

## ACT No. XII OF 1867.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor General on the 1st March 1867.)*

*An Act to amend the law relating to the custody of prisoners within the local limits of the original jurisdiction of Her Majesty's High Courts of Judicature at Fort William in Bengal, Madras and Bombay.*

WHEREAS it is expedient that, within the local limits of the original jurisdiction of Her Majesty's High Courts of Judicature at Fort William in Bengal, Madras and Bombay, persons should, for the purpose of being received and detained in prison, be committed to the custody of an officer appointed by the Local Government, instead of to the custody of the Sheriff of Calcutta, Madras or Bombay, as the case may be; It is enacted as follows:—

Interpretation of terms. I. In this Act—unless there be something repugnant in the subject or context—

“High Court” denotes Her Majesty's High Court of Judicature at Fort William in Bengal, Madras or Bombay, as the case may be, and includes a Judge or Judges thereof and a Division Court:

“Sheriff.” • “Sheriff” denotes the Sheriff of Calcutta, Madras or Bombay, as the case may be:

“Magistrate” includes a Magistrate of Police appointed under any Act for the time being in force for regulating the Police of the towns of Calcutta, Madras and Bombay.

2. The Acts and parts of Acts mentioned in the Schedule hereto annexed ~~are repealed~~ are repealed in each of the Presidencies of Fort William, Madras and Bombay from the date on which this Act shall come into operation in such Presidency. Any act duly done or appointment made

made under Act No. XII of 1865 (*to amend the law relating to the custody of prisoners within the local limits of the original jurisdiction of Her Majesty's High Court of Judicature at Fort William in Bengal*) shall be considered as valid as if it were done or made under this Act and as if this Act had been then in force.

3. No person shall be committed to the Sheriff to be received and detained in prison; and no writ shall be awarded to the Sheriff commanding him to arrest and seize the body of any offender. But all writs or warrants for the arrest or apprehension of any person, issued or awarded by the High Court in the exercise of its ordinary, extraordinary or other criminal jurisdiction, shall be directed to and executed by any officer or officers of Police within the limits of such jurisdiction.

No one to be committed to Sheriff;  
And writs not to be issued to Sheriff.

Warrants and writs to be directed to Police officers.

4. It shall be lawful for the Local Government to appoint an officer who shall be called in Calcutta the Superintendent of the Presidency jail, and in Madras and Bombay the Superintendent of jails for the town of Madras or Bombay, as the case may be, and who shall have authority to receive and keep prisoners committed to his custody under the provisions of this Act.

Local Government may appoint Superintendent of Presidency jail.

5. The said jails shall be the jails of Calcutta, Madras and Bombay respectively, and the Superintendents so to be appointed are hereby respectively authorized and required to keep and detain all persons duly committed to their custody pursuant to the provisions of this Act or otherwise, by any Court, Judge, Justice of the Peace, Magistrate of Police, Coroner or other public officer lawfully exercising Civil or Criminal jurisdiction according to the exigency of any writ, warrant or order by which such person shall have been committed, or until such person shall be discharged by due course of law.

Superintendents to detain persons committed.

6. The said Superintendent shall forthwith after the execution of every such writ, order or warrant, except warrants of commitment for trial, or after the discharge of the person committed thereby, return such writ, order or warrant to the Court or other officer by which or by whom the same shall have been issued or made, together with a certificate endorsed thereon and signed by such Superintendent, showing how

how the same has been executed, or why the person committed thereby has been discharged from custody before the execution thereof.

7. Whenever any person shall be sentenced by the High Court in the exercise of its original Criminal jurisdiction to imprisonment or to death, the Court shall cause such person to be delivered to the said Superintendent, together with the warrant of the said Court, and such warrant shall be executed by such Superintendent and returned by him to the High Court when executed.

Persons sentenced by High Court to imprisonment or death to be delivered to the Superintendent.

8. Whenever any person shall be sentenced by the High Court in the exercise of its original Criminal jurisdiction to transportation or penal servitude, the Court shall cause such person to be delivered for intermediate custody to the said Superintendent, and the imprisonment of such person shall have effect from such delivery.

Persons sentenced by High Court to transportation or penal servitude to be delivered for intermediate custody to Superintendent.

9. Whenever any Judge of a High Court shall, under any Act for the time being in force for punishing mutiny and desertion and for the better payment of the Army and their quarters, make order for the intermediate custody of an offender sentenced by a Court Martial holden in India, the Judge shall order such offender to be detained for intermediate custody by the said Superintendent.

Order under Mutiny Act for intermediate custody.

10. Whenever any person shall be committed by the High Court, whether in execution of a decree or for contempt of Court, or other cause, such person shall be taken by the officer to be appointed for that purpose by such Court, and shall be delivered to the said Superintendent, together with a warrant of commitment.

Committals by High Court in execution of a decree or for contempt.

11. Whenever any person shall be sentenced by a Magistrate of Police for the town of Calcutta, Madras or Bombay, to imprisonment, either absolutely or for default of payment of any fine imposed by any such Magistrate, or shall be committed to prison for failure to find security to keep the peace and to be of good behaviour, the Magistrate shall cause such person to be delivered to the said Superintendent, together with a warrant of the Court.

Persons sentenced by Magistrate to imprisonment, or imprisoned for non-payment of fine, to be delivered to Superintendent with a warrant.

12. Every

12. Every person committed by a Justice of the Peace or Magistrate or Coroner for trial by the High Court in the exercise of its original Criminal jurisdiction, shall be delivered to the said Superintendent, together with a warrant of commitment directing him to have the body of such person before the Court for trial, and such Superintendent shall as soon as practicable cause such person to be taken before the Court at a Criminal Session of the said Court, together with the warrant of commitment, in order that such person may be dealt with according to law. Every person committed by a Coroner shall be delivered to the said Superintendent, together with a warrant of commitment.

Persons committed by Justice or Magistrate for trial by High Court to be delivered to Superintendent with warrant.

Committals by Coroners.

13. Pending any such enquiry as is mentioned in Section 8 of Act No. XXIII of 1861 (*to amend Act VIII of 1859*), which the High Court may consider it necessary to make, the defendant may be delivered by the officer of the said Court to the said Superintendent, subject to the provisions as to deposit of fees and as to release on security contained in the same Section, and such Superintendent is hereby authorized and required to detain such defendant in safe custody until he shall be re-delivered to the officer of the Court for the purpose of being taken before the said Court in pursuance of an order of the said Court or of a Judge thereof, or until he shall be released by due course of law.

Custody pending enquiries under Act XXIII of 1861, Section 8.

14. Every person arrested in pursuance of a writ, warrant or order of the High Court in the exercise of its original Civil jurisdiction, or in pursuance of a warrant of any Court established in Calcutta, Madras or Bombay under Act No. IX of 1850 (*for the more easy recovery of small debts and demands in Calcutta, Madras and Bombay*), or in pursuance of a warrant issued under Section 3 of this Act, shall be brought without delay before the Court by which or by a Judge of which the writ, warrant or order was issued, awarded or made, or before a Judge thereof, if the said Court or a Judge thereof shall be then sitting for the exercise of original jurisdiction; and if such Court or a Judge thereof shall not be then sitting for the exercise of original jurisdiction, shall, unless a Judge of the said Court shall otherwise order, be delivered to the said Superintendent for intermediate custody, and shall be brought before the said Court or a Judge thereof at the next sitting of the said Court or of a Judge thereof

Persons arrested in pursuance of warrant of High Court or Small Cause Court to be delivered to Superintendent.

thereof for the exercise of original jurisdiction, in order that such person may be dealt with according to law; and the said Court or Judge shall have power to make or award all necessary orders or warrants for that purpose.

15. All persons confined in the Great Jail of Calcutta, or in any of the jails of the towns of Madras or Bombay under process or sentence of any of Her Majesty's late Supreme Courts of Judicature or of the High Courts, or of any Magistrate, shall be considered to be and shall remain in the custody of the said Superintendent according to the terms of the warrants under which they shall have been respectively committed to custody.

Persons confined in Great Jail of Calcutta or jails of Madras or Bombay shall be deemed to be in custody of Superintendent.

16. Any warrant of commitment under Regulation III of 1818 of the Bengal Code (*for the confinement of State prisoners*), Regulation II of 1819 of the Madras Code (*for the confinement of State prisoners*), and Regulation XXV of 1827 of the Bombay Code (*for the confinement of State prisoners, and for the attachment of the lands of chieftains and others, for reasons of State*), may be directed to the said Superintendent in the same manner as the same might have been directed to the Sheriff under Act No. XXXIV of 1850 (*for the better custody of State prisoners*), and Act No. III of 1858 (*to amend the law relating to the arrest and detention of State prisoners*).

Warrant under Regulation III of 1818, Bengal Code, Regulation II of 1819, Madras Code, and Regulation XXV of 1827, Bombay Code, may be directed to Superintendent.

17. The provisions contained in the Statute 11 Vic., cap. 21 (*to consolidate and amend the laws relating to insolvent debtors in India*), relating to persons in prison or liable to be arrested or detained in or remanded or recommitted to, or entitled to be discharged from, prison within the limits of the towns of Calcutta, Madras and Bombay respectively, shall apply to all persons in the custody of the said Superintendent, or liable to be delivered to or entitled to be discharged from his custody.

Provisions of Statute 11 Vic., cap. 21, as to prisoners, to extend to persons in custody of Superintendent.

18. Section 25 of Act No. XLVIII of 1860 (*to amend Act No. XIII of 1856, for regulating the Police of the Towns of Calcutta, Madras and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore and Malacca*), shall be construed in Madras and Bombay as if the words "Superintendent of

Construction of Section 25 of Act No. XLVIII of 1860.

of Jails for the town of Madras" or "Bombay," as the case may be, were substituted for the words "Keeper or Governor of the Jail or House of Correction."

**19.** This Act shall come into operation in Calcutta at once, and in  
Commencement of Madras and Bombay respectively, from such date as the  
Act. Local Government shall notify in the local *Gazette*.

Short title. **20.** This Act may be called "The Presidency Jails'  
Act, 1867."

SCHEDULE.

## . SCHEDULE.

Number and date of Acts.	Title.	Extent of repeal.
No. XXIV of 1855.	To substitute penal servitude for the punishment of transportation in respect of European and American convicts, and to amend the law relating to the removal of such convicts.	Section 8.
No. 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.	Sections 47, 48, 49, 50, 51 and 52.
No. XXV of 1863.	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.	The whole.
No. XII of 1865.	To amend the law relating to the custody of prisoners within the local limits of the original jurisdiction of Her Majesty's High Court of Judicature at Fort William in Bengal.	The whole.