



Bombay Government Gazette.

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PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill and Statement of Objects and Reasons accompanying it are published for general information, by order of His Excellency the Governor General, under the 22nd of the Rules for the conduct of the Legislative Business of the Council of the Governor General:—

A Bill to amend the law relating to Powers-of-Attorney.

FOR the purpose of amending the law relating to Powers-of-Attorney; it is hereby enacted as follows:—

Short title. "The Powers-of-Attorney Act, 1881"
 Local extent. British India; and it shall come into force on the first day of January, 1882.
 Commencement. 1882.

2. The donee of a power-of-attorney may, if he thinks fit, execute or do any assurance, instrument or thing in and with his own name and signature and his own seal, where sealing is required, by the authority of the donor of the power; and every assurance, instrument and thing so executed and done shall be as effectual in law as if it had been executed or

done by the donee of the power in the name and with the signature and seal of the donor thereof.

This section applies to powers-of-attorney created by instruments executed either before or after this Act comes into force.

3. Any person making or doing any payment or act, in good faith, in pursuance of a power-of-attorney shall not be liable in respect of the payment

Payment by attorney under power without notice of death, &c., good.

44 & 45 Vic., c. 41, s. 47.

or act by reason that before the payment or act the donor of the power had died or become lunatic, of unsound mind, or bankrupt, or insolvent, or had revoked the power, if the fact of death, lunacy, unsoundness of mind, bankruptcy, insolvency or revocation was not at the time of the payment or act known to the person making or doing the same.

But this section shall not affect any right against the payee of any person interested in any money so paid; and that person shall have the like remedy against the payee as he would have had against the payer if the payment had not been made by him.

This section applies only to payments and acts made or done after this Act comes into force.

4. (a) An instrument creating a power-of-attorney, its execution being verified by affidavit, statutory declaration or other sufficient evidence, may, with the affidavit or

Deposit of original instruments creating powers-of-attorney.

44 & 45 Vic., c. 41, s. 48.

declaration, if any, be deposited in the High Court within the local limits of whose jurisdiction the instrument may be.

(b) A separate file of instruments so deposited shall be kept; and any person may search that file, and inspect every instrument so deposited; and a certified copy thereof shall be delivered out to him on request.

(c) A copy of an instrument so deposited may be presented at the office and may be stamped or marked as a certified copy, and when so stamped or marked shall become and be a certified copy.

(d) A certified copy of an instrument so deposited shall without further proof be sufficient evidence

of the contents of the instrument and of the deposit thereof in the High Court.

(e) The High Court may from time to time make rules for the purposes of this section, and prescribing, with the concurrence of the Local Government, the fees to be taken under clauses (a), (b) and (c).

(f) Throughout British Burma, the Court of the Recorder of Rangoon shall for the purposes of this section be deemed to be the High Court.

(g) This section applies to instruments creating powers-of-attorney executed either before or after this Act comes into force.

STATEMENT OF OBJECTS AND REASONS.

As the law stands, the donee of a power-of-attorney, when executing an instrument pursuant to the power, must sign, and where sealing is required must seal, in his principal's name. The first object of this Bill is to render it legal for such donees to execute in and with their own names and seals. The law respecting the execution of powers-of-attorney will thus be made accordant with what will be the rule in England from and after the 31st December, 1881, and with what is believed to be the practice in the North-Western Provinces and, probably, elsewhere in India. The section effecting this is copied from section 46 of the recent Statute 44 & 45 Vic., c. 41, which takes effect from the close of the present year.

The second object of the Bill is to preclude doubts as to the liability of a donee of a power-of-attorney who makes payments in good faith after the donor of the power has died or become lunatic or bankrupt or insolvent, or has revoked the power, when the fact of death, lunacy, bankruptcy, insolvency or revocation was not known to the donee at the time of making the payment. The section effecting this is copied from section 47 of the Statute above mentioned, and merely extends to all attorneys the rule as to trustees, executors and administrators making payments under powers, which has been in force in British India for the last fifteen years—see Act XXVIII. of 1866, section 39.

The third and last object of the Bill is to provide for the deposit of instruments creating powers-of-attorney, and for the evidence of the contents of such instruments. The section effecting this is copied (with the modifications necessary to adapt it to India) from 44 & 45 Vic., c. 41, section 48.

SIMLA;
The 16th October, 1881. }

(Signed) WHITLEY STOKES.

R. J. CROSTHWAITE,
Officiating Secretary to the Government of India.

[Published with the "Bombay Government Gazette" on the 27th October 1881.]

PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th October 1881, and was referred to a Select Committee:—

Bill No. 20 of 1881.

A Bill to prohibit the landing of certain Stowaways, and to provide for the recovery of expenses incurred by Government in respect of such persons.

WHEREAS it is expedient to prohibit the landing in British India of stowaways of European extraction, and to provide for the recovery of expenses incurred by Government in respect of such persons who become vagrants within one year after so landing; It is hereby enacted as follows:—

1. This Act may be called "The Stowaways Act, 1881"; and it shall come into force at once.

Short title.

Commencement.

2. In this Act—
"Stowaway" means any person of European extraction as defined in the European Vagrancy Act, 1874, who secretes himself and goes to sea in any ship without the consent of the owner, the consignee or the master of such ship, or of any other person entitled to give such consent, and who arrives on board such ship in a British Indian port;

"Master" includes any person in charge of a decked vessel; and
"Shipping master" includes any other officer whom the local Government may from time to time appoint to exercise the powers of a shipping master under this Act.

"Stowaway:"

"Master:"

"Shipping master:"

3. No master shall cause or permit any stowaway finally to land from his ship in a British Indian port without the previous sanction in writing of the shipping master.

Prohibition against causing or permitting stowaway to land without sanction.

4. Such sanction shall not be given unless and until the owner or agent of such ship has given to the shipping master a bond in such form, and with such number of sureties, as the local Government may from time to time prescribe, binding himself, in such sum as the shipping master thinks sufficient, to pay to the Secretary of State for India in Council, in the event of such stowaway becoming within one year after he so lands from such ship chargeable to the State as a vagrant under the European Vagrancy Act, 1874, the cost of his removal under the said Act and all other charges incurred by the State in consequence of his becoming a vagrant.

5. Any master who, in wilful disobedience of the prohibition contained in section three, causes or permits any stowaway finally to land from his ship, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

6. Whenever any stowaway finally lands from a ship without the sanction required by section three and becomes chargeable to the State as a vagrant under the European Vagrancy Act, 1874, within one year after so landing, the person who is at the date of such landing the owner or agent of the ship from which such stowaway has so landed shall be liable to pay to the Government the cost of his removal under the said Act and all other charges incurred by the State in consequence of his becoming a vagrant.

7. All costs and charges which any owner or agent is liable to pay under this Act shall be recoverable by suit as if he had entered into an express agreement with the said Secretary of State in Council to repay them.

Liability of owner or agent when stowaway lands without sanction.

Recovery of costs and charges.

STATEMENT OF OBJECTS AND REASONS.


Stowaways of European extraction are found, on a rough average, on board twenty per cent. of the vessels arriving at the port of Calcutta. They are also, though less frequently, landed at Bombay, Aden, and Rangoon. As the law stands, masters of ships in British Indian ports may land stowaways, and are in no way responsible for them after they have landed. If stowaways so landed are Europeans and become vagrants (as they occasionally do), they have to be dealt with under the European Vagrancy Act, 1874, and provided with subsistence-allowance while in charge of the police, with food while in a workhouse, and (where no suitable employment is obtained for them) with a passage to England, Australia, or wherever their homes may be. As the necessity for relieving such persons really originates in the carelessness of masters of ships, who fail to detect their presence on board before leaving port, it seems unfair that the expenses so incurred should be borne by the Indian tax-payer.

The present Bill has therefore been prepared. It prohibits the landing of stowaways of European extraction, unless with the previous sanction of the Shipping Master or other officer appointed by the local Government, and unless the owner or agent of the ship on board of which the stowaway is found gives a bond to the effect that all expenses incurred in the event of the stowaway becoming a vagrant within one year shall be borne by the obligor. It also imposes a penalty on any master causing or permitting a stowaway to land, and provides that where any stowaway lands without such sanction and becomes a vagrant within one year of so landing, the owner or agent of the ship from which he has landed shall pay all the expenses incurred by the State in consequence of his becoming a vagrant.

SIMLA; }
The 19th September 1881. }

(Signed) WHITLEY STOKES.

R. J. CROSTHWAITE,
Offg. Secretary to the Government of India.

 Please substitute these pages for pages 370 and 371 of the *Bombay Government Gazette*, Part VI, dated 27th* October 1881.