

FUGITIVE FOREIGN OFFENDERS.

ACT No. VII. OF 1854.

[Passed on the 17th February, 1854.]

1. *On the requisition of any British or Foreign authority to any authority in British India for the delivery up to justice of any person accused of any heinous offence, Government may order an inquiry into the truth of the charge, &c.*
2. *Directs what the order for an inquiry shall state.*
3. *Production of the order shall give jurisdiction to any Magistrate.*
4. *Empowers Magistrates to issue a warrant for the apprehension of the party charged.*
5. *Warrants issued under this Act may be executed in any Zillah, being previously endorsed by a Magistrate for execution.*
6. *A Magistrate who endorses a warrant which has been illegally issued shall not be responsible for the illegality, &c.*
- 7, 8. *Directs the proceeding to be taken on apprehension of the offender if offence was committed in British India; and (8) the proceeding if offence was committed out of British India.*
9. *Directs the course of proceeding when the accused is arrested and taken before a Magistrate.*
10. *Directs mode of proceeding where the accused has fled after a conviction of the offence with which he is charged.*
11. *Empowers Magistrate before whom the accused is brought to send him to another Zillah.*

12. *Government may direct that depositions on which the requisition is made shall be received as evidence of the guilt of the party accused.*
13. *Directs the Magistrate to report to Government the committal of the accused.*
14. *Empowers the Government to act as it may think fit on the report aforesaid.*
15. *Directs the mode of proceeding in case of the person arrested being ordered to be delivered up.*
16. *Empowers Magistrates to issue the necessary orders and warrants to carry out the orders of Government.*

17. *Provides for fresh arrest of person who has escaped.*
18. *Warrants issued in any part of the British empire for arrest of person accused of heinous offence, may be executed without order of Government on proof of the genuineness of the warrant.*
19. *Empowers Magistrates in case of certain heinous offences to arrest the accused without any order of Government.*
20. *Provides for release of persons imprisoned under this Act, if not proceeded against within two calendar months after committal.*
- 21, 22. *Defines what offences shall be deemed heinous.*
23. *Provides for performance of obligation under treaty to deliver up offenders to Foreign Governments when case not within this Act.*
24. *Repeals Bombay ss. 5, 6, 7 of Reg. 11, 1827.*
25. *Interpretation Clause.*

An Act for the apprehension within the territories under the Government of the East India Company, of persons charged with the Commission of heinous offences beyond the limits of the said territories, and for delivering them up to Justice, and to provide for the execution of warrants in places out of the Jurisdiction of the authorities issuing them.

Whereas it is expedient to provide for apprehending and delivering up to justice persons whether subjects of the British or of any Foreign Government who shall take refuge or be found in any part of the territories under the Government of the East India Company and shall be charged with having been guilty of heinous offences in any part of the dominions of Her Majesty or in the territories of any Foreign Prince or State; to facilitate the execution in any part of the territories under the Government of the East India Company of warrants issued by competent Officers in any other parts thereof; and to enable the Government of any Presidency or place within such last mentioned territories to carry out treaties entered into by or on behalf of

Her Majesty, or the East India Company with any Foreign Prince or State; It is enacted as follows:

I. If requisition be made by or by the authority of the person or persons for the time being, administering the executive Government of any part of the dominions of Her Majesty, to the Government of any part of the British territories in India to deliver up to Justice any person accused of having been guilty of any heinous offence in any part of Her Majesty's dominions, subject to the Government making the requisition, and who shall be or shall be supposed to be, in any part of the British territories in India, subject to the Government to which the requisition shall be made, or if a similar requisition be made by any Foreign Prince or State, or by any duly authorized Minister or Officer thereof in respect of a person accused of having been guilty of any heinous offence in any part of the territories of such Foreign Prince or State, it shall be lawful for the Government to which the requisition shall be made if it shall see fit so to do to issue an order in writing for inquiry into the truth of the charge; and such order shall be sufficient proof of the requisition having been duly made, and a sufficient justification for all acts done in pursuance thereof.

II. The order shall be signed by one of the Secretaries to the Government, it shall be directed to all Magistrates and Justices of the Peace of the Presidency or place under the control of such Government, it shall signify that the requisition has been made, shall state the nature of the offence charged, the name or other designation, if the name be not known, of the person accused, and any other description of him that may be thought necessary, and it shall require the Magistrates and Justices to whom it shall be directed or any of them to inquire into the truth of the charge, and to proceed in pursuance of this Act.

III. Upon the production of the order to any such Magistrate or Justice of the Peace, he shall have the same powers as if the offence charged had been committed within his jurisdiction.

IV. If the evidence adduced shall in the judgment of the Magistrate or Justice of the Peace, be sufficient to justify the apprehension of the person accused for the offence, the Magistrate or Justice of the Peace shall issue his warrant for the ap-

prehension of such person. The warrant shall be issued in the same manner as a warrant for an offence committed within the jurisdiction of the Magistrate or Justice of the Peace issuing it, and shall contain a memorandum stating that the warrant is issued under this Act, and if the warrant be issued under an order of Government, shall also state the fact and specify the Government. The memorandum may be to the following effect:

This warrant is issued under Act No. VII. of 1854, and is issued under an order of the Government of

V. The warrant of any Magistrate or Justice of the Peace having jurisdiction in any part of the territories under the Government of the East India Company for the arrest of any person charged with having committed any offence whether such warrant be issued under the provisions of this Act or not may be executed within the jurisdiction of any other Magistrate or Justice of the Peace having jurisdiction in any part of the said territories, whether in the same Presidency or not, upon having a written authority under the hand and seal of the Magistrate or Justice of the Peace, within whose jurisdiction it may be executed, previously endorsed thereon, and which endorsement may be to the following effect:

To the Nazir [or other Officer as the case may be] of the Zillah of

“This warrant may be executed in the zillah or district of _____” (describing the zillah or district of the indorsing Magistrate or Justice of the Peace) by any of the Officers to whom the same is directed or by [describing by his name of Office the Officer, to whom a similar warrant, issued by the indorsing Magistrate or Justice of the Peace, would be directed.]

VI. The Magistrate indorsing a warrant in pursuance of the Provisions of Section V. of this Act, shall not be liable to any action or other proceeding in consequence of any illegality in the issuing of the warrant; but any Magistrate illegally or improperly issuing the same, shall be liable for an arrest in pursuance of the indorsement in the same manner and to the same extent only as if the warrant had been executed within his own jurisdiction.

VII. Upon the apprehension of the supposed offender, if the

offence be alleged to have been committed in any part of the territories under the Government of the East India Company, he shall be carried before the Magistrate within whose jurisdiction the offence shall be alleged to have been committed, and shall be by him dealt with according to law, unless by the warrant the Officer be authorised to take bail or security, and such bail or security be given for the appearance of the person accused before the Magistrate or Justice of the Peace of the zillah or district in which the offence shall be alleged to have been committed. If the offence be charged to have been committed in any place not within the territories under the Government of the East India Company, the person arrested shall be forthwith carried before a Magistrate or Justice of the Peace, of the zillah or district in which he shall be arrested. The Magistrate or Justice of the Peace before whom the supposed offender shall be carried in pursuance of the last mentioned directions, may proceed in the same manner as in cases in which he has power to commit for trial, or to hold to bail for an offence committed within his own jurisdiction. If after making as full an enquiry into all the circumstances of the case as the evidence obtainable by the Magistrate or Justice of the Peace within the territories under the Government of the East India Company will enable him to make the evidence adduced shall be sufficient in his judgment to warrant a committal, he shall commit the accused to some place of confinement within his zillah or district, which in the judgment of the Magistrate or Justice of the Peace, shall be fit for receiving the prisoner, or if there be no such place, to the gaol of the Presidency, there to remain until he shall be delivered up or discharged by orders of Government; if after making such inquiry the circumstances shall not in the judgment of the Magistrate or Justice of the Peace be sufficient to warrant either the committal or the holding to bail of the prisoner, he shall be discharged.

VIII. If the offence charged be one committed out of the British territories in India, which, if committed within the jurisdiction of the Magistrate, would be bailable, the Magistrate or Justice of the Peace may proceed accordingly and may discharge the prisoner upon his giving the necessary bail. The recognizance or bail-bond in such case shall be for the appearance of the

accused before the Magistrate or Justice of the Peace for the time being of the zillah or district in which the recognizance shall be taken on a certain day to be named therein, allowing reasonable time for receiving the orders of Government, and on such subsequent days as the Magistrate or Justice of the Peace for the time being shall from time to time appoint.

IX. If any person shall in pursuance of this Act be carried before a Magistrate or Justice of the Peace other than the one who issued the warrant, or a Magistrate or Justice of the Peace for the time being of the same zillah or district, the depositions and documents upon which the warrant was issued, or copies thereof, to be certified under the hand and seal of the Magistrate or Justice of the Peace of the zillah or district in which the warrant was issued, shall, upon the requisition of the Magistrate or Justice of the Peace before whom such person shall be carried, be forwarded to such Magistrate or Justice of the Peace; and if the warrant be issued under an order of Government, and executed in a Presidency or place not under the Government issuing the order, notice of the arrest shall be forthwith communicated to such Government, who shall forward the requisition, and any documents relating thereto in their possession to the Government having jurisdiction over the place of arrest, and such last mentioned Government shall have the same powers as the Government who made the order.

X. If the person accused of the offence mentioned in any such order of Government be proved to have been convicted and sentenced for the offence charged by a Court of Justice in any part of Her Majesty's dominions in which the offence is alleged to have been committed, and to have escaped before such sentence was carried into execution; the Magistrate or Justice of the Peace, upon proof of such conviction and sentence, may issue a warrant for the apprehension of the person accused and he may be arrested and committed in manner aforesaid without further proof, unless such person shall prove that the conviction or sentence has been reversed or annulled.

XI. If it appear to the Magistrate or Justice of the Peace, before whom any prisoner shall be carried under this Act for an offence alleged to have been committed in any territories not under the Government of the East India Company, that particular circum-

stances exist which render it advisable that the case should be investigated by the Magistrate or Justice of the Peace of a zillah or district nearer to such territories, he shall forthwith report the case and the particular circumstances to the Government, who shall either order such Magistrate or Justice of the Peace to proceed with the case himself, or to send the case to be investigated by the Magistrate or Justice of the Peace of any other district to be named by the Government. In the latter case the prisoner shall be sent, or if the offence be bailable shall give bail to appear before such last mentioned Magistrate or Justice of the Peace, who shall have power to deal with the case as if he had issued the warrant under which the prisoner shall be arrested, and all the depositions and documents shall be forwarded to such Magistrate or Justice of the Peace. The order of Government shall be a sufficient justification for all persons acting in pursuance thereof.

XII. The Government by whom any order under Section I. of this Act shall be made, may, if they think fit so to do, direct that copies of any depositions or exhibits which shall have been laid before them and shall have been certified to their satisfaction to be true copies of depositions or exhibits made or produced before a competent judicial Officer of the territories in which the offence is alleged to have been committed, may be received in evidence of the criminality of the person accused and such direction shall be sufficient authority for receiving the same in evidence.

XIII. The Magistrate or Justice of the Peace, after committing the accused or holding him to bail as aforesaid, for any offence committed out of the territories under the Government of the East India Company, shall forthwith report the result of his proceedings to the Government to which he is subordinate, together with any remarks which he may deem necessary or proper to make upon the whole case. He shall also forward with such report a copy of all depositions and documents used before him.

XIV. Upon receipt of the report, and after examining the case, the Government may, by order in writing to be signed by the Secretary to the Government, order the accused either to be discharged or to be held to bail to appear in such Court or place and at such time or times as the Government may think fit, or to be delivered up to some person authorized by the Government or Officer making the requisition, to receive and take charge of him.

In cases falling within the provisions of Act I. of 1849, the Government may order the person accused to be tried under that Act.

XV. If ordered to be delivered up, the person to whom the accused shall be ordered to be delivered shall not have the custody or charge of him so long as he shall remain in any part of the territories under the Government of the East India Company, but the accused shall be conveyed in custody through such last mentioned territories towards the territories in which the offence shall be alleged to have been committed, in the same manner as a prisoner sent from the station of one district to that of another, and as soon as he shall have been conveyed to the frontiers of the territories under the Government of the East India Company, he shall be delivered over to some person authorized by the Government making the requisition to receive and take charge of him. If no such person shall attend to receive the prisoner, the latter shall be taken before the nearest Magistrate, who may order him to be discharged out of custody, and may provide him with such means of returning to the place where he was apprehended, or so near thereto as he may desire as such Magistrate may think necessary and suitable to his station in life.

XVI. Any Magistrate or Justice of the Peace acting under the provisions of this Act, shall issue all necessary warrants, orders and directions for carrying this Act, and also any order made under it by the Government, into effect, under his signature and seal, or seal of office, if he shall have a seal of office, and all Magistrates and Officers acting in pursuance of this Act, shall have and exercise the same powers as if the offence charged had been committed within the zillah or district subject to their jurisdiction, and in cases where the accused may have been held to bail, the Magistrate may order the bail-bond to be renewed in such form as may be necessary to carry any order of Government into effect, and if such bail-bond shall not be renewed accordingly, may commit the person accused to prison for such period as may be necessary to carry such order into effect.

XVII. In case any person arrested under this Act shall escape out of custody, he may be re-taken in any part of the territories under the Government of the East India Company, in

the same manner as if he had escaped from custody under process for an offence committed in that part of such territories, in which he shall be found.

XVIII. If a warrant be issued in any part of Her Majesty's dominions not under the Government of the East India Company, for the arrest of any person for any heinous offence alleged to have been committed therein, or for the arrest of any person for any heinous offence of which he may have been convicted by a Court of competent jurisdiction, in any such part of Her Majesty's dominions, any Magistrate or Justice of the Peace within the territories under the Government of the East India Company, may, upon the production of such warrant and proof of the signature of the Officer signing it, and of his authority to issue the same, and without any further proof and without any order of Government, issue his warrant for the apprehension of the person accused, and after his apprehension may proceed to commit, or hold him to bail in manner aforesaid, and to take such other proceedings as aforesaid as the case may require, but the person accused shall not be delivered over as aforesaid without an order of Government. The Government in such case shall have the same power as if the proceedings had been taken in pursuance of an order of Government issued under this Act.

XIX. In cases in which the immediate apprehension within the British territories in India of any person accused of having committed any heinous offence mentioned in Section XXI. of this Act out of such territories shall, in the judgment of a Magistrate or Justice of the Peace having jurisdiction in any part of such territories in which the person accused shall be found, be necessary for the ends of justice, the person accused may without an order of Government be apprehended or proceeded against in the same manner as for an offence charged to have been committed in the place where the person accused shall be found, and after his apprehension he may be committed or held to bail in manner aforesaid, and such other proceedings as aforesaid may be taken as the case may require, but the person accused shall not be delivered up without an order of Government. The Government in such case shall have the same powers as if the proceedings had been taken in pursuance of an order of Government issued under this Act.

XX. If any person imprisoned under this Act shall not either be delivered up or discharged or brought to trial within two calendar months after his committal, it shall be lawful for the principal court of original jurisdiction in criminal cases in the district in which he shall be imprisoned, upon application by or on behalf of the prisoner, to order him to be discharged out of custody, either upon giving such bail as the Court may order, or without bail, unless sufficient cause shall be shown to the Court why such discharge ought not to be ordered. Provided that no such order shall be made until after notice of the application or of the intention to make the same, shall have been given to Government or to the Secretary or one of the Secretaries thereof.

XXI. The words "heinous offence" in this Act shall be deemed to include treason against Her Majesty committed in any part of Her Majesty's dominions; murder, attempting to murder, rape, great personal violence, maiming, dacoity, thuggee, robbery, burglary, knowingly receiving property obtained by dacoity, robbery or burglary, cattle-stealing, breaking and entering a dwelling-house and stealing therein, arson, setting fire to a vilage, house, or town, forgery or uttering forged documents, counterfeiting current coin, knowingly uttering base or counterfeit coin, perjury, subornation of perjury, embezzlement whether by public officers or other persons, and being an accessory to any of the above-mentioned offences.

XXII. The said words "heinous offence" in this Act shall also be deemed to include any offence, for which by any treaty in force between Her Majesty or the East India Company, and any Foreign Prince or State, Her Majesty or the East India Company, shall, at the time of making any requisition as aforesaid, be bound to deliver up offenders to the foreign Prince or State making the same, and any other offence which in the judgment of the Government to whom the requisition shall be made, shall be serious or aggravated, and for which the person accused cannot be tried within the territories under the Government of the East India Company under the provisions of Act No. 1. 1849.

XXIII. If by any such treaty, Her Majesty or the East India Company shall be bound to deliver up to any Foreign Prince or State, any person liable to be proceeded against by the laws of such Foreign Prince or State, in any case not expressly provided

for by this Act, or in any manner other than that provided by this Act, it shall be lawful for the Government of any part of the territories under the Government of the East India Company, in which such person may be found, upon requisition made by or on the part of such Foreign Prince or State, to adopt such proceedings for carrying such treaty into effect, and for the surrender of such person, and for making any preliminary inquiry into the charge contained in the requisition, as it shall think fit; and any such order of the Government in writing under the hand of one of the Secretaries of such Government, shall be a sufficient authority and justification for all acts to be done in execution thereof.

XXIV. Sections V. VI. and VII., Regulation XI. of 1827, of the Bombay Code, are repealed.

XXV. Unless where a contrary intention appears from the context, the word "Government," as used in this Act, shall be deemed to mean and include the Governor General of India in Council or the person or persons administering the executive Government, in any Presidency or place within the British territories in India. The words "British territories in India" shall include any part of the territories under the Government of the East India Company. The word "Magistrate," as used in this Act, is intended to include a Joint Magistrate, or any person lawfully exercising the powers of a Magistrate, and also a Justice of the Peace. Words in the singular number are intended to include the plural, and words in the masculine gender to include the feminine.
