

ACT No. XVII OF 1868.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 20th May 1868).

An Act to appoint a Commission to enquire into the failure of the Bank of Bombay.

WHEREAS the Bank of Bombay is at present unable to pay its debts, and is now being wound up voluntarily pursuant to a special resolution to that effect passed by the shareholders in general meeting; And whereas the Secretary of State for India has directed that an enquiry should be made into the causes and circumstances of such inability and winding up; It is hereby enacted as follows:—

Preamble.

Appointment of Commission.

1. The Governor General of India in Council may issue a commission to such persons as he thinks fit for the purpose of enquiring into and reporting on the causes and circumstances aforesaid.

Appointment of Commissioners.

The Governor General of India in Council may from time to time add to the persons named in such commission.

The Commissioners shall fully enquire into the said matters, and shall, as soon as they conveniently can do so, report thereon to the Governor General of India in Council.

2. In case any Commissioner appointed or added under this Act shall die, or resign, or desire to be discharged, or refuse, or become incapable to act, the Governor General of India in Council may appoint a new Commissioner in his place; and all the powers and duties by this Act conferred and imposed on a Commissioner shall be exercised and performed by the Commissioner so appointed.

Power to appoint new Commissioner.

3. The

3. The Commissioners shall enter upon the said enquiry in the town of Commencement of Bombay on the first day of June 1868, or as soon after that day as they can conveniently do so, and such enquiry may be continued in the said town or at such other place within the territories under the government of the Governor of Bombay in Council as the Governor General of India in Council shall from time to time appoint.

The said enquiry shall be conducted in public: Provided that, if a majority of the Commissioners shall from time to time think fit, any part of such enquiry may be conducted with closed doors.

Powers of Commissioners.

4. The Commissioners may, by summons under the hands of any two Attendance of witnesses. of them, require the attendance before them at a time and place to be mentioned in such summons, of any person residing or being within British India whose evidence is in their judgment material to any of the matters of the enquiry aforesaid, and may require him to bring and produce before them all such books, papers and writings as they think necessary for arriving at the truth of the said matters.

Every such person shall accordingly attend before the Commissioners and shall produce such books, papers and writings as are required of him and are in his possession or power, according to the tenor of the summons.

5. The Commissioners may administer an oath to every person examined Examination of witnesses on oath. before them, touching the matters to be enquired into under this Act, but it shall not be necessary for them to take evidence upon oath unless they think fit so to do.

6. If any person upon whom any such summons is served by the delivery Witnesses refusing to attend or answer or giving false evidence. thereof to him or by the leaving thereof at his usual place of abode, fails, without reasonable cause (to be allowed by the Commissioners), to appear before them at the time and place mentioned in the summons;

or refuses to be sworn;

or does not make answer to such questions as are put to him touching the matters directed to be enquired into by the Commissioners;

or

or refuses or fails without reasonable cause (to be allowed by the Commissioners) to produce and show to the Commissioners any such paper, book or writing, being in his possession or power, as to the Commissioners appears necessary for arriving at the truth of the matters to be enquired into by them ;

or makes any statement which is false and which he either knows or believes to be false, or does not believe to be true,

the Commissioners shall have the same powers in all respects touching any such person as the principal Court of original civil jurisdiction within the limits of which he is residing may by law exercise against any person for making default of appearance, or for refusing to be sworn or to give evidence or for giving false evidence in any suit depending in such Court.

7. If the Commissioners require the evidence of any person residing or being in British India beyond the limits of the Presidency of Bombay, and do not think fit to require his attendance by summons under section four, they may, by a letter to be signed by them or any two of them, request any Judge, Magistrate or other officer having by law power to examine witnesses upon oath, to examine such witness upon interrogatories to be sent with the letter, or according to the instructions to be sent therewith, as to the points upon which the evidence of the witness is required ; and the Judge, Magistrate or other officer to whom such letter is directed, shall examine the witness upon oath accordingly.

8. Every Judge, Magistrate or other officer to whom such letter of request is sent, shall have the same powers for compelling the attendance of the witness, for examining or causing him to be examined upon oath, and for punishing him for refusing to attend or give evidence, or for making any statement which is false and which he either knows or believes to be false or does not believe to be true, as if the evidence of such witness were required in any matter within the ordinary jurisdiction of such Judge, Magistrate or other officer.

9. The Commissioners may, whenever they think fit, issue a commission for the examination of witnesses resident beyond the limits of British India, and shall, for the purpose of issuing such commissions, be deemed to be a court authorized to issue commissions by sections 177, 178 and 179 of the Code of Civil Procedure.

Miscellaneous.

Miscellaneous.

10. Every witness required to attend or give evidence under the provisions of this Act shall be entitled to a reasonable sum (to be allowed by the Commissioners) for his expenses for travelling to and from and remaining at the place at which he is required to attend.

Expenses of witnesses.

11. In sections 193 and 228 of the Indian Penal Code, the words "judicial proceeding" shall be taken to include any proceeding under this Act, and in the latter section the words "public servant" shall be taken to include a Commissioner under this Act.

Punishment for false evidence and contempts.

12.* No person shall be excused from answering any question put to him by the said Commissioners or any of them, or by any such Judge, Magistrate or other officer as aforesaid, upon the ground of any privilege, nor on the ground that the answer to such question will tend to criminate such person.

Witness not to be excused from answering.

But no statement made by any person in answer to any such question shall, except for the purpose of punishing him for wilfully giving false evidence upon such examination, be admissible in evidence in any criminal proceeding.

And every person who, upon such examination, is compelled to give evidence which may tend to expose him to penal consequences, shall be freed from all criminal prosecutions to which he may have been or may become liable or subject within any part of British India, and for anything done by him in respect of any acts relating to which he is examined, unless the Commissioners who have, or the Judge, Magistrate or other officer who has, examined such witness, certify in writing under their or his hands or hand that the witness is not entitled to the protection lastly hereinbefore given, on the ground that he has not made a full and true disclosure touching all matters as to which he is so examined.

Nothing in this Act shall exempt any such witness from any civil suit to which he may be liable.

Bar of suits.

13. No suit shall lie against the Commissioners or any of them or any other person for anything done in the execution of this Act.