



SUPPLEMENT
TO THE
BOMBAY GOVERNMENT GAZETTE,
CONTAINING
Acts and Bills of the Legislative Council of India.

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Separate Paging is given to these Supplements, in continuation from one to the other, that the Act and Bills may be collected into a separate Compilation.

Legislative Council of India.

18th June 1859.

The following Act, passed by the Legislative Council of India, received the assent of the Right Honorable the Governor General this day, and is hereby promulgated for general information:—

ACT No. XVI. of 1859.

An Act to Explain Act XXX. of 1858 (to Provide for the Administration of the Estate and for the Payment of the Debts of the late Nabob of the Carnatic).

Whereas doubts have arisen whether certain debts contracted by Prince Azeem Jah Bahadoor during the infancy of the late Nabob of the Carnatic were debts or claims within the meaning of Section XIV. or any subsequent Section of Act XXX. of 1858; and whereas it is expedient to remove such doubts, as well as other doubts which exist as to the power of the Supreme Court of Judicature at Madras to award costs in investigations under Section XXII. of the said Act, and as to whether cases so investigated are appealable to Her Majesty in Council; It is declared and enacted as follows:—

I. No debt contracted by the said Prince Azeem Jah Bahadoor during the minority of the said late Nabob shall be deemed a debt or claim within the meaning of the said Section XIV. or any subsequent Section of the said Act, unless it shall be proved that it was necessary and proper that such debt should be incurred on behalf or for the use of the said Nabob, and that the same was so contracted; or unless the Governor in Council of Fort Saint George shall dispense with such proof.

II. Upon any investigation under Section XXII. of the said Act, it shall be lawful for the Court, except as otherwise provided by the said Act, to award costs to either party and to cause the same to be levied in the same manner as costs in an ordinary suit.

III. It is hereby declared that it was not the intention of the said Act to exclude from appeal to Her Majesty in Council, any awards orders or decisions of the said Supreme Court, made upon any investigation under Section XXII. as aforesaid.

W. MORGAN,
Clerk of the Council.

Legislative Council of India.

18th June 1859.

The following Bill was read a second time in the Legislative Council of India, on the 18th June 1859, and was referred to a Select Committee, who are to report thereon after the 22nd of August next:—

A Bill to empower Sessions Judges to pass Sentence in certain Cases without Reference to the Sudder Court.

Whereas it is expedient to empower Sessions Judges in the Presidency of Fort William in Bengal to pass sentence in certain trials without reference to the Nizamut Adawlut; and whereas it is likewise expedient to remove the restriction now imposed by law upon Sessions Judges in regard to the minimum of punishment which they are competent to inflict in cases of perjury, and certain cases of forgery described in Clause 2, Section IX. Regulation XVII. 1817: It is enacted as follows:—

I. Clause 3, Section VI. and Clause 3, Section IX. Regulation XVII. 1817 of the Bengal Code are hereby repealed; and Section IX. of the same Regulation, and Section IV. Regulation VI. 1832 of the same Code, are hereby modified.

II. When a person is convicted of the crime of rape, if the circumstances of the case shall not appear to call for a more severe punishment, the Sessions Judge in case of conviction of rape.

ment than imprisonment for seven years with labor in irons, the Sessions Judge before whom the trial is held shall himself pass sentence.

III. When a person is convicted in a trial held under the provisions of Regulation VI. 1832, of a crime declared by a precedent of the Nizamut Adawlut to be a penal offence, if the circumstances of the case shall not appear to call for a more severe punishment than seven years' imprisonment with labor in irons, the Sessions Judge before whom the trial is held shall himself pass sentence. If, however, the crime of which the person has been convicted has not been declared to be a penal offence by a precedent of the Nizamut Adawlut, the Sessions Judge shall not proceed to pass sentence, but shall refer the case for the consideration of the Nizamut Adawlut, stating at length in the proceedings the opinion of the punchayet, assessors, or jury, and his own opinion, as to the crime proved, and the nature and extent of the punishment which should be awarded.

IV. When a person is convicted of the crime of perjury or subornation of perjury or of forgery or procuring forgery, as defined and made punishable by Regulations II. 1807 and XVII. 1817 of the Bengal Code, the Sessions Judge shall pass such sentence on the offender as he may consider adequate to the offence in reference to the particular circumstances of the case; provided that he shall in no case exceed the limit of the powers vested in him by Clause 2, Section IX. of the Regulation last mentioned.

V. If in any case coming under the provisions of this Act, the Sessions Judge shall consider the sentence which he is empowered to pass inadequate to the guilt of the prisoner, he shall refer the case, with his sentiments for the sentence of the Nizamut Adawlut in conformity to Section VI. Act XXXI. of 1841, which is hereby declared applicable to such cases.

W. MORGAN,
Clerk of the Council.

Legislative Council of India.

18th June 1859.

The following Bill was read a second time in the Legislative Council of India, on the 18th June 1859, and was referred to a Select Committee, who are to report thereon after the 22nd of September next:—

A Bill to Amend Act XXII. of 1855 (for the Regulation of Ports and Port Dues).

Whereas it is expedient that Port-dues, fees, and charges, leviable under Section XLIX. of Act XXII. of 1855, shall be recoverable by the Collector of Customs, or other Officer authorised to collect such Port dues, fees, and charges, in any Port, other than the Port in which any such dues, fees, or charges may, under the said Act, have become due: It is enacted as follows:—

I. If the Master of any Vessel in respect of which any Port dues, fees, or charges shall be payable under the said Act, shall cause such Vessel to leave any Port without having discharged such dues, fees, or charges, it shall be lawful for the Collector of Customs, or other Officer authorised to collect the same, to require, in writing, the Collector of Customs or other Officer as aforesaid, in any other Port to which such Vessel may proceed, or in which she may be, to levy such dues, fees, or charges; and every Collector or other Officer as aforesaid shall, on receipt of such requisition, proceed to levy such dues, fees, or charges in the manner pre-

scribed in Section XLIX. of the said Act; and a certificate purporting to be made and signed by the Collector of Customs or other Officer as aforesaid of the Port where the Port dues, fees, or charges became payable, stating the amount so payable, shall be sufficient *prima facie* proof of such amount in any proceeding under the said Section, and also (in case the amount payable is disputed) in any subsequent proceeding under Section LXIX. of the said Act.

II. If the Master of any such Vessel shall evade the payment of any Port dues, fees, or charges payable under the said Act, he shall be liable, on conviction, to a penalty not exceeding five times the amount so payable. In any proceeding before a Magistrate for the adjudication of the said penalty, any such certificate as is mentioned in Section I. of this Act, stating that the Master has evaded such payment, shall be sufficient *prima facie* proof of the evasion, unless the Master shall show, to the satisfaction of the Magistrate, that the departure of the Vessel without having discharged the dues, fees, or charges payable was caused by stress of weather, or that there was lawful or reasonable ground for such departure.

III. This Act shall be read with, and taken as a part of, the said Act XXII. of 1855, save that, any Magistrate having jurisdiction under the said Act in any Port, River, or Channel to which the Vessel may proceed, or in which she may be found, shall be deemed to have jurisdiction in any proceeding under this Act.

W. MORGAN,
Clerk of the Council.

Legislative Council of India.

18th June 1859.

The following Bill was read a second time in the Legislative Council of India on the 18th June 1859, and was referred to a Select Committee, who are to report thereon after the 22nd of September next:—

A Bill for Regulating Public Conveyances in the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Whereas it is expedient to regulate certain Public Conveyances in the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca; It is enacted as follows:—

I. Act IV. of 1841 (for Regulating Public Conveyances in the Islands of Bombay and Colaba, and the Harbour of Bombay), and Sections LXXVIII., LXXIX. and LXXX. of Act XIII. of 1856 (for Regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca), are hereby repealed, except as to any act or offence done or committed before this Act shall come into operation.

II. Every wheeled Carriage, whatever may be its form or construction, used in standing or plying in any public street or road within any of the said Towns and Stations for the purpose of carrying persons for hire; and every wheeled Carriage, whatever may be its form or construction, which may be hired for such purpose for any time less than a day, or for a certain distance, or by the job, although such Carriage does not ordinarily stand or ply for hire in any public street or road, shall be registered in the Office of the Commissioner of Police.

III. The following particulars shall be entered in the Register:—
Form of Register.

- 1st.—The number assigned to the Carriage in the Register; such number to be, from time to time, assigned by the Commissioner of Police.
- 2nd.—The name and residence of the Owner of the Carriage.
- 3rd.—The number of persons the Carriage is permitted to carry.

The registration shall be made, and the numbers assigned, annually upon such day in each year as the Commissioner of Police shall appoint. Any person becoming possessed within the year of any such Carriage which has not been registered, may obtain registration on application at the Office of the Commissioner of Police. When any registered Carriage is transferred within the year, it shall be registered anew in the name of the person to whom it has been transferred. A fee of one Rupee shall be paid for such registration.

- IV. Whoever keeps any Carriage required by this Act to be registered, without being so registered, shall be

liable to a fine not exceeding one hundred Rupees. Any Police Officer of the Town or Station where the Carriage may be, may seize any such Carriage (provided the same be not employed at the time of seizure in the conveyance of passengers), together with the horses or other animals drawing the same. If the Carriage, as aforesaid, be not claimed, or if the fine be not paid within ten days, such Carriage, together with the animals seized with it, may be sold by auction, and the proceeds applied to the payment of the fine, and all costs and charges incurred on account of the detention and sale, and the surplus (if any), if not claimed by the owner within a further period of twenty days, shall be forfeited to the State.

- V. The owner of every Carriage registered under this Act shall cause to be

affixed, on some conspicuous place on the outside of the Carriage, a plate distinctly showing the registered number of the Carriage, and the number of passengers permitted to be carried.

VI. The owner of any Carriage required by this Act to be registered, having a plate affixed to his Carriage without having registered the Carriage under this Act, or having a plate resembling the plates issued by the Commissioner of Police affixed to his Carriage, shall be liable to a fine of fifty Rupees.

VII. The Commissioner of Police may refuse to register any Carriage under this Act, or may cancel the registration thereof whenever it may appear to him that such Carriage, or any Horse or Harness used with any such Carriage, is unseaworthy or unsafe, or otherwise unfit for public accommodation or use.

VIII. The rates or fares, as well for time as distance, to be paid for Carriages plying for hire in the public streets in the said Towns and Stations, shall be fixed in the manner following:—

In the Towns of Calcutta and Madras such rates or fares shall, from time to time, be fixed by the Commissioner of Police, with the sanction of the local Government.

In the Town of Bombay such rates or fares shall, from time to time, be fixed by the Court of Petty Sessions, with the sanction of the local Government.

In the several Stations of the Straits Settlement such rates or fares shall, from time to time, be fixed by the Quarter Sessions of the Station, with the sanction of the Governor.

The rates so fixed shall be published four times in the *Government Gazette*, and in such of the public Newspapers as shall be directed by the Commissioner of Police.

IX. The Commissioner of Police shall, from time to time, appoint Stands for Carriages plying for hire in the public streets. Every driver

of a Carriage registered under this Act who shall (elsewhere than at some Stand or place appointed for the purpose by the Commissioner of Police) stand or loiter for the purpose of being hired, and who shall thereby cause any obstruction in or upon any public street, road, or place shall be liable to a fine not exceeding ten Rupees.

X. Any driver of a Carriage registered under this Act standing at any of the Stands for Carriages appointed by the Commissioner of Police, or plying for hire in the public streets, who refuses or neglects, without reasonable excuse, to drive such Carriage to any place within the Town or Station where such Carriage may be, to which he is directed to drive by the person hiring or wishing to hire such Carriage, shall be liable to a fine not exceeding twenty Rupees.

XI. The driver of any Carriage registered under this Act, who shall be guilty of wanton or furious driving, or cause hurt or damage by carelessness or wilful misbehaviour, drunkenness, and insolence, shall be liable to a fine not exceeding twenty Rupees, and, in case of hurt or damage, the Magistrate may order a sum not exceeding fifty Rupees to be paid by the proprietors of such Carriage, as compensation for the hurt or damage.

XII. Any driver of a Carriage registered under this Act, who suffers the same to stand for hire across any street or alongside of any other Carriage, or who refuses to give way, if he conveniently can, to any other Carriage, or who obstructs or hinders the driver of any other Carriage in taking up or setting down any person into or from such other Carriage, or who wrongfully, in a forcible manner, prevents or endeavours to prevent the driver of any other Carriage from being hired, shall be liable to a fine not exceeding twenty Rupees.

XIII. If the driver of a Carriage, registered under this Act, leave the same without some proper person to take care of it in any street or at any place of public resort or entertainment, whether it be hired or not, he shall be liable, on conviction, to a fine not exceeding twenty Rupees; and any Police Constable may drive such Carriage to a place of safety.

XIV. Any proprietor or driver of a Carriage, the fares for which are fixed by this Act, who shall take, as a fare, a larger sum than he is authorised by law to take, shall be liable to a fine not exceeding twenty Rupees, and the Magistrate shall order the amount of such overcharge to be forthwith paid to the party aggrieved. In default of payment such amount shall be recoverable as a fine.

XV. Any driver of a Carriage, registered under this Act, if required to wait with such Carriage at any place (after he has been hired) for a longer time than one hour, may demand a reasonable sum, as a deposit from the person hiring and requiring him to wait, over and above the sum to which he is entitled for driving to such place. Any driver of a hired Carriage refusing to wait or going away before expiration of the time for which the deposit offered or made shall be a sufficient compensation, or refusing to account for

Penalty for leaving Carriage without control.

Penalty for taking more than legal fare.

Deposit may be demanded for waiting.

Penalty for refusing to wait, or going away before expiry of time for which deposit has been made, or not accounting for deposit.

Penalty for causing obstruction by plying for hire elsewhere.

such deposit when paid, shall be liable to a fine not exceeding fifty Rupees.

XVI. If any person hiring a Carriage registered under this Act refuse to pay, on demand to the proprietor or driver of such Carriage, the fare legally payable, or (if the Carriage be a Carriage not plying for hire in the public streets) the sum agreed to be paid, such fare or sum may be recovered before a Magistrate as a fine, together with such compensation to the proprietor or driver for loss of time in attending before the Magistrate as to the Magistrate seems reasonable.

XVII. Any person using a Carriage registered under this Act, who wilfully injures the same, shall be liable to a fine not exceeding twenty Rupees, and shall also pay to the proprietor of the Carriage compensation for the injury. The amount of such compensation shall be ascertained by a Magistrate, and shall be recoverable as a fine.

XVIII. All property left in any Carriage registered under this Act, shall be deposited by the driver at the nearest Police Station, within twenty-four hours, if not sooner claimed by the owner, such property to be returned to the person who shall prove to the Commissioner of Police that the same belonged to him, on payment of all expenses reasonably incurred, or of such reasonable sum to the driver as the Commissioner shall award.

XIX. In case of any dispute between the hirer and driver of a Carriage registered under this Act, the hirer may require the driver to drive to the Police Court of the Town or Station where the dispute may arise, when the complaint may be determined by a Magistrate without summons, or, if no Magistrate be at that time sitting, then to the nearest Police Station, when the complaint shall be entered and tried by a Magistrate at his next sitting.

XX. When a complaint is made before a Magistrate against the driver of a Carriage registered under this Act, for any offence committed by him against the provisions of this Act, such Magistrate shall forthwith summon the proprietor of the Carriage personally to appear, and to produce the driver of such Carriage to answer the complaint. If such proprietor, being duly summoned, shall neglect or refuse personally to appear, or to produce the driver according to such summons, without a reasonable excuse to be allowed by the Magistrate, he shall be liable to a penalty not exceeding forty Rupees, and so, from time to time, as often as he shall be so summoned, until such driver shall be produced by him. Provided always, that if such proprietor shall neglect or refuse to appear and produce such driver, on the second or any subsequent summons requiring him so to do, without a reasonable excuse to be allowed as aforesaid, it shall be lawful for the Magistrate to proceed to hear and determine the complaint in the absence of the proprietor and driver, or of either of them, and to give judgment against such proprietor for the fine incurred by reason of such offence.

XXI. No Palankeen shall ply for hire within any of the said Towns or Stations unless duly registered at the Police Office. The Register shall state the number assigned to the Palankeen, and the name and residence of the owner. The registration shall be in force for one year, and every change of ownership within that time shall be therein noted. A fee of one Rupee shall be paid on registration. The owner of every such Palankeen shall cause to be painted on a conspicuous part

of it the registered number thereof. The owner of every Palankeen, plying for hire without being duly registered, or not having the prescribed number painted on it, shall be liable to a fine not exceeding twenty Rupees.

XXII. The Commissioner of Police may refuse to register any Palankeen, or may cancel the registration thereof, whenever it may appear to him to be unserviceable or unfit for public accommodation or use.

XXIII. The rates or fares for Palankeens registered under Section XXI. shall be fixed in the same manner, and with the like sanction, as the rates or fares to be paid for Carriages.

XXIV. No Boat shall ply for passengers in the Ports of Calcutta or Bombay or in any Port of the said Settlement, unless duly registered at the Police Office. The following particulars shall be entered in the Register:—

First.—Number of the Boat.
Second.—Name and residence of the owner, and of the manjee.
Third.—Number of the crew.
Fourth.—Number of persons the Boat is permitted to carry.

The registration shall be in force for one year; and every change of the owner or manjee within that time shall be therein noted. A fee of one Rupee shall be paid on registration.

The owner or manjee of every such registered Boat shall cause to be painted on a conspicuous part of it the registered number thereof, the number of the crew, and the number of passengers permitted to be carried.

The owner or manjee of a Boat plying for passengers without being duly registered, or carrying more passengers, or with a less crew, than is stated in the register, or not having the prescribed particulars painted on it, shall be liable to a fine not exceeding fifty Rupees.

XXV. Whenever any accident shall occur to a Boat registered under this Act, which accident is attended with loss of the life of any one of the crew or passengers, the manjee, or if the manjee be not forthcoming, the owner of the Boat, shall report the circumstances at the Police Office; and if the manjee or the owner, as the case may be, without lawful excuse neglect or delay to make such report, he shall be liable to a fine, not exceeding fifty Rupees.

XXVI. The Commissioner of Police may refuse to register any Boat, or may cancel the registration thereof, whenever it may appear to him to be in an unsafe state.

XXVII. The rates or fares for Boats registered under Section XXIV. and plying for passengers in any of the said Ports, shall be fixed in the same manner, and with the like sanction, as the rates or fares to be paid for Carriages in the Town or Station to which such Port belongs.

XXVIII. In case of any dispute concerning the fare payable for any Boat or any Palankeen registered under this Act, the same may be settled by a Magistrate; and the provisions of Section XX. shall be applicable in such case.

XXIX. All offences against this Act shall be heard and determined by a Police Magistrate. The provisions of Act XIII. of 1856, relating to the adjudication of fines and penalties, and the enforcing payment thereof, shall apply to fines and penalties imposed under this Act, and to all sums of money hereby made recoverable as fines.

XXX. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say),

The word "Magistrate" in this Act shall mean a Magistrate of Police appointed under Act XIII. of 1856, acting for the Town or Station where the matter requiring the cognizance of the Magistrate arises.

The words "Commissioner of Police" shall mean

"Commissioner of Police." the Commissioner of Police so appointed and acting.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Number.

Gender. Words importing the masculine gender shall include females.

The word "Town" shall include all places within the local limits of the jurisdiction of Her Majesty's Supreme Courts of Judicature at Calcutta, Madras, and Bombay.

"Town."

The word "Station" shall mean any of the Stations of Prince of Wales' Island, Singapore, and Malacca.

"Station."

W. MORGAN,
Clerk of the Council.