

ACT No. XXXVIII OF 1855.



PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 22nd December 1855.)

AN ACT to provide for the trial and punishment of rebellion and other offences committed within certain Districts in which Martial Law has lately been proclaimed.

WHEREAS it is expedient to provide for the more speedy trial of persons charged with offences against the State and other heinous crimes committed within the District of Beerbhoom, and certain parts of the several Districts of Bhaugulpore and Moorshedabad respectively, and for the punishment of such crimes: It is enacted as follows:—

Preamble.

I. *Clause 1.*—It shall be lawful for the Lieutenant-Governor of Bengal from time to time as he may think fit to issue a special Commission for the trial of all persons owing allegiance to the British Government, either in consequence of their having been born within any part of the British Territories, or of their being resident therein and under the protection of the British Government, who shall be charged with having committed, either before or after the passing of this Act, within the District of Beerbhoom, or so much of the District of Bhaugulpore as lies on the right bank of the River Ganges, or so much of the District of Moorshedabad as lies on the right bank of the River Bhaugiruttee, the crime of treason or rebellion, or of opposing by force of arms the authority of the British Government, or any other crime against the State, or of the crime of murder, arson, robbery, or other heinous crime against person or property.

The Lieutenant-Governor of Bengal may issue a Commission for the trial of certain offences within the Districts named.

Clause 2.

ACT No. XXXVIII OF 1855.

Clause 2.—The Commissioner or Commissioners authorized by any such Commission may hold a Court in any part of the said District or parts of Districts mentioned in this Section, and may there try any person for any of the said crimes committed within any part thereof.

Commissioner may hold a Court in any part of the said Districts.

II. It shall be lawful for the said Lieutenant-Governor by the said Commission to direct that any Court held under the Commission shall have power, without the attendance or futwa of a law officer, or the assistance of assessors, to pass upon any person convicted before the Court of any of the aforesaid crimes, any sentence warranted by Law for such crime, and that the judgments of such Court shall be final and conclusive, and that the said Court shall not be subordinate or bound to report its proceedings to the Sudder Court.

Lieutenant-Governor may vest Court with certain powers.

No sentence of death to be carried into effect by the Court without the sanction of the Lieutenant-Governor.

III. No sentence of death passed by such Court shall be carried into effect without the sanction of the Lieutenant-Governor of Bengal.

IV. If any such Commission be issued, a Magistrate or other Officer having power to commit for trial, may commit any person charged with any of the aforesaid crimes, within the District or parts of Districts described in Section I of this Act, to take his trial before a Court to be held under this Act.

Magistrate may commit persons for trial before a Court held under this Act.

V. And whereas it is necessary for the due maintenance of the just authority of Government, that persons convicted of the crime of treason or rebellion should be liable to capital punishment, it is further enacted as follows:—All persons who, after the promulgation of this Act, shall be guilty of treason or rebellion within the District or parts of Districts described in Section I of this Act, shall be liable, upon conviction either before the ordinary Criminal Courts of competent jurisdiction or before a Court held under the provisions of Act No. V of 1841 or of this Act, to the punishment of death or to the punishment of imprisonment with

Persons convicted of treason or rebellion within the Districts named, after the passing of this Act, liable to capital punishment, or imprisonment, &c.

ACT No. XXXVIII OF 1855.

with labor and irons in transportation for life, or to imprisonment with hard labor, not commutable to fine, for any term not exceeding fourteen years, and shall forfeit all their property and effects of every description.

VI. All persons who, before the promulgation of this Act, shall have been guilty of the crime of treason or rebellion within the said District or parts of Districts shall, upon conviction before the ordinary Criminal Courts of competent jurisdiction, or before a Court held under the provisions of Act No. V of 1841 or of this Act, be liable to the punishment of imprisonment with labor and irons in transportation for life, or to imprisonment with hard labor, not commutable to fine, for any term not exceeding fourteen years.

VII. Any person liable to imprisonment with hard labor under this Act, may be imprisoned and kept to hard labor in any part of the territories under the Government of the Lieutenant-Governor of Bengal which the said Lieutenant-Governor may direct, or in any part of the territories in the possession and under the Government of the East India Company, not being part of either of the Presidencies of Madras or Bombay, which the Lieutenant-Governor of Bengal, with the consent of the Governor General of India in Council, may direct.

VIII. Nothing in this Act shall extend to the trial or punishment of any of Her Majesty's natural born subjects born in Europe, or the children of such subjects.

IX. Whenever the Lieutenant-Governor shall deem it necessary for the public safety, it shall be lawful for him to declare, by proclamation, that, from and after a day to be named therein, it shall not be lawful for any person, or for any specified class of persons, to carry or have in their possession any arms or instrument used for warlike purposes, or any specified description of arms, or of such instruments as aforesaid, within the District or parts of Districts above mentioned, or any part thereof, to be specified in the proclamation.

X. After

ACT No. XXXVIII of 1855.

X. After the day named in the proclamation, whoever shall carry or have in his possession any arms or other such instrument as aforesaid contrary to the proclamation, shall be liable, on conviction before a Magistrate, to a fine not exceeding Fifty Rupees, or to imprisonment for a period not exceeding six months; and the arms or other such instrument shall be confiscated.

Penalty for unlawful possession of arms, &c.

XI. It shall be lawful for a Magistrate by warrant to cause search to be made in any house or other place in which there may be reasonable grounds for suspecting that any arms, or other such instrument as aforesaid, kept contrary to the proclamation, may be found; and any such arms or instrument may be seized and confiscated.

Magistrate empowered to search houses, &c. and seize arms, &c.

XII. Nothing in Sections IX, X, and XI of this Act shall extend to any person who may be exempted by the authority of the Executive Government from the prohibition contained in such proclamation.

Executive Government may grant exemption to certain persons.

XIII. The word "Magistrate" in this Act shall, unless there be something in the subject or context repugnant to such construction, include any person lawfully exercising the powers of a Magistrate and a Justice of the Peace; and any person hereby made punishable by a Justice of the Peace shall be punishable upon summary conviction.

Interpretation.

XIV. The Lieutenant-Governor of Bengal may commute any sentence of death passed under the provisions of Regulation X of 1804 of the Bengal Code, or of this Act, in respect of any crime committed within the District or parts of Districts described in Section I of this Act, either for imprisonment with hard labor and irons in transportation for life, or for imprisonment with hard labor for any term not exceeding fourteen years.

Lieutenant-Governor may commute sentences of death in certain cases.

XV. The provisions of this Act shall continue in force until the 31st day of December 1858.

Duration of Act.