

X

ACT No. II OF 1864.

---

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor-General on the 12th February 1864.)*

*An Act to provide for the administration of Civil and Criminal  
Justice at Aden.*

**Preamble** WHEREAS the administration of Civil and Criminal Justice at Aden is now entrusted to the Resident and in subordination to him to the Assistant Resident; and whereas Her Majesty has by Her Letters Patent, dated the twenty-second June 1860, appointed the Resident at Aden to be Judge of Her Majesty's Vice Admiralty Court at Aden for the purposes of and according to the provisions of the Statute 12 and 13 Vic, c. 84; and whereas the Criminal law to be administered at Aden is provided for by the Indian Penal Code, but the law to be administered at Aden in Civil matters and the precise nature of the Criminal and Civil jurisdiction of the Resident, and the proper course of procedure in his Court, have never been defined, and it is expedient that they should be provided for; and whereas at present judgments and proceedings of the Resident at Aden are not subject to the superintendence or revision of any Court of Justice, except so far as they are subject to appeal to Her Majesty in Council, and it is expedient to provide for the superintendence or revision of certain of such judgments and proceedings by the High Court at Bombay: It is enacted as follows:—

**Interpretation.** I. The following words and expressions in this Act shall have the meanings hereby assigned to them unless there be something in the subject or context repugnant thereto, that is to say:—

**"Resident."** The word "Resident" denotes the Chief Civil Officer at Aden appointed by the Government by whatever designation such Officer may be called, and includes any Acting Resident or Officer acting temporarily as such Chief Civil Officer.

The words

ACT No. II OF 1864.

The words "Assistant Resident" denote any Officer appointed by the Government to assist the Resident at Aden by what ever designation such Officer may be called, and includes an Acting Assistant.

The words "Court of the Resident" include the Court of any Assistant Resident.

Words importing the singular number include the plural number, and words importing the plural number include the singular number.

Words importing the masculine gender include females.

CIVIL JURISDICTION.

II. The administration of Civil Justice at Aden is hereby declared to be vested in the Court of the Resident.

III. The Resident may hear and determine, in the first instance, all cases instituted in the Court of the Resident of whatever nature and whatever may be the amount or value of the property in dispute.

IV. The Assistant Residents shall have power to hear and determine, in the first instance, all cases instituted in the Court of the Resident of whatever nature and whatever may be the amount or value of the property in dispute. The Resident may from time to time direct in what manner the cases instituted in his Court shall be distributed amongst the Assistant Residents.

V. When any suit which relates to immoveable property, or in which the claim, estimated according to any Law for the valuation of claims for the time being in force, shall exceed five hundred Rupees in value, is tried in the first instance by an Assistant Resident, an appeal shall lie from his decision to the Resident. An appeal shall also lie to the Resident from all orders passed by an Assistant Resident in the execution of a decree or other order from which, had the order been passed by a Court subordinate to the Court of a District Judge in the Presidency of Bombay, an appeal would have been allowed to the District Judge, as well as from all orders passed by an Assistant Resident in cases other than suits as defined in the Code of Civil Procedure.

VI. For

ACT No. II of 1864.

CIVIL PROCEDURE.

XVI. Except as otherwise provided in this Act, the proceedings in suits and cases of every description between party and party brought in the Court of the Resident shall be regulated by the Code of Civil Procedure, and by any other Act or Acts in relation to Civil Procedure in force for the time being.

Code of Civil Procedure applicable.

CRIMINAL JURISDICTION.

XVII. The administration of Criminal Justice at Aden is hereby declared to be vested in the Court of the Resident, save as is herein otherwise provided.

Administration of Criminal Justice vested in Court of the Resident, subject to proviso.

XVIII. The Governor of Bombay in Council may invest any Assistant Resident with the powers of a Magistrate, or of a subordinate Magistrate of the first or second class as described in the Code of Criminal Procedure, and such Assistant Resident shall exercise such powers under the said Code, but subject to the provisions of this Act.

Governor of Bombay may give Assistant Residents certain powers.

XIX. In every case tried by an Assistant Resident in which the punishment awarded shall be imprisonment for a period exceeding six months with or without fine, or shall be only a fine exceeding five hundred Rupees, an appeal shall lie from the sentence of the Assistant Resident to the Resident. No appeal shall lie from the sentence of an Assistant Resident in any case in which the punishment awarded shall be imprisonment for a period not exceeding six months with or without fine, or shall be only a fine not exceeding five hundred Rupees; but the Resident may in all cases, within the period allowed for appeal in appealable cases, call for any proceedings whatever of the Assistant Resident at any stage thereof, and may pass such order thereon as he may think fit.

Appeal from Assistant Resident to Resident, in what cases.

XX. The Resident shall except as in this Act is otherwise provided exercise all the powers of a Court of Session as defined in the Code of Criminal Procedure, and he may also, when it shall seem to him proper so to do, exercise the powers of a Magistrate as defined in the said Code, except in cases triable before himself as a Court of Session.

Resident to exercise powers of Court of Session, and also of a Magistrate.

XXI. The Resident in the exercise of his powers as a Court of Session shall hold gaol deliveries at convenient periods, of which due notice shall be given, for the trial of all persons charged with offences punishable under the Indian Penal Code, or under any other law

As a Court of Session, to hold gaol deliveries.

ACT No. II OF 1864.

other law in force for the time being, who may be committed to take their trial before him as a Court of Session. Provided that the Resident shall not have power to try any European British subject charged with an offence punishable with death under the said Code. The commitment of any European British subject charged with any such offence shall be made to the High Court at Bombay. In all other cases the commitments made within the limits of the jurisdiction of the Court of the Resident for offences punishable under the Indian Penal Code, shall be made to the Court of the Resident.

European British subjects charged with offences punishable with death, to be committed for trial to High Court at Bombay.

XXII. If any European British subject shall be charged in Aden with any offence (other than an offence punishable with death under the Indian Penal Code) which a Justice of the Peace shall not be competent to punish, and there shall be sufficient grounds for committing him for trial, such European British subject shall be committed to the Court of the Resident, and shall be tried by the Resident.

Commitment and trial of such subjects, when charged with offences other than those punishable with death.

CRIMINAL PROCEDURE.

XXIII. Save as in this Act otherwise provided, the proceedings in all Criminal cases of any description brought in any Court in Aden shall be regulated by the Code of Criminal Procedure.

Proceedings in Criminal cases how to be regulated.

XXIV. Criminal trials before the Resident as a Court of Session, in which a European (whether a British subject or not) or an American is the accused person or one of the accused persons, shall be by jury, and in such case the jury, if such European or American shall desire it, shall consist of at least one half Europeans or Americans, if such a jury can be procured.

Trial of European or American by the Resident to be by jury.

XXV. The Resident shall from time to time prepare and make out in alphabetical order, a list of persons residing at Aden who are in the judgment of the Resident qualified from their education and character to serve as Jurors. The list shall contain the names, places of abode, and quality or business of every such person, and shall mention the race to which he belongs.

List of Jurors.

XXVI. Copies of such list shall be stuck up in the Court of the Resident, and every such copy shall have subjoined to it a notice stating that objections to the list will be heard and determined by the Resident at a time and place mentioned in the notice.

Publication of List.

XXVII. All

ACT No. II OF 1864.

XXVII. All the provisions of the Criminal Procedure Code as to Jurors and the list of Jurors shall be applied, so far as the same can be applied respectively, to Jurors and the list of Jurors under this Act: provided that no person shall be exempt from the liability to serve as a Juror on the ground only of his being in the Military Service: provided also that the Jurors shall be summoned by the Resident.

Provisions of Criminal Procedure Code to apply to Jurors.

Persons in Military Service not exempted from serving as Jurors.

XXVIII. If on any trial, sentence of death shall be passed by the Resident, such sentence shall not be carried into execution until it shall have been confirmed by the High Court at Bombay. It shall be lawful for the High Court at Bombay, in any case in which it shall seem proper so to do, to commute a sentence of death to a sentence of transportation for life, or for any shorter period not less than seven years.

Execution or commutation of sentence of death.

XXIX. No appeal shall lie from an order or sentence passed by the Resident in any Criminal case. But it shall be at the discretion of the Resident to reserve any point or points of law for the opinion of the said High Court.

No appeal from order of Resident, but he may reserve points for High Court.

XXX. On such point or points of law being so reserved as in the last preceding Section mentioned, or on its being certified by the Advocate-General at Bombay that in his judgment there is an error in the decision of a point or points of law decided by the Resident, or that a point of law decided by the said Resident should be further considered, the said High Court shall have full power and authority to review the case or such part of it as may be necessary, and finally determine such point of law, and thereupon to pass such judgment and sentence as to the said High Court shall seem right.

Review of case by High Court.

GENERAL RULES.

XXXI. The High Court at Bombay shall have power to make and issue general rules for regulating the practice and proceedings of the Court of the Resident, and also to frame forms for every proceeding in the said Court for which the said High Court shall think it necessary that a form should be provided, for keeping all books, entries, and accounts to be kept by the Officers, and for the preparation and submission of any statements to be prepared and submitted by the Court of the Resident, and from time to time to alter any such rule or form: provided that such rules and forms shall not be inconsistent with the provisions of this Act, or of any other law in force.

High Court to frame rules for Resident's Court.