

THE PUBLIC OFFICERS, BENGAL ACT, 1839

ACT NO. XXVI. OF 1839

(Rep., Act 37 of 1850)

[2d December, 1839.]

*Passed by the Hon'ble the President of the Council of India in Council, on the 2d December, 1839.*

AN Act for regulating inquiries into the truth of matters implicating the public conduct of Officers not removable without the sanction of Government within the Presidency of Fort William in Bengal.

I. Whereas it is expedient to consolidate the enactments contained in the Regulations concerning inquiries into to truth of matter implicating the public conduct of European Officers, and to amend the same in various particulars, and to extend the same to all Officers not removable without the sanction of Government:

It is hereby enacted, that such parts of Section 10, Regulation V. of 1793, and of Section 10, Regulation IV. of 1803 as relate to charges of Corruption;

Section 8, Regulation VI. of 1793;

Section 8, Regulation V. of 1803;

Clauses 9, 10, and 11, and such other parts of Section 9, Regulation XIII. Of 1793 as relate to Covenanted Servants of the Company;

Clauses 9, 10, and 11, and such other parts of Section 12, Regulation XII. Of 1803 as relate to Covenanted Servants of the Company;

Section 4 and all the following Sections of Regulation VIII. of 1806;

Regulation X. of 1806, excepting so much of Section 10 of that Regulation as relates to Security required from persons preferring charges against Hindoo or Mahomedan Law Officers, or Native Ministerial Officers of Courts;

Regulation XVII. of 1813;

Regulation VIII. 1817;

And Sections 5 and 6 of Regulation VIII. of 1825; of the Bengal Code;

Together with so much of any Regulations as extends any of the above Regulations or parts of Regulations to any places within the Presidency of Fort William in Bengal; be repealed.

II. And it is hereby enacted, that in the Territories subject to the Presidency of Fort William in Bengal, whenever either of the Courts of Sudder Dewanny and Nizamut Adawlut, either of the Sudder Boards of Revenue, or the Board of Customs, Salt and Opium, shall be of opinion that substantial grounds exist for making a regular and formal inquiry into the truth of any imputation of Official misconduct affecting any Officer subject to their control respectively, and not removable without the sanction of Government, they shall submit the documents on which their opinion may be founded, together with a statement of the charges reduced to distinct articles which they may propose to be made the subject of a regular investigation, to the Governor of Bengal, or to the Lieutenant-Governor of the North Western Provinces, or to any functionary exercising the authority of Government in the North Western Provinces, as the case may be, according to the authority to which they may be subject, for his consideration and orders.

III. And it is hereby enacted, that any charge or information, of the description aforesaid, may be preferred direct to either of the Courts of Sudder Dewanny and Nizamut Adawlut, either of the Sudder Boards of Revenue, or the Board of Customs, Salt and Opium, respectively, who shall examine the complainant of informant circumstantially upon oath, or upon solemn affirmation if he be entitled to be exempted from taking an oath, and require the party accused to explain or reply to any matters they may deem to need explanation and make such further inquiries, upon oath or affirmation upon the subject as they may judge proper.

IV. And it is hereby enacted, that any charge of information may also be made before any Judge, Magistrate, Commissioner of Revenue, or Collector, for any acts of the description before mentioned committed within their jurisdiction, respectively, who shall examine the complainant or informant circumstantially upon oath, or upon solemn affirmation if he be entitled to be exempted from taking an oath, and shall transmit the deposition so taken to the Sudder Dewanny and Nizamut Adawlut, the Sudder Board of Revenue, or the Board of Customs, Salt and Opium, according as the person accused may be subject to those Authorities respectively.

V. And it is hereby provided, that it shall not be lawful for the Courts of Sudder Dewanny and Nizamut, or the said Boards, respectively, to act upon any such charge or information, unless the person preferring the same shall make oath, or solemn affirmation in case he be entitled to be exempted from taking an oath, that he believes the facts on which the charge is grounded to be true.

VI. And it is hereby provided, that it shall be lawful for the Courts of Sudder Dewanny and Nizamut Adawlut, and for the said Boards, respectively, to dismiss any such charge or information, where they do not see any substantial reason for entering further into the inquiry. Provided, that on every occasion when they shall dismiss any such charge or information, they shall submit the same, together with all the circumstances of the case, in like manner as is provided in Section II of this Act.

VII. And it is hereby provided, that the said Courts of Sudder Dewanny and Nizamut Adawlut, and the said Boards, respectively, may, at any stage of the inquiry into such matters as aforesaid, require the person preferring such charge or information as aforesaid to furnish such security as may be deemed reasonable that he will attend and prosecute the charge to a conclusion, and in the event of security being so required all proceedings shall be stayed until the same shall be furnished accordingly.

VIII. And it is hereby provided, nevertheless, that if any matter of the nature aforesaid affecting such Officer as is mentioned in the second Section of this Act shall appear in the course of any proceedings, whether preliminary or otherwise, which shall come before or be reported to either of the Courts of Sudder Dewanny and Nizamut Adawlut, or any of the said Boards, respectively, those authorities shall act upon such matter, or institute such inquiry upon oath or affirmation as aforesaid into the same as they shall deem proper for the purpose of such reference as aforesaid to the Governor of Bengal, or to the Lieutenant-Governor of the North Western Provinces, or to the Authority exercising the powers of Government in those Provinces as aforesaid, although no charge or information be preferred as aforesaid; and in such cases it shall not be necessary, before acting upon or instituting any inquiry concerning any matter so appearing in the course of proceedings, to require any oath or affirmation in regard to the truth of such matter.

IX. And it is hereby enacted, that if the Governor of Bengal, or the Lieutenant-Governor of the North Western Provinces, or the Authority exercising the powers of Government in those Provinces as aforesaid; upon such reference as is mentioned in the second Section of this Act, shall concur with the Authority by which it may be submitted, or if such Governor or Lieutenant Governor or Authority exercising the powers of Government shall from information of the description aforesaid that may be laid before him in respect to such Officers as aforesaid not directly subject to the Courts or Boards above named, deem it necessary to institute proceedings against any such Officers, he shall appoint a

Commissioner or Commissioners for making a regular and formal inquiry into the truth of the matters referred.

X. And it is hereby enacted, that on the appointment of every such Commission, the said Governor, or Lieutenant-Governor, or Authority exercising the powers of Government in the North Western Provinces, shall direct whether the Commission shall be placed under the control of any of the Authorities aforesaid, or shall act immediately under the authority of Government, and all Commissions appointed as aforesaid shall be guided by the instructions which they may receive in this behalf from the Government to which they may be respectively subordinate.

XI. And it is hereby enacted, that the Commissioner or Commissioners appointed as aforesaid, before entering on the discharge of his or their duties, shall take the following oath:-

I, A. B., Commissioner for the purpose of (here state the object of the Commission) do solemnly swear that I will faithfully and impartially perform the duty committed to me without fear, favor, or bias, to the best of my ability, knowledge, and judgment; so help me God.