



SUPPLEMENT
TO THE
BOMBAY GOVERNMENT GAZETTE
CONTAINING
ACTS FINALLY PASSED.

Published by Authority.

THURSDAY, 24TH APRIL 1862.

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

ACTS PASSED BY THE GOVERNMENT OF INDIA.

HOME DEPARTMENT (Legislative.)

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 27th March 1862, and is hereby promulgated for general information:—

Act No. VIII. of 1862.

An Act to protect the personal dignity of His Majesty the King of Oude.

Whereas it is expedient, with a view to protect the personal dignity of the King of Oude, in accordance with the promise made to His Majesty on the part of the British Government, that His said Majesty should be partially exempted from the jurisdiction of the Civil, Revenue, and Criminal Courts; It is enacted as follows:—

I. His Majesty the King of Oude is hereby declared to be, and is, exempt from the jurisdiction of the Criminal Courts, except in regard to offences punishable with death under the Indian

Penal Code. Except for such offences, no Criminal Court or Magistrate shall inquire into any complaint, or issue any process, against His said Majesty.

II. No Police Officer or other person shall arrest His said Majesty without warrant, and no Police Officer or other person, whether charged with the execution of a warrant or not, shall, for the purpose of arresting any person or searching for

anything, enter into or remain in any house in which His Majesty may at the time be residing, except in the presence and with the sanction of the Officer appointed to be Agent with His Majesty on the part of the British Government.

III. If any complaint be made or information preferred against His said Majesty for any offence other than the offences excepted in Section I. of this Act, the Officer appointed to be Agent with His said Majesty may enquire into the case and make a report thereon to the Governor General in Council, and the Governor General in Council, on receipt of any such report, may issue a Commission for the trial of such offence, and may vest the said Commission with any of the powers vested in any Court by the Code of Criminal Procedure. Provided that, in case of conviction, the said Commission shall not pass sentence, but shall report its judgment to the Governor General in Council, who shall thereupon give such directions in respect to the custody of the person of His said Majesty or the disposal of his property, as the exigency of the case may seem to require.

IV. No writ or process shall at any time be sued forth or prosecuted out of any Civil, Revenue, or Criminal Court against the person, goods, or property of His said Majesty, unless such writ or process shall be so sued forth or prosecuted with the consent of the Governor General in Council first had and obtained, such consent to be testified by the signature of a Secretary to the Government of India, and any writ or

process which shall at any time be sued forth or prosecuted against the person, or goods, or property of His said Majesty, without such consent as aforesaid, shall be utterly null and void.

V. His said Majesty shall not be required to appear personally as a witness in any Court, or before any Commissioner appointed by any Court, to be examined or make affidavit when his evidence or affidavit is required in any Civil, Revenue, or Criminal suit or proceeding.

VI. When the evidence of His Majesty is required in any such suit or proceeding, the Court or the party requiring the same shall cause to be prepared interrogatories in writing for the examination of His said Majesty. If the case is one in which any other party in such suit or proceeding would, by law, have a right to cross-examine, such party shall be at liberty to prepare cross-interrogatories. The interrogatories and cross-interrogatories (if any) shall be transmitted to the Officer appointed to be Agent with His said Majesty, who shall exhibit the same to His said Majesty, and take down in writing His Majesty's answers thereto given on solemn affirmation. The interrogatories, and cross-interrogatories (if any), with the answers thereto, shall be returned to the Court before whom the suit or proceeding is pending, together with a certificate from the said Officer appointed to be Agent, of the answers of His said Majesty having been duly taken.

VII. When any affidavit is required to be sworn by His said Majesty in any suit or proceeding, such affidavit shall be taken and sworn before the said Officer appointed to be Agent, who shall return such affidavit with a certificate of its having been duly sworn to the Court or Officer before whom the same is to be used.

VIII. Except with the consent of His said Majesty, no person other than the said Officer appointed to be Agent shall be entitled to be present when His said Majesty is being examined on interrogatories or sworn to any affidavit under the provisions of this Act.

IX. The answers to interrogatories or affidavit of His said Majesty taken and sworn under the provisions of this Act shall be admissible in evidence and subject to the same objections as if such answers or affidavit had been taken or sworn in open Court or under a Commission.

X. This Act shall not continue in force after the death of his said Majesty.

M. WYLIE,
Deputy Secy. to the Govt. of India,
Home Department.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 27th March 1862, and is hereby promulgated for general information:—

Act No. IX. of 1862.

An Act for constituting the Secretaries and other Officers of the Banks of Bengal, Madras, and Bombay, respectively, Ex-Officio Assessors of certain of the Duties payable under Act XXXII. of 1860 (for imposing Duties on profits arising from Property, Professions, Trades, and Offices).

Whereas the Treasuries of the Secretary of State for India in Council and of Her Majesty's Indian Govern-

ments at Calcutta, Madras, and Bombay respectively have been established under orders from the Governor General of India in Council, the Governor of Madras in Council, and the Governor of Bombay in Council respectively, duly notified in the *Government Gazettes* at those places, at the Bank of Bengal, the Bank of Madras, and the Bank of Bombay respectively.

And whereas the interest on divers securities of the Government of India and Annuities payable out of the revenues of India, and divers other yearly sums mentioned in Section XXVI. of Act XXXII. of 1860 (for imposing Duties on profits arising from Property, Professions, Trades, and Offices) payable by the said Government or out of the public revenues of the said Government, are, by virtue of the said orders, payable at the said Banks respectively.

And whereas it is expedient that the Secretaries and Treasurers, Deputy Secretaries, and Accountants of the Banks of Bengal, Madras, and Bombay respectively should be constituted Ex-Officio Assessors for executing the said Act XXXII. of 1860 for the purpose of assessing and discharging the duties thereby imposed in respect of the interest and yearly sums so payable at the said Banks as aforesaid in the place of the Sub-Treasurers.

It is therefore enacted as follows:—

I. The persons for the time being holding the office of Secretary and Treasurer, or of Secretary alone, or of Treasurer alone, or of Deputy Secretary, or of Accountant of the Bank of Bengal, of the Bank of Madras, and of the Bank of Bombay respectively, shall, so long as the Government Treasuries at Calcutta, Madras, and Bombay respectively shall continue to be held and established at those Banks respectively, be severally Ex-Officio Assessors for executing Act XXXII. of 1860 for the purpose of assessing and discharging the Duties thereby imposed in respect of interest on securities of the Government of India and of all annuities payable out of the revenues of India and in respect of all other yearly sums (other than the salaries or pensions mentioned in Sections XXVII. XXVIII. XXIX. XXX. XXXI. of the said Act) payable by the said Government, or out of the public revenues of the said Government at the Government Treasuries of Bengal, Madras, and Bombay respectively, and shall severally have and exercise in regard to the said Duties all the powers and authorities vested by the said Act in the Ex-Officio Assessors named in Section XXVI. thereof.

II. So long as the Government Treasuries at Calcutta, Madras, and Bombay shall continue to be established and held at the Banks of Bengal, Madras, and Bombay respectively, the Sub-Treasurers of the said Presidencies of Bengal, Madras, and Bombay respectively shall cease to be Ex-Officio Assessors for executing the said Act for the purpose of assessing and discharging the Duties upon the interest and yearly sums mentioned in Section I. of this Act, and in respect of which the Secretaries, Treasurers, Deputy Secretaries, and Accountants of the said Banks are hereby constituted Ex-Officio Assessors.

III. This Act shall take effect from the 1st day of March 1862, inclusively of that day, and shall be read and taken as part of the said Act XXXII. of 1860.

M. WYLIE,
Deputy Secy. to the Govt. of India,
Home Department.



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ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

BOMBAY.

Act No. IV. of 1862.

An Act for Regulating the Establishment of Markets and Fairs.

[Received the assent of the Governor General on the 14th day of April 1862, and published by the Governor of Bombay on the 24th day of April 1862.]

Whereas the establishment of new Markets or Fairs in the neighbourhood of places where Markets or Fairs have been previously established leads to disputes between the Owners of the lands on which such new and previously established Markets or Fairs are held and such disputes not unfrequently occasion breaches of peace and serious inconvenience to the frequenters of such Markets or Fairs it is enacted as follows—

I. After the passing of this Act no person shall establish a new Market or Fair without permission in writing from the Magistrate of the District. If any person shall attempt to establish a new Market or Fair without such licence he shall on conviction by the Magistrate be subject to a fine not exceeding two hundred Rupees or in default of payment to simple imprisonment for any period not exceeding two calendar months.

II. When any person desires to establish a new Market or Fair he shall make application in writing to the Magistrate of the District. The application shall specify the name of the place at which it is proposed to establish such new Market or Fair the days on which it is to be held the name of the place where the nearest existing Market or Fair is held and the days on which it is held the distance in English miles between the two places and the reasons of the applicant for desiring to establish the new Market or Fair.

III. On receipt of the application the Magistrate shall issue a Proclamation stating the desire of the applicant to establish a Market or Fair at the place named by him and the days on which it is proposed to be held and calling upon any person who may have any objection to the establishment of the Market or Fair to state his objection in writing within six weeks from the date of the proclamation. The proclamation shall be fixed in a conspicuous place in the Village or Town in or near to which it is proposed that the new Market or Fair shall be held and a copy of the same shall be affixed at the Police Station within the jurisdiction of which the Village or Town is situate and in the Court of the Magistrate. If it shall appear that any existing Market or Fair is held within a distance of four miles from the place where it is proposed that the new Market or Fair shall

be established the Magistrate shall cause a Notice to the effect of the Proclamation to be served upon the Owner of the land where such existing Market or Fair is held. The Proclamation and Notice (if any) shall be issued and served at the expense of the applicant.

IV. If within the time specified in the Magistrate's order. Proclamation and Notice (if any) no objection is preferred to the establishment of the proposed Market or Fair the Magistrate of the District shall pass an order permitting it to be established. If within the time specified any objection is preferred the Magistrate of the District shall inquire into the objection and pass such order as may appear proper under the circumstances of the case.

V. If within six months from the passing of this Act any objection shall be preferred to the Magistrate in respect of any Market or Fair which has been newly established Markets and Fairs established two years before the passing of this Act.

within a period of two years before the passing of this Act the Magistrate shall inquire into the objection and if it shall appear that such new Market or Fair has been established within a distance of four miles from any previously existing Market or Fair and that the establishment of the new Market or Fair has been the cause of disturbances or other inconvenience to the people of the neighbourhood the Magistrate of the District may if he think necessary change the days upon which such new Market or Fair is held or at his discretion order that it be discontinued.

VI. Every order passed by a Magistrate under this Act shall within six weeks be open to appeal to the Commissioner of Police and the order of the Commissioner shall be final.

VII. Every person who shall contravene disobedey or oppose any order duly made under this Act shall be liable to a fine not exceeding two hundred Rupees or in default of payment to imprisonment of either kind for any period not exceeding two calendar months.

VIII. This Act shall not extend to the Islands of Bombay and Colaba.

IX. Nothing in this Act shall be held to apply to assemblages of people collected at or concerned in the inauguration of sacred edifices or collected at or concerned in any other religious festivals or ceremonies not forming a part of a Fair or Market.

X. Nothing in this Act shall be held to restrict the general powers of Government to control the orders of the Magistrate or Commissioner of Police in regard to Markets or Fairs.

XI. The word "Magistrate" when used alone without the addition of the words "of the District" includes every Officer authorized to exercise the full powers of the Magistrate.

BOMBAY.

Act No. V. of 1862..

An Act for the Preservation of the Bhagdaree and Nurwadaree Tenures.

[Received the assent of the Governor General on the 14th day of April 1862, and published by the Governor of Bombay on the 24th day of April 1862.]

Whereas it has been found that the permanence of the tenures known as the Bhagdaree and Nurwadaree tenures which have existed from time immemorial in certain parts of the Presidency of Bombay is endangered by the increasing practice of attachment and sale by civil process of the homesteads and building sites ("Gubhan") appertaining or appendant to the constituted Bhags or the recognized sub-divisions of such Bhags or Shares in Bhagdaree or Nurwadaree Villages:

And whereas it is desirable to prevent the alienation assignment mortgaging charging or encumbering of any portion of any Bhag or Share in any Bhagdaree or Nurwadaree Village other than a recognized sub-division of such Bhag or Share or the alienation assignment mortgaging charging or encumbering of any homestead building site Gubhan or premises appurtenant or appendant to any such Bhag or Share or recognized sub-division separately or apart from such Bhag or Share or recognized sub-division it is therefore enacted as follows—

I. No portion of a Bhag or Share in any Bhagdaree or Nurwadaree Village other than a recognized sub-division of such Bhag or Share shall from and after the passing of this Act be liable to seizure sequestration attachment or sale by the process of any Civil Court and no process of such Court shall be enforced so as to cause the dismemberment from any such Bhag or Share or recognized sub-division thereof of any homestead building site Gubhan or premises appurtenant or appendant to such Bhag or Share or recognized sub-division thereof.

II. Whenever any process has issued out of any Civil Court for the seizure sequestration attachment or sale of any portion of a Bhag or Share in any Bhagdaree or Nurwadaree Village other than a recognized subdivision of such Bhag or Share or for the seizure sequestration attachment or sale of any homestead building site Gubhan or premises appurtenant or appendant to such Bhag or Share or recognized sub-division thereof it shall be lawful for the Collector or other chief Revenue Officer of the District in which any such Bhagdaree or Nurwadaree Village is situated although not a litigating party to move in such Civil Court that such process shall be set aside or quashed and that the provisions of this Act be put in force and if such Court be of opinion on the

Whenever any such process has issued it shall be lawful for the Collector of the district to move that such process be set aside or quashed.

Whenever any such process has issued it shall be lawful for the Collector of the district to move that such process be set aside or quashed.

evidence adduced by the Collector or other chief

And the Court shall set aside or quash such process if it be of opinion that the case is one falling within this Act.

the provisions of this Act to be put in force and it is hereby further enacted that any order which the said Court may make on such motion shall be appealable in the same manner as a decree of the Court in which it is made.

III. It shall not be lawful to alienate assign

It shall not be lawful to alienate assign mortgage or otherwise charge or encumber any portion of any Bhag or Share in any Bhagdaree or Nurwadaree Village other than a recognized subdivision of such Bhag or Share.

assign mortgage or otherwise charge or encumber any homestead building site Gubhan or premises appurtenant or appendant to any such Bhag or Share or recognized sub-division appurtenant or appendant thereto apart or separately from any such Bhag or Share or recognized sub-division thereof. Any alienation assignment mortgage charge or encumbrance contrary to the provisions of this section shall be null and void. And it shall be lawful for the Collector or other chief Revenue Officer of the District whenever he shall upon due inquiry find that any person or persons is or are in possession of any portion of any Bhag or Share of

It shall be lawful for the Collector or chief Revenue Officer of the District summarily to remove any person or persons who may be in possession or any portion of any Bhag or Share as aforesaid

any homestead building site Gubhan or premises appurtenant or appendant to such Bhag or Share in any Bhagdaree or Nurwadaree Village other than a recognized sub-division of such Bhag or Share in violation of any of the provisions of this

Revenue Officer of the district on such motion that the case is one falling within this Act it shall set aside or quash such process and cause

Section summarily to remove him or them from such possession and to restore the possession to the person or persons whom the Collector shall deem to be entitled thereto and any Suit brought to try the validity of any order or orders which the Collector may make in such matter must be brought within three calendar months after the execution of such order or orders.

IV. And it is hereby further declared that

Act not to prohibit the issue and execution of any process in other respects authorized by law.

nothing in this Act contained shall be construed as prohibiting the issue and execution of any such process as aforesaid against any Bhag or Share or recognized sub-division of any Bhag or Share in any such village as aforesaid conjointly and in the gross with its homestead building site Gubhan and other proper appurtenances if the issue and execution of such process be in other respects authorized by law.

V. And it is hereby further declared that

Act not to prohibit the alienation assignment mortgaging charging or encumbering any Bhag or Share as aforesaid if in other respects warranted by law.

nothing in this Act contained shall be construed as prohibiting the alienation assignment mortgaging charging or encumbering any Bhag or Share or recognized sub-division of any Bhag or Share in any such village as aforesaid conjointly and in the gross with its homestead building site Gubhan and other proper appurtenances if such alienation assignment mortgage charge or incumbrance be in other respects warranted by law the object and intention of this Act being to prevent the dismemberment of Bhags or Shares or recognised sub-divisions thereof in Bhagdaree or Nurwadaree Villages, and also to prevent the severance of homesteads building sites Gubhan or other premises appurtenant or appendant to Bhags or Shares or recognized sub-divisions of Bhags or Shares from the same or any of them.