

MADRAS.--TORTURE.

ACT No. XXXII. OF 1854.

[Received assent of G. G. on the 16th December, 1854.]

*Recites appointment of Commissioners to enquire concerning alleged use of Torture.*

1. *Empowers the Commissioners to summon witnesses, &c. require production of books, &c.*
2. *Subjects persons summoned who make default of duty under this Act, to same punishment as witnesses who make default on process of Supreme Court.*
3. *Extends provisions of ss. 8 and 9 of Act 37, 1850, to the torture commission.*
- 4, 5. *Empowers the Commissioners to direct examination of persons at a distance under interrogatories to be sent by letter; and (5) makes it obligatory to appear and answer such interrogatories.*
6. *Authorizes the payment of expenses of witnesses.*
7. *Witness not excused from answering on ground of tendency of answer to criminate him; but answer not to be used against him.*
8. *Empowers commissioners to administer oath, &c.*
9. *Extends penalty of perjury to false evidence.*
10. *Limitations of action against Commissioner to be six months.*
11. *On death, &c. of one Commissioner survivor may act or new Commissioner may be appointed.*

An Act to facilitate inquiries respecting the alleged use of Torture in the Presidency of Fort St. George.

Whereas the Governor of Fort St. George in Council has  
Preamble. nominated and appointed Edward Francis Elliot, Esquire, Chief Magistrate and Superintendent of Police of Madras, Hudleston Stokes, Esquire, Acting Collector of Madras, and John Bruce Norton, Esquire, Barrister at Law, Commissioners to make certain inquiries and investigations relating to the alleged use of torture in that Presidency; and whereas it is expedient that the said Commissioners and all other Officers who have been, or shall be authorized or required to make such inquiries, should be vested with certain legal powers: It is enacted as follows:

- I. It shall be lawful for the Commissioners aforesaid, by a summons under their hands, or under the hand of either of them, to require the attendance before them, at a time and place to be
- Commissioners empowered to summon witnesses, &c.

mentioned in such summons, of any person or persons whomsoever residing or being within the local limits of the jurisdiction of the Supreme Court of Judicature at Fort St. George, whose evidence shall, in the judgment of the Commissioners aforesaid, be material to any inquiry relating to the use of torture in the said Presidency, which the said Commissioners have been or may be directed by the said Governor in Council to make, and to require the person or persons so summoned to bring and produce before them all such books, papers, deeds, and writings, as to them, the said Commissioners, shall appear necessary for arriving at the truth of the matters directed to be inquired into by the said Commissioners, all which persons shall accordingly attend the said Commissioners, and shall produce such books, papers, deeds, and writings as shall be required of them, and shall be in their custody and control, or in the custody and control of any one of them, according to the tenor of the summons.

II. If any person upon whom any such summons shall be served, by the delivery thereof to him, or by the leaving thereof at his usual place of abode, shall, without reasonable cause (to be allowed by the Commissioners aforesaid,) fail to appear before them at the time and place mentioned in the summons, or shall refuse to be sworn or to make affirmation (as the case may be), or shall not make answer to such questions as shall be put to him touching the matters directed, or which may hereafter be directed, to be inquired into by the said Commissioners, or shall refuse or fail, without reasonable cause (to be allowed by the said Commissioners), to produce and show to the said Commissioners any such paper, book, deed, or writing, being in his possession or under his control, as to the said Commissioners shall appear necessary for arriving at the truth of the matters directed to be inquired into, the said Commissioners shall have the same powers in all respects touching any such person so failing to appear, or refusing to be sworn or to make affirmation, or not answering such questions as shall be put to him, or refusing to produce and show any such book, paper, deed, or writing, as aforesaid, as the said Supreme Court of Judicature may by law exercise against any person for making default of appearance, or for refusing to be sworn, or to give evidence on any issue joined in any action depending in such Court.

Witnesses refusing to attend or answer.

III. Every Judge, Collector, Magistrate, or other Officer, who shall be authorized or required by the said Governor in Council to make any inquiry relative to the use of torture in any part of the said Presidency, and to compel the attendance of witnesses upon such inquiry, shall have and exercise all or any of the powers conferred by Section VIII. of Act No. XXXVII. of 1850 upon Commissioners appointed under that Act; and all the provisions of that Section, and of Section IX. of the same Act, shall be applicable for the protection of every Officer appointed to make any such inquiry as aforesaid; and also for the purpose of compelling the attendance of witnesses, and the production of documents upon such inquiry; and for the punishment of persons disobeying any lawful process issued for the purpose of compelling such attendance or production of documents.

IV. If the said Commissioners require the evidence of any person residing or being beyond the local limits of the jurisdiction of the Supreme Court of Judicature at Fort St. George, or if any such Judge, Collector, Magistrate, or other Officer, who hath been, or shall be authorized to make any enquiry relating to the use of torture, shall require the evidence of any person residing or being beyond the limits of the ordinary jurisdiction of such Judge, Collector, Magistrate, or other Officer, it shall be lawful for the person or persons requiring such evidence, by a letter to be signed by him or them, to request any Judge, Collector, Magistrate, or other Officer having by law, power to examine witnesses upon oath, to examine such witness upon interrogatories to be sent with the letter, or according to instructions to be sent therewith, as to the points upon which the evidence of the witness is required; and the Judge, Collector, Magistrate, or other Officer to whom such letter shall be directed, shall examine the witness, or cause him to be examined upon oath or affirmation accordingly.

V. Every Judge, Collector, Magistrate, or other Officers, to whom such letter of request shall be sent, shall have the same powers for compelling the attendance of the witness, for examining or causing him to be examined upon oath or affirmation, and

Powers of Judge, Collector, Magistrate, or other Officer authorized to make inquiry.

Examination of witnesses beyond jurisdiction.

Power to compel attendance, &c. of such witnesses.

for punishing him for any contempt or for refusing to attend or give evidence, as if the evidence of such witness were required in any matter within the ordinary jurisdiction of such Judge, Collector, Magistrate, or other Officer.

VI. Every witness, who shall be required to attend or give evidence under the provisions of this Act, shall be entitled to a reasonable sum for his expenses of travelling to and from, and remaining at the place at which he is required to attend.

VII. No person shall be excused from answering any question put to him by the said Commissioners, or any of them, or by any such Judge, Collector, Magistrate, or other Officer as aforesaid, upon the ground of any privilege, nor on the ground that the answer to such question will tend to criminate such person: but no statement made by any person in answer to any such question shall, except for the purpose of punishing such person for wilfully giving false evidence upon such examination, be admissible in evidence in any proceeding, Civil or Criminal; and every person who, upon such examination, shall be compelled to give evidence which may tend to expose him to penal consequences, shall be freed from all penal actions, forfeitures, punishments, disabilities, and incapacities, and all criminal prosecutions, to which he may have been, or may become liable or subject within any part of the territories in the possession and under the Government of the East India Company, for any thing done by such person in respect of any acts relating to which he shall be examined, unless the Commissioners or Commissioner, Judge, Collector, Magistrate, or other Officer who shall have examined such witness, shall certify in writing, under their or his hands or hand, that such witness is not entitled to the protection lastly hereinbefore given, on the ground that he has not made a full and true disclosure touching all matters to which he has been so examined.

VIII. It shall be lawful for the said Commissioners, or one of them, or for any such Judge, Collector, Magistrate, or other Officer as aforesaid, to administer an oath, or in the case of persons allowed by law to make affirmation instead of taking an oath, an affirmation, in such form as to them, the said Commissioners,

shall seem fit, to all persons who shall be examined before them, touching the matters directed, or which may be directed, to be inquired into by them as aforesaid.

**IX.** Every person who upon examination, upon oath or affirmation, before the said Commissioners, or before any such Judge, Collector, Magistrate, or other Officer as aforesaid, shall wilfully give false evidence, shall be liable to the pains and penalties of perjury.

**X.** No action shall be brought against the Commissioners aforesaid, or any other person or persons whomsoever, for any thing done in the execution of this Act, unless such action shall be brought within six Calendar months next after the doing of such thing.

**XI.** In case of the death or resignation of either of the said Commissioners, or in the event of either of them becoming incapable of acting, it shall be lawful for the other Commissioners, either alone or jointly with any other person who may be appointed to act in the room of the Commissioner so dying, resigning or becoming incapable of acting, to exercise all the powers of this Act; and every part of this Act shall be deemed to apply to the substituted Commissioner.