

ACT No. XXV OF 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 16th May 1863.)

*An Act 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.*

WHEREAS great inconvenience is occasioned in the administration of Criminal Justice, by reason of the House of Correction in Calcutta not having sufficient accommodation to contain all the prisoners from time to time sentenced to be there confined for divers offences, and it is desirable that the Judges of Her Majesty's High Court of Judicature at Fort William in Bengal, and the Justices of the Peace and Magistrates of Police for the Town of Calcutta, should be empowered to send prisoners to the Great Jail of Calcutta, as well as to the House of Correction; and whereas also it is desirable that the Government of Bengal should have power, in cases of over-crowding, sickness, or the like, to order the transfer of prisoners from the Great Jail to the House of Correction, and *vice versa*; It is enacted as follows :—

I. Sections XLVII, XLVIII, XLIX, L, LI, and LII, 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further to improve the administration of Criminal Justice in Her Majesty's Supreme Courts of Judicature), are hereby repealed so far as they are applicable to, or have effect in, the Presidency of Fort William in Bengal, except as to any persons sentenced before the passing of this Act to rigorous imprisonment, or to imprisonment with hard labor, or to solitary confinement.

Certain Sections of Act XVIII of 1862 repealed in part.

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II. Whenever

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II. Whenever any person shall be sentenced by Her Majesty's High Court of Judicature at Fort William in Bengal to rigorous imprisonment, or to imprisonment with hard labor, or to solitary confinement, it shall be lawful for the Judges or Judge of the said Court to direct such person to be imprisoned either in the House of Correction, whether such House of Correction be under the control of the Sheriff or not, or in the Great Jail, as to them or him shall seem fit.

Persons sentenced by High Court to rigorous imprisonment, &c., may be imprisoned in the House of Correction, or Great Jail.

III. Whenever any person shall be sentenced by the said High Court to transportation, or penal servitude, such person may, at the discretion of the Judges or Judge of the said Court, be kept in the House of Correction, whether such House of Correction be under the control of the Sheriff or not, or in the Great Jail, as the place of intermediate custody.

Persons sentenced by the said Court to transportation, &c., may be kept in House of Correction, or Great Jail.

IV. The Sheriff shall cause any person directed under either of the last two preceding Sections to be imprisoned or kept in the House of Correction, to be delivered to the Officer in whom the control of the House of Correction is vested, or to the Keeper of such House of Correction, together with a warrant to be signed by a Judge of the said High Court authorizing the detention of such person. Such Officer or Keeper shall be bound to receive the person so delivered over to his custody, and shall be responsible for the safe custody of such person.

Delivery into, and responsibility for, custody of person directed to be kept in House of Correction.

V. All Constables and Police Officers are hereby empowered to aid and assist the Sheriff in carrying to the House of Correction any person sentenced as aforesaid.

All constables, &c., empowered to assist.

VI. The Sheriff shall be absolved from all responsibility, in respect of the custody of any person sentenced as aforesaid to be imprisoned or kept in the House of Correction, from the time such person shall be delivered to the custody of the Officer in whom the control of the House of Correction is vested, or to the Keeper of such House of Correction.

Sheriff when absolved from responsibility.

VII. Whenever

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VII. Whenever any person shall be sentenced by a Justice of the Peace

Persons sentenced by Justice of the Peace, or Police Magistrate, to rigorous imprisonment, &c., may be committed either to House of Correction, or Great Jail.

or Magistrate of Police for the Town of Calcutta, to rigorous imprisonment, or imprisonment with hard labor, for any offence committed within the local limits of the ordinary original Civil jurisdiction of the said High Court, the person so sentenced may be committed by such Justice of the Peace or Police Magistrate either to the custody of the Officer in whom the control of the House of Correction is vested, or of the Keeper of the said House of Correction, whether such House of Correction be under the control of the Sheriff or not, or to the custody of the Sheriff, as to such Justice of the Peace or Police Magistrate shall seem fit. If the person so sentenced is committed to the custody of the Officer in whom the control of the House of Correction is vested, or the Keeper of the House of Correction, such Officer and Keeper shall be responsible for the safe custody of such person: if the person so sentenced is committed to the custody of the Sheriff, the Sheriff shall be responsible for his safe custody.

VIII. If it shall at any time appear to the Lieutenant-Governor of

Lieutenant-Governor of Bengal may order transfer of prisoners from House of Correction to Great Jail, and *vice versa*.

Bengal that, by reason of sickness, over-crowding, or any other cause, it is necessary or desirable that any prisoner under sentence of imprisonment in the House of Correction should be transferred to the Great Jail, or that any prisoner under sentence of imprisonment in the Great Jail should be transferred to the House of Correction, it shall be lawful for the said Lieutenant-Governor to order the transfer of such prisoner, and the prisoner shall thereupon be transferred in the manner hereinafter provided for carrying out the transfer. If

Transfer how made.

the order be for the transfer of a prisoner from the Great Jail to the House of Correction, the Sheriff shall cause the prisoner to be delivered to the Officer in whom the control of the House of Correction is vested, or to the Keeper of the House of Correction, together with the original warrant authorizing the detention of such prisoner, and the order of the Lieutenant-Governor of Bengal signed by a Secretary to the Government of Bengal ordering his transfer. Such Officer or Keeper shall be bound to receive the person so delivered over to his custody, and shall be responsible for his safe custody. If the order be for the transfer of a prisoner from the House of Correction to the Great Jail, the Officer in whom the control of the House of Correction is vested,

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vested, or the Keeper thereof, shall cause the prisoner to be delivered to the Sheriff, together with the original warrant authorizing the detention of such prisoner, and the order of the Lieutenant-Governor of Bengal signed by a Secretary to the Government of Bengal ordering his transfer. The Sheriff shall be bound to receive the person so delivered over to his custody, and shall be responsible for his safe custody.

IX. And whereas certain persons under sentence of imprisonment in the House of Correction, have recently been on divers occasions transferred from the House of Correction to the Great Jail, and from the Great Jail to the House of Correction : it is hereby declared, that such transfers respectively shall be held to be, and at all times to have been, legal in all respects ; and that the said persons now are, and always have been, and shall continue to be until the expiration of the period of their sentences respectively, in lawful custody, whether for the time being in the custody of the Sheriff in the Great Jail, or of the Keeper or Officer having the control of the House of Correction, in the House of Correction. Provided that nothing in this Section contained shall be held to render lawful the detention or custody of any prisoner whose detention or custody would have been unlawful irrespectively of such transfer.