

ACT No. XLVIII OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor-General on the 26th December 1860.)

An Act to amend Act XIII of 1856 (for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca).

Whereas it is expedient to amend certain provisions of Act XIII of 1856; It is enacted as follows:—

I. Sections XVIII, XV, XXXII, XXXIII, XXXIV, XXXVIII, XXXIX, XL, XLIII, L, LI, LII, LV, LIX, LXVII, LXXV, LXXVI, LXXVIII, LXXXI, LXXXII, XCIX, CV, CXII, and CXV, of Act XIII of 1856 *(for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca)*, are repealed; and the following Sections shall be read with and taken as part of the said Act XIII of 1856.

II. Whoever, being a member of the Police Force or being employed in any Police Office, asks for or takes any bribe or unauthorized reward, may be dismissed by order of the Commissioner, and upon conviction before a Magistrate shall be liable to a fine not exceeding five hundred Rupees, or to imprisonment with or without hard labor for any term not exceeding six months.

III. No member of the Police Force, to be enrolled under this Act, shall be at liberty to resign his office, or to withdraw himself from the duties thereof, unless expressly allowed so to do in writing by the Commissioner, or unless he shall have given to the Commissioner six months' notice of his intention if a member of the mounted branch of the said Force, and two months' notice if a member of

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any other branch; and every member of the said Force, who shall so resign or withdraw himself without such leave or notice, shall be liable, on the order of the Commissioner, to forfeit all arrears of pay then due to him; and, on the sentence of a Magistrate, if such Magistrate shall think fit, to pay a fine not exceeding fifty Rupees, or to be imprisoned with or without hard labor for any term not exceeding two months.

IV. *Clause 1.* Whenever in the Towns of Calcutta and Madras, or in any of the Stations of the Straits Settlement, any person is charged before the Magistrate with having committed any of the offences mentioned in Sections XXVII, XXVIII, and XXIX of Act XIII of 1856, or with having committed within the local limits of the Supreme Court or of the Courts of Judicature of such Stations, the offence mentioned in Section V of Act XXXI of 1838, and by reason of the value of the property charged to have been stolen, embezzled, misapplied, or obtained or attempted to be obtained under false pretences, or for any other cause, the offence is not by law summarily cognizable by a single Magistrate, and some material witness is about to sail from the Port, it shall be lawful for two Magistrates, upon proof of the matters aforesaid, if they shall deem it probable (with reference to the time appointed for the departure of the ship or vessel in which such witness is about to sail) that the prosecution by indictment in the Supreme Court or in the Court of Judicature of the person so charged will be ineffectual in consequence of the absence of such material witness, to hear and determine the charge summarily under this Act, and, on conviction, to sentence the officer to imprisonment with or without hard labor for a term not exceeding twelve months, and in cases falling under the said Section XXVII, also to sentence such offender, if a male, to corporal punishment not exceeding thirty stripes of a rattan.

Clause 2. In the Town of Bombay a Magistrate may commit persons charged with such offences as aforesaid for trial before the Court of Petty Sessions, and the said Court may, on conviction, sentence the offender to a like term of imprisonment or punishment.

Clause 3. It shall be lawful for the said two Magistrates and the said Court of Petty Sessions respectively, if they deem that the charge is from any circumstances fit to be made the subject

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subject of prosecution by indictment rather than to be summarily disposed of, to commit the person charged for trial before the Supreme Court or Court of Judicature.

Restitution of stolen property, if forthcoming to owner, or imposition of fine on offender.
V. Upon a conviction for any of the offences mentioned in Sections XXVII, XXVIII, and XXIX of Act XIII of 1856, or under the foregoing Section of this Act, the Magistrate or Magistrates (as the case may be), and in Bombay the Court of Petty Sessions in cases committed to that Court, may order the restitution of the property forming the subject of the charge, if forthcoming, to the owner : and in case of its not being restored pursuant to such order, may impose on any person refusing or neglecting to restore the same a fine not exceeding the value of the said property, which the Magistrate or Court may order to be paid to the owner or his representative.

Imposition of fine (in addition to punishment for the offence) to indemnify owner for loss sustained.
VI. Upon a conviction for any of the offences mentioned in Sections XXVII, XXVIII, and XXIX of Act XIII of 1856, and in Section IV of this Act, the Magistrate or Magistrates (as the case may be,) and in Bombay the Court of Petty Sessions in cases committed to that Court, may impose upon the offender, in addition to the punishment for the offence, a fine not exceeding the loss appearing to be caused to the persons who have suffered thereby, and may pay or distribute the proceeds of the said fine or any part thereof, to or for the benefit of the said persons.

Assaulting Police-man in execution of duty.
VII. Whoever assaults or resists, or aids or incites any person to assault or resist any Police Officer in the execution of his duty, shall be liable to a fine not exceeding two hundred Rupees, or to imprisonment with or without hard labor for any term not exceeding six months, and if the offender shall at the time of committing the offence be undergoing a former sentence of imprisonment, the imprisonment awarded under this Section shall commence and take effect from and after the expiration of such former sentence.

Penalty for escaping from a place of legal confinement.
VIII. Whoever escapes or attempts to escape from or out of any legal custody, shall be liable to be imprisoned with or without hard labor for any term not exceeding three months; and such imprisonment shall commence and take effect from

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and after the expiration of any sentence of imprisonment under which such person may be confined at the time of committing the offence aforesaid.

IX. Whoever, without satisfactory excuse, wilfully trespasses in or on any dwelling-house or premises, or any land or ground attached thereto, not thereby causing any actual damage, or on any ground belonging to Government, or appropriated to public purposes, shall be liable to a fine not exceeding twenty Rupees.

Penalty for wilful trespass on property.

X. If any person, having sufficient means, neglects or refuses to maintain his wife or any legitimate or illegitimate child unable to maintain himself, it shall be lawful for a Magistrate, upon the proof thereof, to order such person to make a monthly allowance for the maintenance of his wife or such child as aforesaid, at such rate, not exceeding fifty Rupees in the whole, as to the Magistrate shall seem reasonable; and if such person shall wilfully neglect to comply with the said order, the Magistrate may, by warrant, direct the amount due to be levied in the manner hereinafter provided for levying fines; or may order him to be imprisoned with or without hard labor for any term not exceeding one month. Provided always that any such person shall be at liberty to apply to the Magistrate, from time to time, for a reduction of such monthly allowance, on proof of an alteration in the circumstances of himself, his wife, or child, justifying such reduction. Provided also that if such person offers to maintain his wife on condition of her living with him, and his wife shall refuse to live with him, it shall be lawful for the Magistrate to consider any grounds of refusal stated by such wife; and he may make the order aforesaid, notwithstanding such offer aforesaid, if he shall be satisfied that such person is living in adultery or that he has habitually treated his wife with cruelty.

Magistrate may make order of maintenance for wives and children.

Proviso.

XI. Whoever, in the Towns of Calcutta and Madras has or keeps any Hotel, Tavern, Punch-house, Ale-house, Arrack or Toddy-shop, or place for the sale or consumption of Gunja, Chandoo, or other preparation of Opium, Hemp, or other intoxicating drug, plant, or substance, or any Eating-house, Coffee-house, Boarding-house, Lodging-house, or other place of public resort and entertainment, wherein provisions, liquors, or refreshments are sold or consumed (whether the same be kept or retailed therein

Calcutta and Madras.

Penalty for keeping Taverns and places of public entertainment without a license from the Commissioner of Police.

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therein or procured elsewhere), without a license from the Commissioner of Police; and whoever in the Town of Bombay has or keeps any such Hotel, Tavern, shop, or place, or who sells by retail in any place any spirituous or fermented liquors without such license, shall be liable to a fine not exceeding fifty Rupees for every day that such unlicensed house or place of any kind is kept open, or that such unlicensed sale is continued; provided that nothing in this Section shall apply to the sale, in reasonable quantities, of any drug, plant, or substance in any Druggist's or Chemist's shop for medicinal purposes only.

Bombay.

Penalty for keeping such house and for retailing spirits in any place without a license.

XII. The Commissioner of Police shall, from time to time, grant licenses to the keepers of such houses or places of public resort and entertainment as aforesaid in the said Towns, and upon such conditions, to be inserted in every such license,

Licenses by Commissioner of Police for keeping Taverns and places of public entertainment.

as he, with the sanction of the Local Government, from time to time, shall order, for securing the good behaviour of the keepers of the said houses or places of public resort and entertainment, and the prevention of drunkenness and disorder among the persons frequenting or using the same; and the said licenses may be granted by the said Commissioner for any term not exceeding one year; provided always that it shall not be lawful for the said Commis-

Licenses to be granted only to persons who have taken out the requisite Abkaree licenses.

sioner to grant a license to open or establish, or keep open, any house of public entertainment in which any provisions, liquors, or refreshments of any kind, or in which any Gunja, Chandoo, or other preparation of Opium, Hemp, or other intoxicating drug, plant, or substance, may be sold or consumed, to any person who has not taken out a license for the retail sale of such articles, if a license be necessary, under the Abkaree or Excise Laws for the time being in force; and any such license granted by the Commissioner shall become void whenever the license necessary under the Abkaree or Excise Laws shall terminate or be re-called. And every holders of such license may be required by the Commissioner to fix in a conspicuous part of the house or place specified in the license a board, on which shall be legibly painted, in the English and Vernacular languages, the name of the holder, and the articles he is licensed to deal in. For every license granted under this Section there shall be levied a fee of one Rupee. But such fee shall not interfere with the levy of any fee, tax, or duty on licenses to retail

Fees on licenses.

spirituous liquors in the Islands of Bombay and Colaba chargeable under Act V of 1842.

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XIII. A breach of any of the conditions of a license granted under the last preceding Section shall, besides forfeiture of the license, be punishable by a fine not exceeding one hundred Rupees, and such fine shall be recovered from the person licensed, notwithstanding that such breach may have been owing to the default or carelessness of the servant or other person in charge of the shop or place of sale.

XIV. On proof to the satisfaction of the Commissioner of Police, or of a Magistrate, that a house is used as a common brothel, or lodging-house for prostitutes, or disorderly persons of any description, to the annoyance of the respectable inhabitants of the vicinity, such Commissioner or Magistrate may summon the owner or tenant of the house to answer the complaint, and on being satisfied that the house is so used, and is therefore a source of annoyance and offence to the neighbours, may order the owner or tenant to discontinue such use of it, and if he shall fail to comply with such order within five days, may impose upon him a fine to the extent of twenty-five Rupees for every day thereafter that the house shall be so used.

XV. When any cards, dice, gaming-table, or cloth, board, or other instruments of gaming, are found in any house, room, or place, if information has been given on oath to the Commissioner of Police that it is suspected of being used as a common gaming-house, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, room, or place is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Police Officer or any of his assistants.

XVI. Whoever takes from any child, apparently under the age of fourteen years, any article whatsoever as a pawn, pledge, or security for any sum of money lent or advanced to such child, or without the knowledge and consent of the owner of the article, buys from such child any article whatsoever, shall be liable to a penalty not exceeding one hundred Rupees.

XVII. Whoever, dealing in any articles by retail, has, in or about his shop or premises, or otherwise in his possession, without lawful or satisfactory excuse, any false instrument for weighing, or any false weight, or false measure of length

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or capacity, shall be liable to a fine not exceeding fifty Rupees, or to imprisonment with or without hard labor for a term not exceeding one month; and every such false instrument, weight, or measure shall be forfeited and destroyed. Weights and measures shall be held to be false when they do not agree with standards to be kept in the Office of the Commissioner of Police, and in Bombay when they do not agree with the standards to be kept in the Offices of the Commissioner of Police and of the Clerk of the Markets.

Standard of weights and measures.

XVIII. Any Inspector or superior Officer of Police may enter any shop or premises for the purpose of inspecting the weights and measures and instruments for weighing kept or used therein, and may seize any weight, measure, or instrument for weighing which he may have reason to believe is false. The power granted by this Section may, in Bombay, be exercised by the Clerk of the Markets.

Powers of Inspector, &c., to enter shops to seize false weights and measures.

XIX. Whoever, within such limits as shall be from time to time defined by the Commissioner of Police with the sanction of the local Government, in any public street, road, thoroughfare, or place of public resort, commits any of the following offences, shall be liable to a fine not exceeding fifty Rupees:—

Penalty for the following offences in public streets, &c.

1. Whoever drives or rides any animal, or drives any vehicle, in a manner so rash or negligent as to indicate a want of due regard for the safety of others.

Furious or negligent driving or riding.

2. Whoever drives, rides, or leads any elephant or camel without permission from the Commissioner of Police.

Driving, &c., elephant or camel.

3. Whoever drives any vehicle of any description, at any time between three quarters of an hour after sun-set, and one hour before sun-rise, without a sufficient light, except when, in the opinion of the Magistrate, there may be sufficient moonlight to render such light unnecessary.

Driving a vehicle without a sufficient light.

4. Whoever, without reasonable cause, shall drive a carriage, cart, or other vehicle otherwise than on the left or near side of the road.

Driving vehicle otherwise than on left side of the road.

5. Whoever

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5. Whoever exposes for show, hire, or sale any horse or other animal, or any carriage, or cleans or dresses any horse or other animal, or cleans any carriage or other conveyance, or makes or repairs any part of any cart or carriage, except in cases of accident where repair on the spot is necessary; or trains or breaks any horse, except in such place and at such times as may be allowed by the Commissioner.

Exposing for show, horses, or cleaning or repairing conveyances, or training horses in places not allowed by the Commissioner.

6. Whoever negligently lets loose any horse, or suffers to be at large any ferocious dog without a muzzle, or sets on or urges any dog or other animal to attack, worry, or put in fear any person, horse, or other animal.

Letting loose horses, ferocious dogs, &c.

7. Whoever, by negligence or ill-usage in driving cattle, causes any mischief to be done by such cattle, or in any wise misbehaves himself in the driving, management, or care of such cattle, so as to cause mischief or obstruction.

Negligence in driving cattle.

8. Whoever, being in charge of a cart, carriage, or horse, leaves it at such a distance as not to have the same under due control.

Leaving cart, &c., without control.

9. Whoever causes any cart or truck, with or without horses or cattle, to remain or stand longer than may be necessary for loading or unloading, except at places lawfully appointed for the purpose; or leaves any cart, carriage, or truck, or fastens any horse or other animal, so as to cause any obstruction in any thoroughfare.

Obstructing road or thoroughfare by cart, carriage, &c.

10. Whoever leads or rides any horse or other animal, or draws or drives any cart, carriage, or truck upon any foot-way, or fastens any horse or animal so that it can stand across or upon any foot-way.

Obstructing foot-way.

11. Whosoever leaves any box, bale of goods, or any other thing whatsoever so as to cause obstruction in any thoroughfare.

Obstructing thoroughfare by boxes, bales of goods, &c.

12. Whoever exposes for sale, or sets out in or upon any stall, booth, show-board, cask, or basket, or otherwise, any meat, fish, vegetable, fruit, groceries, or any other thing whatsoever, so as to cause obstruction in any thoroughfare.

Exposing articles for sale so as to cause obstruction.

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13. Beating drums, tom-tom, &c. Whoever beats a drum or tom-tom, or blows a horn or trumpet, or beats or sounds any brass or other metal instrument, or utensil, except at such times and places as shall be from time to time allowed by the Commissioner of Police.
14. Lighting fires and discharging guns, fireworks, &c. Whoever sets fire to, or burns any straw or other matter, or lights any bonfire, or wantonly discharges any fire arm or air-gun, or lets off or throws any fire-work, or sends up any fire-balloon, in or near any public street, road, or thoroughfare, except at such times and places as shall from time to time be allowed by the Commissioner of police.
15. Illuminations. Whoever, without the consent of the Commissioner of Police, puts up any post or other thing on the side of any public street, for the purpose of affixing thereon lamps to illuminate the street.
16. Affixing bills, or otherwise defacing houses, &c. Whoever, without the consent of the owner or occupier, affixes any bill or notice, or any paper, against or upon any building, wall, or fence, or writes upon, defaces, or marks any such building, wall, or fence with chalk, or paint, or in any way whatsoever.
17. Bathing, &c., in public street or aqueduct. Whoever bathes or washes himself in any public street, or in, upon, or by the side of any public tank, reservoir, or aqueduct, not being a place set apart for such purpose.
18. Obstructing persons at bathing places. Whoever obstructs or incommodes a person bathing at any place set apart as a bathing place, by wilful intrusion, or by using such place as a landing-place, or by anchoring or otherwise fastening or keeping boats, or by washing horses, cattle, or dogs at or near such place, or in any other way.
19. Indecent language. Whoever uses any indecent, threatening, abusive, or insulting words, or behaves in a threatening or insulting manner, or posts up or affixes, or exhibits any indecent, threatening, abusive, or insulting printed, lithographed, or written paper or drawing, with the intent to provoke a breach of the peace, or whereby a breach of the peace may be occasioned.

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XX. The Commissioner of Police in Bombay shall, from time to time, subject to the orders of the local Government, make and publish in the Government Gazette, rules for the blasting of rocks in or near any public road, street, thoroughfare, or place, in the Islands of Bombay and Colaba; and may give licenses for such operations when he shall think fit, and every person who shall blast any such rocks, otherwise than according to the provisions of such rules, or who shall violate any condition of a license granted under this Section, shall be liable to a fine not exceeding one hundred Rupees.

XXI. Whoever cruelly beats, ill-treats, abuses, or tortures, or causes or procures to be cruelly beaten, ill-treated, abused, or tortured any animal, shall, for every such offence, be liable to a fine not exceeding one hundred Rupees, and in default thereof to imprisonment with or without hard labor for a period not exceeding three months.

XXII. Whoever is found drunk and incapable of taking care of himself, or is guilty of any riotous, disorderly, or indecent behaviour in any street or thoroughfare, or in any place of public amusement or resort; and whoever is guilty of any violent, disorderly, or indecent behaviour in any Police Court, Office, Station, or Section House, shall be liable to a fine not exceeding twenty Rupees, or to imprisonment, with or without hard labor, for a term not exceeding fourteen days.

XXII. No boat shall ply for passengers in the Port of Calcutta, or in any of the Ports of the said Settlement, unless duly registered at the Police Office. The following particulars shall be entered in the Register:—

First.—Number of the boat.

Second.—Name and residence of the owner, and of the manjee.

Third.—Number of the crew.

Fourth.—Number of persons the boat is permitted to carry.

The registration shall be in force for one year; and every change of the owner or manjee within that time shall be therein noted. A fee of one Rupee shall be paid on registration.

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The owner or manjee of every such registered boat shall cause to be painted on a conspicuous part of it, in the English and Vernacular languages, the registered number thereof, the number of the crew, and the number of passengers permitted to be carried.

Name of owner or manjee, number, &c., to be painted.

The owner or manjee of a boat plying for passengers without being duly registered, or carrying more passengers, or with a less crew than is stated in the register, or not having the prescribed particulars painted on it, shall be liable to a fine not exceeding fifty Rupees.

Penalty.

XXIV. For every summons issued by the Commissioner of Police or a Magistrate under this Act, there shall be paid a fee of eight annas, and for every subpoena so issued there shall be paid a fee of four annas. Provided that it shall be lawful for such Commissioner or Magistrate in any case to remit such fee or fees if he shall be satisfied that the party complaining is unable to pay the same, or if the complaint is made by any Police Officer in execution of his duty.

Fees on summons and subpoena.

Proviso.

XXV. When any Magistrate is desirous of examining any prisoner confined in a Civil or Criminal Jail or House of Correction as a witness or defendant, with respect to any charge, case, or proceeding pending before him, it shall be lawful for such Magistrate to issue an order addressed to the Keeper or Governor of the said Jail or House of Correction, requiring him to bring such prisoner in proper custody, at a time to be therein named, to the Police Office, for examination; and the Keeper or Governor of the said Jail or House of Correction, on the receipt of such order, shall act in accordance therewith, and shall provide for the safe custody of the prisoner during his absence from prison for the purpose aforesaid.

Power to Magistrates to order prisoners to be brought up to the Police Office.

XXVI. All fines and penalties imposed by a Magistrate of Police under the authority of this Act, or of any other Act heretofore passed, or which shall hereafter be passed, if no other means for enforcing the payment of such fines and penalties are or shall be provided

Levy of fines.

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provided by such Act, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender by warrant of the Magistrate. When a warrant of distress is issued, the Magistrate may order the offender to be detained and kept in safe custody, until return can be conveniently made to such warrant, unless the offender enter into a recognizance, with or without sureties, conditioned for his appearance before him on the day appointed for such return, such day not being more than eight days from the time of taking such recognizance; but if, before issuing such warrant of distress, it shall appear to the Magistrate, by the admission of the offender or otherwise, that no sufficient distress can be had within the jurisdiction of such Magistrate whereon to levy such fine or penalty, he may, if he think fit, refrain from issuing such warrant of distress; and in such case, or if such warrant shall have been issued, and, upon the return thereof, such insufficiency as aforesaid shall be made to appear to the Magistrate, he shall, by warrant, commit the offender to jail, there to be imprisoned, with or without hard labor, for any term not exceeding two months where the amount of the fine shall not exceed fifty Rupees, and for any term not exceeding four months where the amount shall not exceed one hundred Rupees, and for any term not exceeding six months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Punishment for non-attendance on summons or subpoena.
XXVII. When any person shall be served with a summons or subpoena under this Act, and shall fail to attend before the Commissioner or Magistrate issuing such summons or subpoena, according to the exigency thereof, he shall be liable to a fine not exceeding twenty Rupees for every such offence, and in default of payment to imprisonment for one week if the fine be not sooner paid.

Stray animals to be impounded and sold unless redeemed within ten days.
XXVIII. It shall be lawful for all persons, and it is hereby declared to be the special duty of all Police Officers, to seize all cattle or other animals found straying upon the roads, streets, or thoroughfares, or trespassing on any of the grounds or property of the inhabitants, or of the Government, and to confine such animals in any public pound which shall for such purpose be, from time to time, appointed by the Commissioner of Police; and if such animals shall not be respectively redeemed by the owners of the same within ten days after being so pounded, by paying to the person to be appointed by the said Commissioner

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to have charge of such pound, the fee of eight annas for every goat, sheep, or hog, and one Rupee for every other animal, together with the expenses of feeding the same while impounded, according to a daily rate to be settled by the said Commissioner, such animals so impounded shall be publicly sold, and the produce of such sale, after paying the said fee, and also the expenses of feeding shall be paid to the owners of such animal, or, in default of their claiming such produce for the space of fifteen days after such sale, shall be retained by the said Commissioner, and credited to the Police Superannuation Fund.

XXIX. *Clause 1.* All actions and prosecutions against any person, which may be lawfully brought for anything done, or intended to be done, under the provisions of this Act, shall be commenced within three months after the act complained of shall have been committed, and not otherwise; and notice in writing of such action, and of the cause thereof, shall be given to the defendant one month at least before the commencement of the action; and in every such action it shall be expressly alleged in the plaint, that the act complained of was done maliciously and without reasonable or probable cause, and if at the trial of any such action, upon the general issue being pleaded as hereinafter provided, the plaintiff shall fail to prove such allegation, he shall be non-suited, and a verdict shall be given for the defendant.

Clause 2. The defendant in any such action may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant; and if a verdict shall pass for the defendant, or the plaintiff shall become nonsuit, or discontinue any such action after issue joined, or if, upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same, as any defendant hath by law in other cases; and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the Judge, before whom the trial shall be, shall certify his approbation of the action, and of the verdict obtained thereupon.