as in Punjab etc., see H. P. Act 16 of 1972, S. 4 (16-11-1972).

Punjab, Harayana, Chandigarh

In its application to the State of Punjab, in section 10, for the words "either be delivered to the finder thereof, or be divided between him", substitute the words "be divided amongst the finder

thereof the Government.”—Punj. Act 24 of 1960, S. 5 (30-5-1960).

Section 11. When no other person claims as owner of place, treasure to be given to finder

When a declaration has been made in respect of any treasure as a fore said, and no person other than the finder of such treasure has appeared as required by the notification published under and claimed a share of the treasure as owner of the place in which it has been found, the Collector shall deliver such treasure to the finder thereof.

Section 12. When only one such person claims and his claim is not disputed, treasure to be divided

When a declaration has been made as aforesaid in respect of any treasure, and only one person other than the finder of such treasure has so appeared and claimed, and the claim of such person is not disputed by the finder, the Collector shall proceed to divide the treasure between the finder and the person so claiming according to the following rule (namely):-

If the finder and the person so claiming have not entered into any agreement then in force as to the disposal of the treasure, three-fourths of the treasure shall be allotted to such finder and the residue to such person. If such finder and such person have entered into any such agreement, the treasure shall be disposed of in accordance therewith:

Provided that the Collector may in any case, if he thinks fit, instead of dividing any treasure as directed by this section,-

(a) allot to either party the whole or more than his share of such treasure, on such party paying to the Collector for the other party such sum of money as the Collector may fix as the equivalent of the share of such other party, or of the excess so allotted, as the case may be; or

(b) sell such treasure or any portion thereof by public auction and divide the sale-proceeds between the parties according to the rule herein before prescribed:

Provided also, that when the Collector has by his declaration under rejected any claim made under this Act by any person other than the said finder or person claiming as owner of the place in which the treasure was found, such division, shall not be made until after the expiration of two months without an appeal having been presented under by the person whose claim has been so rejected, or, when an appeal has been so presented, after such appeal has been dismissed.

And shares to be delivered to parties.

When the Collector has made a division under this section, he shall deliver to the parties the portions of such treasure, or the money in lieu thereof, to which they are respectively entitled under such division.

STATE AMENDMENTS

Himachal Pradesh

Amendment same as in Punjab, etc.—H. P. Act 16 of 1972, S. 6 (16-11-1972).

Punjab, Haryana, Chandigarh

In its application to the State of Punjab, for section 12 substitute the following, namely :—

“12. When only one such person claims, and his claim is not disputed, treasure to be divided and shares to be delivered to parties.—

(1) When a declaration has been made as aforesaid in respect of any treasure and only one person other than the finder of such treasure has so appeared and claimed and the claim of such person is not disputed by the finder or the Government, the Collector shall proceed to divide the treasure between the finder, the Government and the person so claiming according to the provisions of sub-section (2).

(2) If the Government, the finder and the person so claiming or any two of them have not entered into any agreement then in force as to the disposal of that treasure, one-half of the treasure shall be allotted to such finder and the owner in equal shares and the residue shall vest in the Government. If the Government, such finder and such person have entered into any such agreement the treasure shall be disposed of in accordance therewith. In case the Government and such finder only have entered into any such agreement three-fourths of the treasure shall be disposed of in accordance with the terms thereof and the residue will be allotted to such claimant. If such finder and such claimant only have entered into any such agreement, one-half of the treasure shall be disposed of in accordance therewith and the remaining half shall vest in the Government :

Provided that the Collector may, in any case if he thinks fit, instead of dividing any treasure as directed by this subsection—

(a) allot to either party the whole or more than his share of such treasure, on such party paying to the Collector for the other party such sum of money as the Collector may fix as the equivalent of the share of such other party, or of the excess so allotted, as the case may be; or

(b) sell such treasure or any portion thereof by public auction and divide the sale-proceeds between the parties according to this sub-section :

Provided further that, when the Collector has by his declaration under section 9 rejected any claim made under this Act by any person other than the said finder or person claiming as owner of the place in which the treasure was found, such division shall not be made until after the expiration of two months without an appeal having been presented under section 9 by the person whose claim has been so rejected, or when an appeal has been so presented, after such appeal has been dismissed.

(3) When the Collector has made a division under this section he shall deliver to the parties portions of such treasure, or the money in lieu thereof, to which they are respectively entitled under division.”—Punj. Act 24 of 1960, S. 6 (30-5-1960).

Section 13. In case of dispute as to ownership of place, proceedings to be stay- ted

When a declaration has been made as aforesaid in respect of any treasure, and two or more persons have appeared as aforesaid and each of them claim-ed as owner of the place where such treasure was found, or the right of any person who has so appeared and claimed is disputed by the finder of such treasure, the Collector shall retain such treasure and shall make an order staying his proceedings with a view to the matter being enquired into and determined by a Civil Court.

STATE AMENDMENTS

Himachal Pradesh

If Same as Punjab etc., except that in sub-section (3), in H.P. for the words "Chief Controlling Revenue-authority", words "Financial Commissioner" are to be read.—H. P. Act 16 of 1972, S. 7 (16-11-1972).

Punjab, Haryana, Chandigarh

In its application to the State of Punjab, section 13 shall be numbered as sub-section (1) of that section and after subsection (1) as so renumbered add the following sub-sections, namely,—

"(2) If the right of any such person who has so appeared and claimed is disputed by the Government, the matter shall be determined by the Collector.

(3) Any person aggrieved by the decision of the Collector under sub-section (2) may appeal within two months of the date of such decision to the Chief Controlling Revenue Authority.

(4) Subject to the decision of the appellate authority, the decision of the Collector under sub-section (2) shall be final and conclusive."—Punj. Act 24 of 1960, S. 7.

Section 14. Settlement of such dispute

Any person who has so appeared and claimed may, within one month from the date of such order, institute a suit in the Civil Court to obtain a decree declaring his right; and in every such suit the finder of the treasure and all persons disputing such claim before the Collector shall be made defendants.

Section 15. And division thereupon

If any such suit is instituted and the plain-tiff's claim is finally established therein, the Collector shall, subject to the provisions of, divide the treasure between him and the finder. If no such suit is instituted as aforesaid, or if the claims of the plain tiffs in all such suits are finally rejected, the Collector shall deliver the treasure to the finder.

STATE AMENDMENTS

Himachal Pradesh

Except that in sub-section (1), for the words 'Chief Controlling Revenue-authority', words "Financial Commissioner" are to be found in H. P. amendment is the same as in Punjab, etc.—H. P. Act 16 of 1972, S. 8 (16-11-1972).

Punjab, Haryana, Chandigarh

In its application to the State of Punjab, for section 15 substitute the following section, namely :
—

"15. Division of treasure on decision of the civil suit.—

(1) If any such suit is instituted and the plaintiffs claim is finally established therein or the right of the claimant has been accepted by the Collector or on appeal by the Chief Controlling Revenue Authority, the Collector shall subject to the provisions of section 12, divide the treasure between him, the finder and the Government.

(2) If no such suit is instituted as aforesaid, or if the claims of the plaintiff in all such suits are finally rejected or the right of the claimant has been rejected by the Collector and also by the Chief Controlling Revenue Authority in case of appeal, the Collector shall, subject to the provisions of section 11, divide the treasure between the finder and the Government.”— Punj. Act 24 of 1960, S. 8 (30-5-1969).

Section 16. Power to acquire the treasure on behalf of Government

The Collector may, at any time after making a declaration under, and before delivering or dividing the treasure as herein before provided, declare by writing under his hand his intention to acquire on behalf of the Government the treasure, or any specified portion thereof, by payment to the persons entitled thereto of a sum equal to the value of the materials of such treasure or portion, together with one-fifth of such value, and may place such sum in deposit in his treasury to the credit of such persons; and there upon such treasure or portion shall be deemed to be the property of Government, and the money so deposited shall be dealt with, as far as may be, as if it were such treasure or portion.

STATE AMENDMENTS

Himachal Pradesh

Same as in Punjab etc.—H.P. Act 16 of 1972, S. 8 (16-11-1972).

Punjab Haryana Chandigarh

In its application to the State of Punjab, for section 16 substituted the following section, namely,
—

“16. Power to acquire shares of owner and finder.—

The Collector may, at any time after making a declaration under section 9 and before delivering to the finder or owner his share of the treasure as divided by him in accordance with the provisions of this Act declare by writing under His hand his intention to acquire on behalf of the Government the share of the finder or owner or both, by payment to the persons entitled thereto of a sum equal to the value of the materials of their share or shares of the treasure, together with one-fifth of such value and may place such sum in deposit in the treasury to the credit of such person; and thereupon such share or shares of the treasure shall be deemed to be the property of Government and the money so deposited shall be dealt with, as far as may be, as if it were the share or shares of the treasure of such persons.”—Punj. Act 24 of 1960, S. 8 (30-5-1960) Act 31 of 1966, S. 88.

STATE AMENDMENTS

S. 16-A

Andhra Pradesh

In its application to the State of Andhra Pradesh, after S16, insert the following:—

“16-A. Power to allot share of the treasure to informant.—

(1) Where the finder of any treasure or the owner of the place in which the treasure was found, fails to give notice thereof to the Collector as required by section 4, but some other person

informs the Collector about the finding of such treasure, the Collector shall order the allotment of a share, not exceeding one-half in the treasure to such person.

(2) The allocation of the residue of the treasure after the allotment of the share in the treasure to such other person, shall be governed by the other relevant provisions of this Act.”—A. P. Act 10 of 1963, S. 4 (6-4-1963).

Section 17. Decision of Collector final, and no suit to lie against him for acts done bona fide

No decision passed or act done by the Collector under this Act shall be called in question by any Civil Court, and no suit or other proceeding shall lie against him for anything done in good faith in exercise of the powers hereby conferred.

Section 18. Collector to exercise powers of Civil Court

A Collector making any enquiry under this Act may exercise any power conferred by the Code of Civil Procedure on a Civil Court for the trial of suit.

Section 19. Power to make rules

The ¹[State Government] may, from time to time, make rules³ consistent with this Act, to regulate proceedings hereunder.

Such rules shall, on being published in the ²[Official Gazette], have the force of law.

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

2. Substituted for the words “Local Official Gazette” by A.O., 1937.

3. Some of the Rules made under this Act are :—

(a) A. P. Treasure Trove Rules, 1959—A. P. Gaz., 2-7-1959, Pt. II (R.S.), p. 182.

(b) Assam Treasure Trove Rules, 1958—Assam Gaz. 26-11-1958, Pt. II-A, p. 2631.

(c) Bombay Treasure Trove Rules, 1959—Bom. Gaz., 23-7-1959, Pt. IV-A, p. 1704.

(d) Goa, Daman and Diu Treasure Trove Rules, 1976—Goa Gaz., 30-9-1976, Sr. I, p. 283.

(e) M. P. Treasure Trove Rules, 1964—M. P. Gaz., 31 -7-1964, Pt. IV (Ga), p. 299.

(f) Manipur Treasure Trove Rules, 1968—Mani. Gaz., 4-7-1968, Ext.

(g) Indian Treasure Trove (Pondicherry) Rules, 1965—Pondi. Gaz., 22-11 -1965, Ext., (No. 44) and Ibid, 5-5-1971, Ext. (No. 55).

(h) Rajasthan Treasure Trove Rules, 1961—Raj. Gaz., 15-6-1961, Pt. IV (Ga), p. 111.

(i) W.B. Treasure Trove Rules, 1960—Cal. Gaz., 19-2-1960, Ext., p. 683.

Section 20. Penalty on finder failing to give notice, etc

PENALTIES

If the finder of any treasure fails to give the notice, or does not either make the deposit or give the security, required by, or alters or attempts to alter such treasure so as to conceal its identity, the share of such treasure, or the money in lieu thereof to which he would otherwise be entitled, shall vest in Government.

and he shall on conviction before a Magistrate, be punished with imprisonment for a term which may extend to one year, or with fine. or with both.

STATE AMENDMENT

Andhra Pradesh :

In its application to the State of Andhra Pradesh, for S. 20, substitute the following, namely :—

“20. Penalty on finder or purchaser for failure to give notice or for alteration of the treasure.—

(1) If the finder or the purchaser of any treasure fails to give the notice or fails to make the deposit or give the security, as required by section 4, or alters or attempts to alter such treasure so as to conceal its identity, the share or interest in such treasure or any right to which the finder or the purchaser, as the case may be, would otherwise, be entitled shall vest in the State Government.

(2) For the offence of such failure or alteration, the finder or purchaser shall also be punishable with imprisonment which may extend to one year, or with fine, or with both.”—A. P. Act 10 of 1963, S. 5 (6-4-1963).

Section 21. Penalty on owner abetting offence under section 20

If the owner of the place in which any treasure is found abets, within the meaning of the Indian Penal Code, any offence under, the share of such treasure, or the money in lieu thereof to which he would otherwise be entitled, shall vest in Government, and he shall, on conviction before a Magistrate, be punished with imprisonment which may extend to six months, or with fine, or with both.

STATE AMENDMENT

Bihar :

To section 21, the following shall be added, namely :—

“Any person who knowingly fails to report to the Collector the finding of any treasure in the land of which he is the owner within two months of such finding shall be deemed to have abetted an offence under section 20.”—Bihar Act 22 of 1947, 8.4(29-11-1947).

STATE AMENDMENTS

Section 22

Andhra Pradesh :

Same as in Tamil Nadu.

Gujarat:

See under Maharashtra—Act 11 of 1960, S. 87.

Maharashtra :

In its application to the State of Bombay, after section 21 insert the following new section namely :—

“22. Repeals and savings.— The Hyderabad Treasure-Trove Act, 1322F, and the Indian Treasure-Trove Act, 1878, as modified and applied by the State of Saurashtra (Application of Central and Bombay Acts) Ordinances, 1948, are hereby repealed :

Provided that notwithstanding such repeal, anything done or action taken (including any notice or security given, any forfeiture, determination, declaration, delivery, division, acquisition or order made, all rights, obligations and liabilities acquired, accrued or incurred penalties imposed, and all proceedings and appeals pending before the Collector, Chief Controlling Revenue Authority, Talukdar, Subedar, Board of Revenue or other Authority, and all powers conferred there for) by or under the provisions of any law so repealed shall be deemed to be done, taken, given, made, acquired, accrued, incurred, imposed, pending or preferred, under the provisions of this Act, as if this Act had then been in force; and accordingly all such proceedings and appeals pending before any such authority as aforesaid shall stand transferred where necessary, to the corresponding authority under this Act, and if no such authority exists or if there be a doubt as to the corresponding authority, to such authority as the State Government may designate, and shall be continued and disposed of before such authority in accordance with the provisions of this Act.”—Bom. Act 33 of 1958, S. 3 (10-4-1958).

Tamil Nadu :

In its application to the State of Madras (now Tamil Nadu and Andhra Pradesh), after section 21, add the following, namely,—

“22. Penalty on owner or occupier who fails to give notice under section 4.— If the owner or occupier of the place in which any treasure is found, being aware of the finding thereof, fails to give notice as required by section 4, subsection (2), he shall be punishable with imprisonment which may extend to six months, or with fine, or with both.”—T.N. Act 36 of 1949, S. 4.

STATE AMENDMENT

Section 23

Andhra Pradesh:

After section 22 (as inserted by T.N. Act 36 of 1949) add the following, namely :—

“23. Notwithstanding anything in the Code of Criminal Procedure, 1898, any offence punishable under this Act shall be a cognizable offence within the meaning of that Code.”—A. P. Act 10 of 1963, S. 6 (6-4-1963).

Schedule

[Repealed by the Repealing and Amending Act, 1891 (12 of 1891), S. 2 and Sch. 1.]

