



ACT No. XI OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 9th April 1860.)

*An Act to enforce the fulfilment of Indigo Contracts, and to provide for the appointment of a Commission of Enquiry.*

WHEREAS it is expedient to issue a commission of enquiry into the practice of Indigo planting in Bengal and the relations between the Indigo Planter and the Ryots and holders of land in Bengal, and to make temporary provision for enforcing by summary process the execution of agreements entered into for the cultivation of Indigo plant; and better to provide for the punishment of certain unlawful acts connected with such cultivation; It is enacted as follows:—

Preamble.

I. If any person who has received a cash advance upon his agreement to cultivate Indigo plant during the season now current, shall wilfully delay or omit from and after the 4th day of April 1860, to cultivate according to the conditions of such agreement the whole quantity of land which he has agreed to cultivate, or otherwise to fulfil his engagement, it shall be competent to the Magistrate to entertain a complaint made to the above effect on oath by the Planter who has made the advance, or by any person on his behalf, and to summon the person complained of to appear before him in order to the investigation of the complaint preferred. If the Magistrate has reason to believe that the person complained of will not appear in obedience to the summons, he may issue a warrant for the arrest of such person.

Magistrate may on complaint, issue summons for appearance of a person who has received a cash advance and delays or neglects to fulfil his agreement.

II. On hearing the answer of the person complained of, and on taking such evidence as both parties may adduce, if the complaint be established to the satisfaction of the Magistrate, the Magistrate shall

Remedy.

A

ACT No. XI of 1860.

shall assess a certain sum as damages sustained by reason of the breach of the contract. If it shall appear to the Magistrate that the person who has agreed to cultivate the Indigo plant is still able to perform his contract, the Magistrate shall order him specifically to perform the same, and shall also in such case award a certain sum to be paid as damages as an alternative. In cases in which the land to be cultivated with the Indigo plant is defined by the agreement, the Magistrate may order the attachment, as a security for the amount of the damages assessed or to be assessed for the breach of the agreement, of any other crop of the defaulter that may at any time during the present season be growing on such land. If after an order for specific performance of agreement the defendant fail to perform the agreement or to pay the amount of damages ordered to be paid as an alternative, or if after an order for payment of damages the same be not immediately paid, the Magistrate may order the defendant to be imprisoned in the Civil Jail for a term not exceeding three months; and may on the motion of the complainant furthermore proceed to levy the damages assessed from the property of the defendant, in the mode provided for enforcing decrees of Court under Act VIII of 1859 (*for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter*). Provided that if the amount of the

Proviso. said damages is paid or levied within the aforesaid term of three months, the defendant shall be released from Jail on that amount being paid or levied.

If agreement obtained by force or intimidation, complaint to be dismissed. shall be dismissed.

III. In case it shall appear to the satisfaction of the Magistrate that the agreement has been obtained by means of fraud, force, or unlawful intimidation, the complaint

IV. If any complaint preferred under this Act be dismissed for want of proof or appearance of the complainant, or for any other cause, the Magistrate may order the complainant to pay such amount for costs and compensation as he may think reasonable. In default of payment of any such amount, the same may be levied by distress and sale of the property of the person ordered to pay the same.

V. If any person from and after the 4th day of April 1860, shall by violence, threats, or otherwise intimidate or attempt to intimidate any other person who shall have entered into any such agreement as aforesaid, with the intention of inducing such person to break the

Penalty for intimidation, &c.

ACT No. XI OF 1860.

the conditions thereof, he shall, on conviction before a Magistrate, be liable to a sentence of imprisonment with or without labor for a period not exceeding six months, or to a fine not exceeding two hundred Rupees, or to both, such fine being commutable, if not paid, to a further period of imprisonment not exceeding six months.

VI. If any person shall maliciously destroy or damage, or if any person shall maliciously command, compel, or persuade any other person to destroy or damage any growing crop of Indigo, he shall, on conviction before a Magistrate, be liable to be sentenced to imprisonment with or without labor for a period not exceeding six months, or to a fine not exceeding two hundred Rupees, or to both, such fine being commutable, if not paid, to a further period of imprisonment not exceeding six months.

No Appeal. VII. No Appeal shall lie from the decision of a Magistrate under this Act.

Jurisdiction. VIII. The power of a Magistrate under this Act may be exercised by any person vested with the full powers of a Magistrate, and by any Assistant Magistrate or Deputy Magistrate specially empowered on that behalf by the local Government.

Effect of decision of Magistrate under this Act. IX. A decision of a Magistrate shall be a bar to any further proceeding for the same breach of agreement. No decision under this Act shall have any force or effect in regard to anything not to be performed during the current season.

Duration and territorial scope of Act. Limitation of action. X. This Act shall have effect from and after the 4th day of April 1860, and shall not extend beyond the Territories subject to the Lieutenant-Governor of Bengal. And no complaint or prosecution shall be entertained under this Act, unless preferred within six months from the date aforesaid.

Certain post orders declared valid. XI. All orders made or acts done before the 4th day of April 1860, which would have been lawful if the Bill "to enforce the fulfilment of Indigo Contracts" as read a second time on the

24th day of March 1860 had then become law, are hereby declared to be valid. And all Magistrates and other Public Officers are hereby indemnified for any acts done before the said 4th day of April 1860, which would have been justifiable under the said Bill if the same had become law on the said 24th day of March 1860.

XII. The Lieutenant-Governor of Bengal shall, as soon as conveniently may be, issue a Commission to such persons as the said Lieutenant-Governor shall think fit, for the purpose of enquiring into and reporting on the system and practice of Indigo planting in Bengal and the relations between the Indigo Planter and the Ryots and holders of land in Bengal aforesaid. The said Commissioners shall fully enquire into the matters aforesaid, and shall, as soon as they conveniently can, report to the Lieutenant-Governor the result of their enquiries, and shall in their report or reports suggest such alterations, if any, as may in their opinion be beneficially made in the law relating to the system and practice and the relations aforesaid.

XIII. In case of the death or resignation of any of the said Commissioners, or of any of them becoming unable or refusing to act, it shall be lawful for the other Commissioners or Commissioner to act alone, and all the powers by this Act given to Commissioners shall and may be exercised by the continuing Commissioners or Commissioner alone, but only until such vacancy can be filled up. It shall be lawful for the said Lieutenant-Governor from time to time, and he shall as soon as conveniently may be, without issuing a new Commission, appoint some other person or persons to act as a Commissioner or Commissioners jointly with the continuing Commissioners or Commissioner, and in such case all the powers conferred by this Act shall and may be exercised by the said newly appointed Commissioner or Commissioners jointly with the continuing Commissioner or Commissioners.

XIV. It shall be lawful for the Commissioners aforesaid, by a summons under the hand of any one of them, to require the attendance before them, at a time and place to be mentioned in such summons, of any person or persons whomsoever, residing or being within the Lieutenant-Governorship of Bengal, whose evidence shall in the judgment of the Commissioners aforesaid be material to any of the matters of the enquiry aforesaid, and to require the person or persons so summoned to bring and produce before them all such books, papers, deeds, and writings as to them the said Commissioners

ACT No. XI OF 1860.

Commissioners shall appear necessary for arriving at the truth of the matters directed to be enquired into by the said Commissioners, all which persons shall accordingly attend before the said Commissioners, and shall produce such books, papers, deeds, and writings as shall be required of them and shall be in their custody and control or in the custody and control of any one of them according to the tenor of the summons. Provided always that no person shall be compelled to attend before the said Commissioners or to give his evidence at a greater distance than fifty miles from the place where such person shall be residing.

XV. It shall be lawful for the Commissioners aforesaid, or one of them, to administer an oath, or in the case of persons allowed by law to make affirmation instead of taking an oath, an affirmation in such form as to them the said Commissioners shall seem fit, to all persons who shall be examined before them touching the matters to be enquired into by them as aforesaid. Provided that nothing herein contained shall render it necessary for the said Commissioners to take evidence upon oath or affirmation unless they shall think fit or expedient so to do.

XVI. If any person, upon whom any such summons shall be served by the delivery thereof to him or by the leaving thereof at his usual place of abode, being a person living within fifty miles of the place at which he shall be required to attend, without reasonable cause (to be allowed by the Commissioners aforesaid) fail to appear before them at the time and place mentioned in the summons, or shall refuse to be sworn or to make affirmation (as the case may be) or shall not make answer to such questions as shall be put to him touching the matters directed, or which may hereafter be directed, to be enquired into by the Commissioners aforesaid, or shall refuse or fail without reasonable cause (to be allowed by the Commissioners aforesaid) to produce and show to the said Commissioners any such paper, book, deed, or writing being in his possession or under his control as to the Commissioners aforesaid shall appear necessary for arriving at the truth of the matters to be enquired into by them, the Commissioners aforesaid shall have the same powers in all respects touching any such person so failing to appear or refusing to be sworn or to make affirmation, or not answering such questions as shall be put to him or refusing to produce and show any such book, paper, deed, or writing as aforesaid, as the principal Court of original Civil jurisdiction within the limits

ACT No. XI OF 1860.

limits of which the said person shall be residing, may by law exercise against any person for making default of appearance, or for refusing to be sworn or to give evidence on any issue joined in any action depending in such Court.

XVII. Whenever a summons is issued for the attendance of a witness under this Act, the Commissioners may if they think fit order such witness to receive from the Collector such travelling and other expenses as he would have been entitled to receive had he been summoned to appear and give evidence in the principal Court of original Civil jurisdiction in the District.

Expenses of witnesses.

XVIII. Every person who, upon examination upon oath or affirmation before the Commissioners aforesaid, shall wilfully give false evidence, shall be liable to the punishment of perjury.

Punishment for false evidence.