

ACT No. XX OF 1858.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 18th May 1858.)

AN ACT to facilitate the recovery of land and other real property, of which possession may have been wrongfully taken during the recent disturbances in the North-Western Provinces of the Presidency of Bengal.

WHEREAS there is reason to believe that, during the recent disturbances in the North-Western Provinces of the Presidency of Bengal, many persons have, without authority of law, been dispossessed of land or other real property; and it is expedient to provide a more easy and speedy means whereby they may obtain redress than is afforded by the ordinary remedy of a regular Civil action: It is enacted as follows:—

I. It shall be lawful for the Executive Government of the North-Western Provinces of the Presidency of Bengal, to appoint one or more Special Commissioners for the summary determination of cases of wrongful dispossession of land or other real property in any part of the territories subject to its jurisdiction; and to assign, from time to time, such local jurisdiction to the Special Commissioner or Commissioners so appointed as may appear proper.

II. Whenever any Special Commissioner, appointed under this Act, shall be vested, by order of such Executive Government, with jurisdiction in any District or Districts or in any part or parts of any District or Districts, notice thereof shall be given by a written proclamation, of which copies shall be affixed in the several Courts and in the Offices of the several Collectors and Magistrates of such District or Districts; and the powers heretofore vested in the Courts of such District or Districts, in respect of all cases cognizable by the Special Commissioners appointed under this Act, shall be suspended until such Courts shall

shall be informed, by an order under the signature of the Secretary to Government, that the local jurisdiction of the Special Commissioner has ceased, of which notice shall be given by proclamation in the manner aforesaid. Provided that nothing in this Section shall

Proviso. interfere with the trial and decision of any case which may be pending before any Court at the time of the passing of this Act, unless such case be transferred for trial and decision to a Special Commissioner appointed under this Act.

III. Any case pending before any Court sitting as a Court of original Disposal of pending cases. jurisdiction at the time of the passing of this Act, in respect of a matter made cognizable by a Special Commissioner appointed under its provisions, shall, on the application of the party complaining, be transferred to the Special Commissioner within the limits of whose jurisdiction the property in dispute is situate; and such Commissioner shall summon the Defendant and proceed to dispose of the case in the same manner as if it had been instituted before himself.

IV. The Special Commissioners appointed under this Act may hold Courts of the Commissioners where to be held. a Court at any place within the limits of their jurisdiction, which may appear most convenient for the trial of cases brought before them.

V. Whenever any Special Commissioner shall be vested with jurisdiction under this Act, such Commissioner shall issue Issue of Proclamation. a proclamation requiring all persons within the limits of his jurisdiction who may, without authority of law, have taken possession of any land or other real property, situated within such limits, subsequently to the 10th May 1857, to deliver up the same, within a period to be fixed in the proclamation, to the party who was in possession at the time when such unlawful possession was taken; and warning all persons that, in the event of their failing to comply with such requisition, and of its being afterwards proved, on the complaint of the party ousted, that they had, without authority of law, taken possession of the land or other real property mentioned in the complaint subsequently to the said 10th May 1857, and that they continue in possession of the same, they will not only be ejected from such land or other real property, and be compelled to account for any mesne profits that may have accrued during the period that they may have held

held possession thereof, but will also be liable to such punishment as the Special Commissioner may award under the powers vested in him by this Act. Copies of such proclamation shall be affixed in the Court of the Special Commissioner, and in the several Courts and in the Offices of the several Collectors and Magistrates of the District or Districts to which the jurisdiction of the Special Commissioner may extend.

VI. After the expiration of the period mentioned in the proclamation, any person who may, without authority of law, have been dispossessed of any land or other real property subsequently to the said 10th May 1857, may apply to the Commissioner, within whose jurisdiction such land or other real property is situate, to be re-instated in the possession of the same. The application may be written on plain paper, and shall contain the following particulars:—

Applications by persons unlawfully dispossessed.

1. Name, description, and place of abode of the Plaintiff.
2. Name, description, and place of abode of the Defendant.
3. The subject of the complaint, the title under which the Plaintiff claims to have been in possession thereof, and the date on which he was dispossessed.

VII. Whenever such application may be made, the Special Commissioner shall examine the Plaintiff on oath or solemn affirmation as to the truth of his complaint; and if satisfied that there is probable cause for instituting the complaint, he shall issue a summons requiring the Defendant to appear and make defence in person on a day to be fixed in the summons; or if he see sufficient cause for so doing, he may issue his warrant for the arrest of the Defendant and for his being brought before his Court on a day to be fixed in the warrant. Provided that the Special Commissioner may, for any good or sufficient reason, excuse the Plaintiff or Defendant from attending his Court in person and allow him to appear by a duly authorized representative who may be examined instead of such Plaintiff or Defendant.

Procedure before day of hearing.

VIII. On the day fixed for the appearance of the Defendant, the parties shall bring their witnesses into Court, together with any documents on which they may intend to rely in support of their respective statements; and if either party require the assistance

Attendance of witnesses.

assistance

assistance of the Special Commissioner to procure the attendance of a witness on such day, he shall apply to the Special Commissioner in sufficient time before the day fixed for the appearance of the Defendant, and the Special Commissioner shall issue a subpoena requiring such witness to attend his Court on that day.

IX. On the day fixed for the appearance of the Defendant, or as soon after as may be practicable, the Special Commissioner shall proceed to examine the parties or their representatives (in cases where personal attendance is excused) or such of them as may be present, and their witnesses ; and if, upon such examination, and after inspecting the documents of the parties, and making any further enquiry which may appear to him necessary, the Special Commissioner shall be of opinion that the complaint is substantiated, he shall order the Plaintiff to be put again into possession of the property in dispute, and to be maintained in possession thereof: he may also adjudge the Plaintiff to be entitled to recover from the Defendant mesne profits for the period during which the Defendant may be found to have been in possession of the property. It shall further be lawful for the Special Commissioner, on proof that the Defendant continued in possession of the property in dispute after the expiration of the period fixed by the proclamation, to sentence him to imprisonment in the Criminal jail with or without labor for a period not exceeding seven years, or to a fine, or to both imprisonment and fine.

X. The provisions of the Regulations and Acts for procuring the attendance of witnesses, and for the examination, remuneration, and punishment of witnesses in suits before the Civil Courts, shall be of equal force and effect in complaints tried under this Act.

XI. The order of the Special Commissioner for giving possession of the whole or any portion of the land or other real property to which the complaint may relate, shall be immediately executed ; and it shall be competent to the Special Commissioner to call in the aid of the Magistrate, if necessary, for the purpose of enforcing the same. If the order adjudge the Defendant to be liable to pay to the Plaintiff mesne profits, it shall specify the period for which the same shall be paid, and the

the Commissioner shall refer the case to the Collector to adjust the amount. In cases so referred, it shall be competent to the Collector to levy the amount which may be awarded by him, and also the amount of any fine which may have been imposed by the Special Commissioner upon the Defendant, by the same process as is authorized for the recovery of arrears of the public Revenue. All proceedings of a Collector under this Section shall be subject to the control and revision of the next superior Revenue authority, whose order shall be final.

XII. All orders passed by a Special Commissioner in cases cognizable under this Act, shall be final; but nothing in this Act shall be held to preclude either of the parties to the case from instituting a regular suit to establish his right to the property in dispute, under the rules applicable to regular Civil actions.

Order of Special Commissioner to be final.
Saving of right to institute a regular suit.

XIII. This Act may be extended by the Governor General in Council, or by the Executive Government of any Presidency or place, to any District or Districts within the limits of their respective Governments in which disturbances shall have taken place subsequently to the said 10th May 1857; and it shall be lawful for the Governor General in Council or such Executive Government to exercise, in the District or Districts to which this Act may be so extended, all the powers vested by this Act in the Executive Government of the North-Western Provinces.

Act may be extended by the Executive Governments.

XIV. This Act shall continue in force for the period of three years.

Duration of Act.

