

ACT No. X OF 1858.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 19th March 1858.)

AN ACT to authorize the confiscation of Villages, the imposition of fines, and the forfeiture of certain offices in cases of rebellion and other crimes committed by Inhabitants of Villages or by members of tribes; and also to provide for the punishment of proprietors of land who neglect to assist in the suppression of rebellion or in the apprehension of rebels, mutineers, or deserters.

WHEREAS it is expedient to authorize the confiscation of Villages, the imposition of fines, and the forfeiture of certain offices in cases of rebellion and other crimes committed by Inhabitants of Villages or by members of tribes; and also to provide for the punishment of proprietors of land who neglect to assist in the suppression of rebellion or in the apprehension of rebels, mutineers, and deserters; It is enacted as follows:—

I. If it shall be proved to the satisfaction of a Magistrate that the Inhabitants of any Village within his jurisdiction, or any large number of the Inhabitants of such Village, have since the 1st day of May 1857 been guilty of rebellion, or of waging war against the State, or of murder, or of any of the offences specified in Section II Act XVI of 1857, although the individual offenders cannot be identified; or if it shall be proved to the satisfaction of a Magistrate that any European or American has been murdered or been subjected to any violent personal outrage in any such village, and it shall not be proved to the satisfaction of the Magistrate that the Inhabitants of such Village used all the means in their power to prevent the commission of the offence; it shall be lawful for the Magistrate to impose a fine upon the Inhabitants of such Village, or upon any specified class of the Inhabitants of such Village; the amount of the fine to be fixed with reference to the means of the Inhabitants or class of Inhabitants, and the nature of the offence committed. If the owner or owners of the Village shall not prove to the satisfaction of the Magistrate that he or they used all the

Fines imposed on Villagers in certain cases.

Confiscation of Villages.

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the means in his or their power to prevent the commission of the offence, the Magistrate may confiscate the Village, either in lieu of, or in addition to, the imposition of such fine upon the Inhabitants. In like manner, if any hereditary Village Officer, employed in the collection of the Land

Forfeiture of hereditary Village offices. Revenue or in the Police in such Village, shall not prove to the satisfaction of a Magistrate that he used all the means in his power to prevent the commission of the offence, the Magistrate may declare the hereditary office to be forfeited, and may confiscate any land or rights held by him in virtue of such office.

II. If it shall be proved to the satisfaction of a Magistrate that any members of a particular tribe have since the said 1st day of May 1857 been guilty of any of the above-mentioned offences within the limits of his jurisdiction, although the individual offenders cannot be identified, it shall be lawful for the Magistrate to impose a fine upon all the members of the tribe residing at or near the place where the offence was committed or from which the offenders came.

III. It shall also be lawful for a Magistrate to impose a fine upon the Inhabitants of any Village within his jurisdiction, if it shall be proved to his satisfaction that, at any time after the passing of this Act, any rebel, mutineer, or deserter, or any person proclaimed by Government as a rebel, or for whose apprehension a reward shall have been publicly offered, or any person who shall have escaped from jail or other custody whilst under sentence of imprisonment or under trial for any offence mentioned in Section III Act V of 1858 (*for the punishment of certain offenders who have escaped from jail and of persons who shall knowingly harbour such offenders*), has been knowingly harboured or concealed within such Village; or that any arms or other property belonging to the East India Company have been knowingly concealed therein.

IV. The Magistrate may exempt from liability to pay any portion of a fine imposed under the provisions of this Act, any person whom he shall consider entitled to such exemption in consequence of his having delivered up or given such information as shall have led or shall be calculated to lead to the apprehension and conviction of any rebel, mutineer, or deserter, or other person guilty of

of any of the offences mentioned in Section I of this Act, or to the recovery of any arms or property belonging to the East India Company, or for any other reason which the Magistrate may deem sufficient.

V. If any Zemindar or other proprietor of land, when duly called upon by the Magistrate or by a Darogah or District Police Officer, to render assistance in the suppression of rebellion or the arrest of rebels, mutineers, or deserters, shall refuse or neglect to use all the means in his power for rendering such assistance, the Magistrate, on proof of such refusal or neglect, may impose a fine on the person so offending, or may confiscate his estate or interest in the land.

Proprietors of land refusing or neglecting to aid in the suppression of rebellion, &c.

VI. Whenever a Magistrate shall order the confiscation of a Village, or of any land or rights, or of any estate or interest in land, or the imposition of a fine under this Act, he shall report his proceedings to the Commissioner. The Commissioner may either confirm or modify or annul the order of the Magistrate as he may think fit: provided that he shall not make any order which the Magistrate could not have made.

Magistrate to report his proceedings to the Commissioner for confirmation or modification.

VII. When any fine is imposed under this Act upon the Inhabitants of a Village or members of a tribe, the amount shall be assessed upon the Inhabitants of the Village or members of the tribe (as the case may be) by a punchayet appointed by the Magistrate, or in such other mode as the Magistrate may direct; and the assessment, when approved by the Magistrate, shall be final. Notice of the assessment, and of the time fixed by the Magistrate for the payment thereof, shall be given by affixing the same in some conspicuous place in the Village to which the order relates or where the persons liable to the fine reside.

Assessment of fines upon Inhabitants of Villages or upon members of tribes.

VIII. If the full amount assessed be not paid within the time fixed by the Magistrate, which shall not be less than thirty days from the date of the assessment, the amounts assessed may be levied by order of the Magistrate by distress and sale of the moveable property of the parties liable for the same; and in case no sufficient moveable property shall be found within the Village, any house or immoveable property and any rent-free or other saleable

Recovery of amounts assessed by sale of the property, moveable and immoveable, of defaulters.

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saleable tenure belonging to the defaulter may be sold by order of the Magistrate for the purpose of realizing the amount due from him. In the

Or by sale of the Village. case of a fine imposed on the Inhabitants of a Village, the

Magistrate may direct the Collector to sell the Village for the amount of the assessment remaining unpaid, unless the owner or owners of the Village shall pay such amount. The sale shall be subject to all the rules applicable to sales for the recovery of arrears of Revenue, save that it shall not in any case be necessary to obtain the sanction of the Sudder Board of Revenue or Board of Revenue to such sale. In the event of such sale

Owner of Village may recover arrears of assessment paid by him. taking place, or of the owner or owners making good the arrears of assessment to save the Village from sale, he or they may recover the arrears from the parties liable for the same in the same manner in which arrears of Rent may be recovered.

Provido. Provided that, if the sum realized by the sale fall short of the arrears due, the owner or owners of the Village shall not recover more than the amount realized by the sale.

IX. Any confiscation of a Village under Section I of this Act shall have the effect of cancelling all under-tenures in the Village ; and shall authorize the ejectment of all tenants or cultivators of land therein ; and shall also have the effect of avoiding all incumbrances of the whole or any part of the Village which shall have been created after the date of the commission of the offence mentioned in the Magistrate's order, and all incumbrances created before the date of the commission of the offence if the incumbrancer shall have been in possession at the time, and also all incumbrances made after the passing of this Act unless the same shall have been made and registered three months before the commission of the offence or the day specified in the Magistrate's order as the date of the commission of the offence : and every sale of a Village under this Act shall have the same effect as a confiscation, except that it shall cancel such under-tenures only as belong to persons who have made default in payment of the amount assessed upon them.

X. All the provisions of this Act, which authorize the imposition and assessment of a fine upon the Inhabitants of a Village, shall extend to the Inhabitants of any Mohulla or Division of a City or Town ; and the amount of any fine imposed under this Section, if not paid, shall be levied by order of the Magistrate by distress and sale of the moveable

Act to extend to authorize the imposition and assessment of a fine on Inhabitants of Divisions of Cities or Towns.

able property of the parties liable for the same; and in case no sufficient moveable property shall be found within the Mohulla or Division, any house or immoveable property and any rent-free or other saleable tenure belonging to the defaulter may be sold by order of the Magistrate for the purpose of realizing the amount.

XI. Any fine imposed under Section V of this Act may be recovered in the manner above prescribed for the recovery of assessments, or by sale of the estate of the person liable to the fine; and such sale shall be made by the Collector on the requisition of the Magistrate, and shall be subject to all the rules applicable to the sale of estates for demands recoverable by the same process as arrears of Revenue, save that it shall not in any case be necessary to obtain the sanction of the Sudder Board of Revenue or Board of Revenue to such sale.

XII. No appeal shall lie from any order passed by a Magistrate in carrying out the provisions of this Act; but, except as otherwise provided, all orders and proceedings of the Magistrate shall be subject to the revision and control of the Commissioner, whose order shall be final.

XIII. If the Governor General in Council or the Executive Government shall see fit to remit any confiscation under this Act, all persons affected by such confiscation shall be restored to their rights as if no such confiscation had ever taken place.

XIV. No action or other proceeding shall be commenced or prosecuted against any person for any thing done under the authority of this Act.

XV. This Act shall take effect only in those Districts or places to which it shall be extended by order of the Governor General in Council or of the Executive Government of any Presidency or place. In the event of this Act being extended to any Districts or places subject to the Presidency of Fort St. George or to the Presidency of Bombay, the powers vested by this Act in the Commissioner shall be exercised by such Officer or Officers as the Executive

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Executive Government may appoint ; and all reports required to be made to the Commissioner shall be made to such Officer or Officers.

XVI. The word "Magistrate" shall include every person authorized by the Executive Government to exercise the powers vested in a Magistrate by this Act; and the word "European" shall include any person usually designated a European British subject.

Duration of Act.

XVII. This Act shall continue in force for two years.

