

ACT No. XII OF 1865.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 15th March 1865).

An Act to amend the Law relating to the custody of prisoners within the local limits of the original jurisdiction of Her Majesty's High Court of Judicature at Fort William in Bengal.

WHEREAS it is expedient that, within the local limits of the original jurisdiction of Her Majesty's High Court of Judicature at Fort William in Bengal, persons should, for the purpose of being received and detained in prison, be committed to the custody of an Officer appointed by the Government of Bengal, instead of to the custody of the Sheriff of Calcutta ; It is enacted as follows :—

Preamble.

1. In this Act :—

“ High Court.” “ High Court ” denotes Her Majesty's High Court of Judicature at Fort William in Bengal.

“ Magistrate.” “ Magistrate ” includes a Magistrate of Police appointed under 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*).

2. The forty-seventh, forty-eighth, forty-ninth, fiftieth, fifty-first and fifty-second Sections of Act XVIII of 1862 (*to repeal Act XVI of 1852 in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof, with amendments, and further to improve the administration of Criminal Justice in Her Majesty's Supreme Courts of Judicature*), and Act XXV of 1863 (*to empower Judges of the High Court and other authorities at Fort William in Bengal, to direct convicts to be imprisoned either in the House of Correction or the Great Jail of Calcutta, and to authorize the transfer of prisoners in certain cases from the House of Correction to the Great Jail and from the Great Jail to the House of Correction*) are hereby repealed.

3. After

After commencement of Act no one to be committed to Sheriff ;

And writs not to be issued to Sheriff.

3. After the commencement of this Act, no person shall be committed to the Sheriff of Calcutta to be received and detained in prison ; and no writ shall be awarded to the said Sheriff commanding him to arrest and seize the body of any offender.

Government of Bengal may appoint Superintendent of Presidency Jail.

4. It shall be lawful for the Government of Bengal to appoint an Officer who shall be called the Superintendent of the Presidency Jail, and who shall have authority to receive and keep prisoners committed to his custody under the provisions of this Act.

Persons sentenced by High Court to imprisonment or death to be delivered to the Superintendent of the Presidency Jail.

5. Whenever any person shall be sentenced by the High Court in the exercise of its original Criminal jurisdiction to imprisonment or to death, the Court shall cause such person to be delivered to the Superintendent of the Presidency Jail, together with the warrant of the said Court, and such warrant shall be executed by the said Superintendent and returned by him to the High Court when executed.

Persons sentenced by High Court to transportation or penal servitude to be delivered for intermediate custody to Superintendent.

6. Whenever any person shall be sentenced by the High Court in the exercise of its original Criminal jurisdiction to transportation or penal servitude, the Court shall cause such person to be delivered for intermediate custody to the said Superintendent, and the imprisonment of such person shall have effect from such delivery.

Persons sentenced by Magistrate to imprisonment or imprisoned for non-payment of fine to be delivered to Superintendent with a warrant.

7. Whenever any person shall be sentenced by a Magistrate of Police for the Town of Calcutta to imprisonment, and whenever any person shall be imprisoned for default of payment of any fine imposed by any such Magistrate, the Magistrate shall cause such person to be delivered to the said Superintendent together with a warrant of the Court.

Superintendent to detain such persons according to exigency of warrant, and to return same when executed.

8. The said Superintendent shall detain the person so delivered to him according to the exigency of such warrant, and shall return such warrant when executed to the Court whence it issued.

Persons committed by Justice for trial by High Court to be delivered to Superintendent with warrant.

9. Persons committed by a Justice of the Peace or Magistrate for trial by the High Court in the exercise of its original Criminal jurisdiction, shall be delivered to the said Superintendent together with a warrant of commitment, directing him to have the bodies of such persons before the Court for trial at the Sessions of the Court next ensuing after the date of such commitment.

10. Every

10. Every person arrested in pursuance of a warrant or order of the High Court in the exercise of its original Civil jurisdiction, or in pursuance of a warrant of any Court established in Calcutta under Act IX of 1850 (*for the more easy recovery of small debts and demands in Calcutta, Madras and Bombay*), shall be delivered by the proper Officer of the Court executing such warrant, together with a copy of such warrant, to the said Superintendent; and the Officer executing such warrant shall thenceforward be absolved from responsibility for the custody of the person so delivered.

11. The said Superintendent shall detain the person delivered to him by the Officer of the Court in manner aforesaid, according to the exigency of the warrant, and return the same to the said Officer of the Court as soon as the terms of the said warrant shall have been complied with.

12. From and after the commencement of this Act, all persons confined in the Great Jail of Calcutta, under process or sentence of Her Majesty's Supreme Court of Judicature at Fort William in Bengal, or of the High Court, or of any Police Magistrate, shall be considered to be and shall remain in the custody of the said Superintendent according to the terms of the warrants under which they shall have been respectively committed to custody.

13. Any warrant of commitment under Regulation III, 1813, of the Bengal Code (*for the confinement of State Prisoners*), may be directed to the said Superintendent in the same manner as the same might have been directed to the Sheriff under Act XXXIV of 1850 (*for the better custody of State Prisoners*) and Act III of 1858 (*to amend the Law relating to the arrest and detention of State Prisoners*).

14. The provisions contained in the Statute 11 Vict., cap. 21 (*to consolidate and amend the laws relating to Insolvent Debtors in India*), relating to persons in prison or liable to be arrested, or detained in or remanded or recommitted to, or entitled to be discharged from, prison within the limits of the town of Calcutta, shall apply to all persons in the custody of the said Superintendent, or liable to be delivered to or entitled to be discharged from his custody.

15. This Act shall come into operation on the first day of April 1865.

16. The

16. The provisions of this Act may be extended to the local jurisdictions of Her Majesty's High Courts of Judicature at Madras and Bombay respectively by notification in the Gazette of India : such provisions when so extended shall, *mutatis mutandis*, relate to the custody of prisoners in such jurisdictions ; and Regulation II of 1819 of the Madras Code (*for the confinement of State Prisoners*), and Regulation XXV of 1827 of the Bombay Code (*for the confinement of State Prisoners and for the attachment of the lands of Chieftains and others, for reasons of State*), shall respectively be read for the said Regulation III of 1818 of the Bengal Code, and so much of the Regulations or Acts for the time being in force in such jurisdictions respectively as is in any way inconsistent with or repugnant to any of the provisions of this Act shall thenceforward cease to have effect in such jurisdictions.