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ORIGINAL
CIVIL,
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expended their own labour and their own money. Why are they not to have that lien in the same way as any other workman (who is entitled to retain the thing upon which he has worked until he has been paid for it?" The documents held by Messrs. Prescott and Winter are translations of entries in account books made at their expense in order that the originals might be used as evidence under No. 6 in chap. V of the Rules of this Court. They are not muniments of title, but ancillary papers which the plaintiff can replace by fresh translations. The fact that they have been made by the Court's interpreters, makes no difference in principle. The matter stands as if the solicitors, in the absence of a rule of the Court, had had them made by a clerk of their own or any other unofficial expert. Having got the work done, and paid for it, they need not part with the translations, or produce them, except on terms which will secure them against fraud. A translation, once produced and used in a suit, has, in fact, discharged in general the only function of which it is capable;—a lien on such a document, subject to an obligation to produce it, would be not only illusory, but a source of trouble, loss of time, and expense. The considerations, I have mentioned are as applicable to India as to England. They rest on a universal principle of justice; and, although no case in the Indian Courts has been cited to me, I cannot doubt that the views and the reasonings of the English Courts will be accepted whenever such a question as the present arises for decision in this country. I refuse to order Mr. Winter to produce the translations without payment to him, of the moneys actually expended by him in the litigation.

Attorneys for the plaintiff.—Messrs. *Nanu and Hormusji*.

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[357] APPELLATE CRIMINAL.

Before Mr. Justice West and Mr. Justice Pinhey.

IMPERATRIX *v.* BHAGWAN DEVRAJ, ON APPEAL BY THE
GOVERNMENT OF BOMBAY.* [27th February, 1879.]

Sanction to prosecute—Police patel—Bombay village Police Act VIII of 1867, s. 9, as amended by Bombay Act I of 1876—The Code of Criminal Procedure (X of 1872) s. 466—Indian Penal Code (XLV of 1860), s. 217.

The prosecution of a police patel, for an offence committed by him in his official capacity as needs such, no previous sanction. The provisions of the Bombay Village Police Act (VIII of 1876), s. 9,† as amended by the Bombay Police Amendment Act (I of 1876) render a police patel removable from his office without the previous sanction of Government, and, therefore, s. 466 of the Criminal Procedure Code (Act X of 1872) does not apply.

* Appeal No. 240 of 1878.

† The amended section runs thus:—"Any police patel, or member of a village establishment liable to be called on for the performance of police duties, who shall be careless or negligent in the discharge thereof, shall be liable to be fined, under the order of any Magistrate of the 1st Class, to any amount not exceeding the fourth part of the annual emoluments of his office.

"If he shall be accused of any violation of duty, or breach of rules, or of other misconduct which shall seem to such Magistrate to require a heavier punishment, he may suspend him from office during inquiry into such accusation, and at the close of such inquiry, if the said Magistrate shall consider him guilty of misconduct meriting such punishment, he may suspend him from office for a further period not exceeding

THIS was an appeal by the Government of Bombay against the order of Satyendranath Tagore, Acting Sessions Judge of Ahmedabad, annulling the conviction and sentence recorded by G. B. Reid, Magistrate (First Class).

The accused Bhagwan, a police patel, was convicted by Mr. Reid, under s. 217 of the Penal Code, of having, as a public servant, knowingly disobeyed a direction of the law as to the way in which he was to conduct himself as a public servant, intending [358] thereby to save, or knowing it to be likely that he would thereby save, a person from legal punishment, and was sentenced to pay a fine of Rs. 100; or, in default, to undergo rigorous imprisonment for three months. A gang of mounted thieves rode through the village of the accused, who failed to render such assistance in apprehending them as he was bound to do in his capacity of a police patel. The Sessions Judge was of opinion that the sanction of Government, or some officer empowered by Government, was necessary for the prosecution of the patel, and, as that was wanting, he annulled the conviction and sentence.

Nanabhai Haridas, Government Pleader, for the Crown.—Section 466 of the Code of Criminal Procedure (X of 1872) renders sanction necessary only in the case of public servant who is not removable from his office without the sanction of the Government. A police patel is not such a person; for under s. 9 of the Bombay Village Police Act, 1867, as amended by Bombay Act I of 1876, s. 2, he can be dismissed by a Magistrate (First Class), subject to the sanction of the Police Commissioner.

PER CURIAM.

The Court reverses the order of the Sessions Judge. It appears that a patel may be dismissed, on proof of misconduct, by a Magistrate (First Class), subject to the sanction of the Police Commissioner. Section 466 of the Code of Criminal Procedure, therefore, does not apply to the case. The Court of Session will dispose of the appeal on its merits.

Order accordingly.

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APPELLATE CIVIL.

Before Sir Michael Roberts Westropp, Kt., Chief Justice, and Mr. Justice M. Melvill.

SURYAJI AND ANOTHER (*Plaintiffs*) v. TUKARAM AND ANOTHER, (*Defendants*).* [23rd March, 1880.]

The Dekkhan Agriculturists Relief Act (XVII of 1879), ss. 11, 12 and 13.

The provisions of ss. 11 and 12 of the Dekkhan Agriculturists Relief Act (XVII of 1879) are applicable only to suits instituted upon and after the 1st November 1879.

[R., 4 B. 363; 31 B. 630=9 Bom. L.R. 917 (923) (F.B.)]

* six months, or dismiss him: provided that no person of the rank of patel shall be dismissed under this section without the sanction of the Police Commissioner.

"9. A.—Nothing in the last preceding section shall affect the liability of any police patel, or other member of a village establishment to a criminal prosecution for any offence with which he may be charged.

"Any Magistrate of the first class may suspend any such person subjected to any such prosecution pending the inquiry and trial."

* Small Cause Court Reference, No. 3 of 1880.