

ACT No. XX OF 1862.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 19th July 1862.)

An Act to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal; and to suspend the operation of certain Sections of Act VIII of 1859 in the said High Court.

WHEREAS the High Court of Judicature at Fort William in Bengal, constituted by Her Majesty's Letters Patent, dated the 14th day of May 1862, was established by the publication of the said Letters Patent subsequently to the date of the passing of Act X of 1862 (*to consolidate and amend the law relating to Stamp Duties*), and it is doubtful whether the proceedings in the said High Court are excepted from the Stamp Duties imposed by Section XXX of the said Act X of 1862 according to the Schedule B thereunto annexed; and whereas it is expedient as a temporary arrangement to provide that Court Fees, and not Stamp Duties, shall be paid in respect of proceedings in, and business coming before, the said High Court in the exercise of its ordinary original jurisdiction, and on appeal from its ordinary original Civil jurisdiction, according to the practice which prevailed in the late Supreme Court of Judicature at Fort William in Bengal, and that Stamp Duties shall be levied on all Instruments and Writings specified as requiring Stamps in the Schedule B annexed to the said Act X of 1862, which shall be filed, exhibited, or recorded in, or which shall be received or furnished by the said High Court in the exercise of its appellate jurisdiction, not being on appeal from its ordinary original Civil jurisdiction, or in the exercise of its jurisdiction as a Court of Reference and Revision in Criminal cases, in the same manner as such Stamp Duties were levied in the late Court of Sudder Dewanny and Nizamut Adawlut for the Lower Provinces of the Presidency of Fort William in Bengal; and whereas, by an arrangement made between the Government and the said Supreme Court certain Officers of that Court were remunerated

PRICE TWO ANNAS.

ACT No. XX OF 1862.

remunerated for their services by fixed salaries instead of by fees, and the fees received by such Officers were paid to the account of Government, and formed into a general fund out of which the salaries of such Officers were defrayed, and it is desirable to continue this arrangement in respect to such of the said Officers attached to the said Supreme Court who, as a temporary measure, have been appointed Officers of the said High Court, and in respect to any Officers who may hereafter be appointed to the said High Court; and whereas, it is expedient to suspend the operation in the said High Court of certain Sections of Act VIII of 1859 (*the Code of Civil Procedure*) relating to the manner in which the judgments and orders of the Courts of Civil Judicature are to be recorded; It is enacted as follows:—

I. It shall be lawful for the said High Court of Judicature to prepare and settle Tables of Fees to be received as Court Fees and to be paid to such Officer or Officers as the said High Court shall direct in respect of proceedings in or business coming before such High Court in the exercise of its ordinary original jurisdiction, and on appeal from its ordinary original Civil jurisdiction, and no Stamp Duties shall be chargeable in respect of such proceedings or other business under Section XXX of the said Act X of 1862. The said High Court may from time to time add to or reduce or alter or amend the Tables of Fees so prepared as it may deem necessary and proper. Provided that such Tables shall not be inconsistent with the provisions of any law for the time being in force, and provided also that, before such Tables or such amended Tables are issued, they shall have received the sanction of the Governor General in Council. The Tables of Fees so prepared and any amended Tables shall, as soon as they have received the sanction of the Governor General in Council, be published in the *Calcutta Gazette*, and from and after such publication no other fees than those sanctioned as aforesaid shall be taken by any Officer of the said High Court in respect of any Duty to which such Tables of Fees may relate.

II. No Instrument or Writing of any of the kinds specified as requiring Stamps in the Schedule B annexed to the said Act X of 1862, shall be filed, exhibited, or recorded in, or shall be received or furnished by, the said High Court of Judicature in any case coming before such Court in the exercise of its appellate jurisdiction under Section 15 of the said Letters Patent, or in the exercise of its extraordinary original jurisdiction under Sections 13 and 23 of the said Letters

Court empowered to prepare Tables of Court Fees in respect of business coming before it in the exercise of its ordinary original jurisdiction and on appeal from its ordinary original Civil jurisdiction.

(On what sides of the High Court, Stamp Duties to be levied.

ACT No. XX OF 1862.

Letters Patent, or as a Court of Appeal, Reference, or Revision under Sections 26 and 27 of the said Letters Patent, unless such Instrument or Writing be upon a Stamp of a value not less than that indicated by the Schedule B annexed to the said Act X of 1862, as the proper Stamp for similar Instruments and Writings in the said Sudder Court; anything in Section XXX of the said Act to the contrary notwithstanding, but subject to the proviso therein contained.

III. The fees received by the Officers of the said High Court under Section I of this Act, shall be paid to the account of Government, and the Officer or Officers of the said High Court, whose duty it shall be, under the orders of the said High Court, to receive the same, shall respectively cause all fees received by him or them to be duly and regularly entered in one or more book or books to be kept for that purpose in their Offices, distinguishing the fees under their several heads, and shall pay over the fees so received by them at such time and in such manner as the said High Court with the approval of the Governor-General in Council shall direct; and such Officers shall quarterly, within one month after the 31st day of March, the 30th day of June, the 30th day of September, and the 31st day of December in every year, render a true and faithful account in writing to an Officer to be appointed by the Governor-General in Council, of all such fees, in such form of account, and with such particulars of receipt or otherwise, and accompanied by such vouchers as the Governor-General in Council shall from time to time think proper to direct or require.

IV. Nothing in this Act shall be held to apply to the fees to be allowed to the Sheriff, Attorneys, or any Clerk or Officer of the said High Court who shall be paid by fees instead of by a fixed salary, or to the fees, if any, which such Sheriff, Attorneys, or any Clerk or Officer shall be allowed to receive in addition to any fixed salary.

V. The operation of the following Sections of the said Act VIII of 1859, namely, Sections 184, 185, 186, and 359, relating to the manner in which the judgments of the Courts of Civil Judicature are to be recorded, and so much of the said Act as extends the provisions of the foregoing Sections to the orders of the Courts of Civil Judicature not being judgments or decrees, is hereby suspended in the said High Court;

ACT No. XX OF 1862.

Court; and the said High Court and every Division Court and Judge thereof shall record their judgments and the orders passed by them respectively in such manner as the said High Court, shall by any general rule or rules from time to time direct.

High Court to record its judgments and orders as it shall by rule direct.

VI. The High Court may by its own rules fix the time within which appeals from judgments, orders, or decrees made by any Division Court or by any Judge or Judges of the said High Court in the exercise of its original jurisdiction shall be preferred.

Court may fix time for preferring appeals from judgments, &c., of its own Judges or Division Courts.

VII. Judgment may be signed in the said High Court upon every warrant of Attorney and *Cognovit actionem* upon which a judgment might have been signed in the said late Supreme Court if such Court had not been abolished, and every such judgment may be signed, enrolled, and enforced in and by the said High Court in the same manner, and in the same manner only, as it might have been in the said Supreme Court.

Judgment may be signed in High Court on any Warrant of Attorney or *cognovit* on which judgment might have been signed in the Supreme Court.

VIII. Whenever it shall appear necessary to a Judge of the said High Court that a decree made in the exercise of the ordinary original Civil jurisdiction of the said Court ought to be enforced before the amount of the costs incurred in the suit can be ascertained by taxation, the Judge may order that the decree shall be executed forthwith, except as to so much thereof as relates to the costs, and as to so much thereof as relates to the costs that the same may be executed as soon as the amount thereof shall be ascertained by taxation.

Execution may issue in certain cases before the amount due for costs has been ascertained, and execution for costs may issue subsequently when their amount is ascertained.

IX. Whenever anything is directed by the said Act VIII of 1859 to be done by or through a Pleader, the said High Court or any Judge thereof in the exercise of the ordinary original Civil jurisdiction of the said Court may authorize such act to be done by or through an Attorney at Law of the Court. Provided that no Attorney shall be authorized under the provisions of this Section to plead in the said Court or in any Division Court for any person.

Court in the exercise of its ordinary original Civil jurisdiction may, in certain cases, authorize acts required by the Code of Civil Procedure to be done by a Pleader, to be done by an Attorney.

Proviso.

X. This Act shall apply *mutatis mutandis* to the High Courts of Judicature which may be established at Madras and Bombay under Act 24 and 25 Victoria, Chapter 104, for those Presidencies respectively, whenever such Courts shall be

Application of Act to the High Courts at Madras and Bombay.

ACT No. XX OF 1862.

be established. Provided that the powers vested by this Act in the Governor General in Council shall be exercised in the Presidencies of Madras and Bombay by the Governors in Council of those Presidencies respectively.

XI. This Act shall be deemed to have had and to have effect as if it had actually passed and received the assent of the Governor General on the 1st day of July 1862.

Act to have effect from
1st July 1862.

XII. This Act shall continue in force until the 1st day of January 1863.

Duration of Act.