

Execution in Presidency-towns of Mufassal Forces
ACT No. XXIII. OF 1840.
(Rep., Act 10 of 1882)

*Passed by the Right Hon'ble the Governor General of India in Council,
on the 30th November, 1840.*

*An Act for executing within the local limits of the jurisdiction of Her Majesty's
Courts Legal Process issued by authorities in the Mofussil.*

I. WHEREAS great inconvenience has been experienced, in consequence of the difficulty of procuring the attendance as witnesses before the Mofussil Authorities of persons resident within the local limits of Her Majesty's Supreme Courts, and, in consequence of Justice being often frustrated by reason of persons and property within such limits being exempted from process issued by such Authorities, which has also occasioned inconvenience to the inhabitants within such limits, in suits in the Mofussil Courts to which they are parties;--

It is hereby enacted, that any Writ, Warrant, or other Process issued by any Court, Judge, or Magistrate in the territories beyond the local limits of the Supreme Courts of Calcutta, Madras and Bombay respectively, may be executed within those limits in manner following—A copy of such Write, Warrant, or other Process authenticated as such by the attestation of the Court, Judge, or Magistrate signing or issuing the same, accompanied by a certified translation in the English language, shall be presented to any Judge of Her Majesty's Courts, who may thereupon, under his hand and signature, indorse and direct the same to be executed within the local limits of any of Her Majesty's Courts by the Sheriff, or by any Justice of the Peace according to the natural of such Writ, Warrant or other Process.

II. And it is hereby provided, that upon the delivery of every such Writ, Warrant or Process so indorsed as aforesaid to any such Sheriff as aforesaid, every such Sheriff shall make a memorandum of the date of such delivery, and shall execute such Writ, Warrant of Process in like manner as if the same had originally issued from any of Her Majesty's Courts and had been delivered at the date as appearing by the memorandum ; and such Sheriff shall make no distinction as to priority or otherwise between the execution of any Writ, Warrant or other Process originally issued from any of Her Majesty's Courts, and the execution of any Writ, Warrant or other Process, under this Act. But every Writ, Warrant and other Process whether original, or indorsed as aforesaid, shall, amongst each other, be subject to the same rules touching the mode and order of execution as are now established in respect of Writs, Warrants, and other Process originally issued from Her Majesty's Courts of Justice.

III. And it is hereby enacted, that every such Sheriff shall be liable to be proceeded against in Her Majesty's Courts of Justice for all matters touching the execution of any Writ, Warrant or other Process executed under this Act, in like manner as if the same had originally issued from any of Her Majesty's Courts of Justice. And all persons and property seized or detained under any Writ, Warrant or Process executed by virtue of this Act shall be dealt with in like manner as if such persons or property had been seized or detained under the Writ, Warrant or other Process issued from any of Her Majesty's Courts of Justice.

IV. And it is hereby enacted, that all persons disobeying or obstructing the execution of any Writ, Warrant or other Process indorsed under this Act, shall be punishable in Her Majesty's Courts of Justice, in like manner as if the same had issued from such Courts ; Provided always that, in the case of process

for the attendance of witnesses, Her Majesty's Courts shall be governed by the like rules touching expense and other matters as are established in regard to Subpoenas issued from such Courts.

V. And it is hereby enacted, in the case of persons seized or detained by virtue of any Writ, Warrant or other Process executed under the authority of this Act by any Justice of the Peace or by any Sheriff, it shall be the duty of every such Sheriff or Justices of the Peace if so required by the indorsement of the Judge, to deliver the party in custody to such authority or persons as shall be particularly specified in such indorsement, and who shall have been charged with the execution of the Writ, Warrant or other Process by the authority originally issuing the same, and for that purpose to cause the party in custody to be conveyed to any place within the Company's territories beyond the local limits of the jurisdiction of Her Majesty's Courts.

VI. And it is hereby provided, that in the case of any Writ, Warrant or other Process required to be indorsed under the authority of this Act, it shall be lawful for the Judge who shall be required to indorse the same, to remit the same for amendment to the authority issuing the same if the same shall appear to be defective in any matter of form.

VII. And it is hereby provided, that in the case of any Writ, Warrant or other Process required to be indorsed under the authority of this Act, for the seizure or detention of any person, it shall be lawful for the Judge who shall be required to indorse the same to direct by indorsement that bail (the amount and number of Sureties to be specified in such indorsement) may be taken ; and for this purpose to call for such documents and to make such inquiry as he shall think proper.

VIII. And whereas it is expedient, that offenders sentenced by the Mofussil authorities to imprisonment with or without hard labour, should be subjected to the most improved rules of prison-discipline, which cannot, in all cases, be conveniently done except in the prisons locally situate within the jurisdiction of Her Majesty's Supreme Courts, it is hereby enacted, that all Civil and Criminal Goals and Houses of Correction within the jurisdiction of any of Her Majesty's Supreme Courts, shall, according to the nature of the case, be liable to be used by the Sheriff for the purposes of this Act, and the parties imprisoned therein under the authority of this Act shall be liable to the prison-discipline thereof, and all sentences of imprisonment passed by any Judge, Courts or Magistrate in the territories of the East India Company beyond the local limits of Her Majesty's Supreme Courts, may be executed in whole or in part within any of the Goals or Houses of Correction aforesaid, provided that a copy of the Warrant of Commitment or other Process authorizing the imprisonment be so indorsed as aforesaid, and such indorsement contain the necessary directions.
