



SUPPLEMENT
TO THE
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CONTAINING
Acts and Bills of the Legislative Council of India.

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Legislative Council of India.

10th March 1860.

The following Bill was read a second time in the Legislative Council of India on the 10th March 1860, and was referred to a Select Committee, who are to report thereon after the 14th of June next :—

A Bill Relating to the Transportation of Convicts.

Whereas it is expedient to provide that convicted offenders, sentenced to transportation, shall be transported to such places only as the Governor-General of India in Council shall appoint; It is enacted as follows :—

I. From and after the passing of this Act, whenever any person, convicted of an offence which is punishable with transportation, shall be sentenced by any Court within the British Territories in India to be transported, such Court shall not, in its sentence, specify the place to which such person shall be sent for the purpose of undergoing the sentence of transportation.

II. It shall be lawful for the Governor General of India in Council, from time to time, to appoint a place or places within the British Territories in India to which persons, sentenced to transportation, shall be sent; and the local Government of the Presidency or place in which such persons shall have been sentenced, or some Officer duly authorised by the local Government, shall give orders for their removal to the place or places so appointed.

III. In every case in which a sentence of transportation is passed, the person upon whom such sentence is passed, until he is transported, shall be dealt with in the same manner as if sentenced to imprisonment with hard labour, and shall be

held to have been undergoing his sentence of transportation during the term of his imprisonment.

IV. When sentence of transportation shall be passed on a person already undergoing transportation under a sentence previously passed for another offence, it shall not be necessary for the Government to order the removal of such person from the place in which he is so undergoing transportation.

V. Nothing in this Act shall affect the provisions of Act 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), or the provisions of any Act of Parliament passed in the United Kingdom of Great Britain and Ireland for punishing mutiny and desertion.

M. WYLIE,
Clerk of the Council.

Legislative Council of India.

25th February 1860.

The following Bill was read a second time in the Legislative Council of India on the 25th February 1860, and was referred to a Select Committee, who are to report thereon after the 29th of May next :—

A Bill to provide for the Registration of Assurances.

Whereas it is expedient to consolidate and amend the Laws relating to the Registration of Assurances; It is enacted as follows :—

I. Regulations XXXVI. 1793, XXVIII. 1795, XVII. 1803, Section XVII. Regulation VIII. 1805 so far as it relates to Regulation XVII. 1803, Section

XXXII. Regulation. XII. 1805, Regulation XX. 1812, and Regulation IV 1824, of the Bengal Code; Regulations XVII. 1802 and XI. 1831 of the Madras Code; and Regulation IX. 1827, of the Bombay Code; and Acts XXX. of 1838, I. of 1843, XIX. of 1843, IV. of 1845, XVIII. of 1847, and XI. of 1851—shall be repealed from and after the day of 1860.

II. The Board of Revenue at each Presidency, and at places where there is no General Register Office. Board of Revenue such Public Office as the local Government may select, shall be a General Register Office for the Territories depending on such Presidency or place. The General Register Office shall, with the sanction of the local Government, frame rules for the guidance of District and Deputy Registrars, not inconsistent with the terms of this Act.

III. The local Government of each Presidency or place shall establish an Office, to be styled the District Register Office, in every District or Zillah, and also such number of Deputy Register Offices, as, in the judgment of the local Government, may be necessary for the purposes of this Act.

IV. The Judge of the District or Zillah Court shall be the District Registrar of the District or Zillah over which such Court may have jurisdiction; and the District Moonsiff, and such other Public Officers as the local Government may select, shall be Deputy Registrars of such District or Zillah.

V. It shall be lawful for the local Government of each Presidency or place, with the sanction of the Governor General of India in Council, to appoint such other persons, not being Public Officers, to be Deputy Registrars, and to assign to them such salaries as to such local Government may appear necessary.

VI. It shall be lawful for the local Government of each Presidency or place, with the sanction of the Governor General of India in Council, to allow such Establishments to the General Register Office and to the District and Deputy Registrars as may be necessary for the purposes of this Act.

VII. Each District and Deputy Registrar shall use a seal, to be supplied by the Government of the Presidency or place in which such Offices are respectively situated; and such seal shall bear the inscription "The Seal of the (Deputy) Registrar of ."

VIII. The local Government of each Presidency or place shall provide for each District and Deputy Registrar's Office such Books as may be necessary for the purposes of this Act; and such Books shall contain printed forms for the entries to be made therein, and the pages of such Books shall be consecutively numbered in print, and the number of pages in each Book shall be certified by the Officer at the Presidency by whom such Books may be supplied. The local Government shall, further, supply each District Registrar with a fire-proof box, to be used as hereinafter provided.

IX. No transfer of immoveable property, and no transfer of moveable property, exceeding in value fifty Rupees, any of which instruments may have been executed after the passing of this Act, shall be valid, unless

the same be registered within the period of time prescribed by this Act. Provided always, that the transfer shall operate from the time of its execution, and not from the time of its registration; and that, if such deed be not registered within the time prescribed, it shall be void and of no effect from the time of its execution.

X. No transfer of property, such as is described in Section IX. of this Act, which shall have been executed after the passing of this Act, shall be accepted for registration, unless presented for the purpose to the proper Officer within thirty days from the date of the execution thereof.

XI. All transfers of moveable property, not exceeding fifty Rupees in value, may be registered as herein-after provided, if presented for registry by all the parties to the same; and all the provisions of this Act shall be applicable to such instruments so presented.

XII. All parties, their heirs, representatives, or assigns, to instruments of the description mentioned in Section IX. of this Act, which shall have been executed before the passing of this Act, or before the expiration of months from the passing of this Act, may have such instruments registered in the manner hereinafter provided, if such instrument shall be presented for registration within months from and after the passing of this Act, and if the conditions to such registry, as hereinafter required shall have been first complied with; provided always, that if one or both the parties to the instrument be dead, the heirs, representatives, or assigns of such party or parties, shall be permitted to testify the execution of such instrument, on satisfying the Deputy Registrar of his or their identity; as provided in Section of this Act.

XIII. Any will, codicil to a will, or authority to adopt a son after the decease of the person giving such authority, may at any time be registered by the person making such will, or codicil, or giving such authority, in the manner hereinafter provided.

XIV. Instruments to be registered shall be presented to the Deputy Registrar by all the parties thereto; provided that any person presenting such instrument, who may be personally unknown to such Deputy Registrar, be accompanied by some person known to such Deputy Registrar, and in whom he may confide, who shall answer for the identity of such person.

XV. All instruments affecting real property shall be registered in the Office of the Deputy Registrar, within whose jurisdiction such real property or the chief part thereof may be situate; and all instruments affecting moveable property shall be registered in the office of the Deputy Registrar within whose jurisdiction the same are made and executed, or within whose jurisdiction the purchaser of such moveable property in the case of goods purchased on contract, or the grantor of any bond in the case of a bond for money, shall reside, or at any Registry Office at which all the parties to any such instrument shall desire the same to be registered; provided always that instruments in the English language shall be registered only in the Office of the District Registrar.

XVI. Any person presenting an instrument for registry to a Deputy Registrar, who may be guilty of personating, with fraudulent intent, a party to such instrument, or the heir, representative, or assign of such party, and any person

who may aid or abet such fraudulent personation shall, on conviction before the Criminal Court of the Zillah, be sentenced to imprisonment with hard labour for a term not exceeding years.

XVII. Any Deputy Registrar by whom an instrument shall have been registered as hereinafter provided, any party to which, or the heir, representative, or assign of such party, shall have been fraudulently personated by another at the presentation of such instrument to such Deputy Registrar, shall, upon conviction before the Criminal Court of the Zillah of connivance at such fraudulent personation, be sentenced to imprisonment for any term not exceeding years with or without hard labour, or to fine not exceeding Rupees, or both; and upon conviction before such Court of culpable neglect by which such fraudulent personation may have been practised, to fine not exceeding Rupees; and, in all cases, fines imposed under this Section may be levied summarily by distraint.

XVIII. Where it may be inconvenient for any parties to an instrument, the registration of which is required, or the heirs, representatives, or assigns of such parties, to appear before a Deputy Registrar personally for presentation of such instrument for registration, such instrument may be presented for registration to the District Registrar by means of one of the Vakceels of the Civil Court duly constituted for such purpose by the said parties, their heirs, representatives, or assigns. But no instrument shall be received by the District Registrar from the parties themselves, their heirs, representatives, or assigns, without the intervention of a Vakeel; and any Vakeel guilty, by connivance or culpable negligence, of presenting for registration any instrument to the execution or registration of which the real parties named therein, or their heirs, representatives, or assigns, may not have assented, shall be liable to be punished as provided in the case of Deputy Registrars so guilty in Section XVII. of this Act. Provided that, in all cases in which any instrument may be registered in the District Registrar

Proviso.

Office by a Vakeel, a transcript of such registry shall be immediately sent by the District Registrar to the Deputy Registrar in whose jurisdiction the registry would otherwise have been made according to Section XV. of this Act.

XIX. No instrument shall be accepted for registration, unless at the time of its presentation a fee according to the following scale be deposited:—

	When the purchase or consideration money shall not exceed	Rs.	100	2 As.
If above	100 Rs. and not above	500	4	"
If above	500 Rs. and not above	1,000	8	"
If above	1,000 Rs. and not above	2,000	1	Rs.
If above	2,000 Rs. and not above	5,000	2	"
If above	5,000 Rs. and not above	10,000	4	"
If above	10,000 Rs. and not above	15,000	8	"
If above	15,000 Rs. and not above	20,000	16	"
If above	20,000 Rs. and not above	30,000	32	"
If above	30,000 Rs. and not above	50,000	50	"
If above	50,000 Rs. and not above	1,00,000	100	"
If above	1,00,000 Rs.		150	"

XX. All fees received under the provisions of this Act shall be remitted once in every month to the Collector's Treasury, and be credited to Government.

XXI. On the parties to any instrument, their heirs, administrators, or assigns, appearing before the Deputy Registrar for the purpose of obtaining the registration of such instrument, if the parties be personally known to him.

to the Deputy Registrar, he shall at once proceed to register such instrument in the manner hereinafter provided. Whenever the parties to any instrument, their heirs, administrators, or assigns, for the registration of which application may be made, shall not be personally known to the Deputy Registrar, it shall be the duty of such Deputy Registrar to make such inquiry as shall satisfy him of the identity of such parties, and he shall enter in the Register Book the names in full of all the persons whose evidence he may take to prove such identity; and for obtaining the appearance and for the examination of such persons, he shall have the same powers as are vested in the Civil Courts for obtaining the appearance of witnesses and for taking evidence by any law now in force or that may hereafter be enacted.

XXII. No instrument shall be accepted for registry if any interlineation, erasure, or alteration shall appear on such instrument, unless the parties appearing to register the same shall attest with their signatures such interlineation, erasure, or alteration; and it shall be the duty of the District or Deputy Registrar at the time of registering such instrument to make a note in the register of such interlineation, erasure, or alteration.

XXIII. In every General Register Office shall be kept, and every District and Deputy Registrar shall keep, three books, which shall be entitled—

- 1.—Register of Title Deeds.
- 2.—Register of Mortgages and Leases.
- 3.—General Register.

And in the General Register shall be entered all instruments not included under Title Deeds, Mortgages, or Leases, and not required to be entered in such other Registers as are hereinafter provided. All entries made in such books shall be numbered in a consecutive numerical series which shall commence and terminate with the year, a fresh series being commenced at the beginning of each year. Whenever any instrument, for the registration of which application may be made, refers to real and personal property, it shall be entered in Book No. 3 and also in Book No. 1 or 2 as the case may be.

XXIV. At the close of each year, two indices shall be prepared for each Register, one containing the names of all persons mentioned in the instrument registered as parties thereto, and the other the names of all places so mentioned. These names shall be entered in alphabetical order, and shall show the page in the Register on which the names entered in the indices appear.

XXV. Every instrument presented for registration shall be entered in its appropriate book according to the order of its presentation, and shall be numbered accordingly. The entry made in the Register shall show the year, month, day, and hour of presentation, the species of instrument presented for registration, the names of the parties to the instrument in full, and the names in full of any persons who may have testified to the identity of the parties to the instrument, after which the instrument shall be transcribed in full. To every entry made as is above prescribed, the signatures of the parties to the instrument shall be taken, as well as the signatures of any person who may have testified to the identity of such parties, and the Deputy Registrar shall affix his own signature to the entry, and such signature shall be evidence that the parties to the instrument, and the persons who testified to the identity of such parties, actually appeared before such Deputy Registrar and registered such instrument or testified to such identity.

XXVI. The instrument shall then be returned to the party who may have presented the same for registration, with an endorsement inscribed thereon, showing

the date of registration, the number of the book in which such registry shall have been made, and the page of the book on which such entry shall appear, which endorsement shall be certified by the seal and signature of the Deputy Registrar; and the instrument thus endorsed shall be sufficient proof, on the production thereof in any Court of Justice, that such instrument has been duly registered.

XXVII. Every instrument affecting real property

Duplicates where instrument affects real property.

presented for registration shall be presented in duplicate; and the Deputy Registrar, after satisfying himself by careful examination that both copies are in every respect and particular alike, shall, within twenty-four hours after receiving such instrument, and returning one copy thereof endorsed as provided in Section XXVI. of this Act to the party who presented the same, transmit the other copy to the District Registrar, with a transcript of the entry made in the Register as hereinbefore provided, such copy and such transcript being attested by the official seal and signature of such Deputy Registrar; provided that it shall not be necessary to transmit a copy of the transcript of the instrument entered in the Register. On the receipt of such copy and transcript, the District Registrar shall enter the same in the District Register and indices, in the manner hereinbefore provided for Deputy Registrars, and shall, within twenty-four hours after making such entry, transmit an exact copy thereof to the General Register Office.

XXVIII. Any person wishing to register a will, a

Wills, &c.

codicil to a will, or any instrument giving authority

to his widow to adopt a son after his decease, shall deliver such will or codicil or such instrument in a sealed cover superscribed with the name of the depositor and the nature of the instrument to the District Registrar within whose jurisdiction such person may reside and the identity of such person shall, if necessary, be proved as provided in Section XIV. of this Act.

XXIX. Every District Registrar shall, in addition

Register of wills.

to the Books prescribed in Section XXIII. of this Act,

keep two Books, to be entitled—

Register of deposits of wills, and codicils to wills and instruments giving authority to adopt.

Register of wills, codicils, and instruments giving authority to adopt.

XXX. On receipt of such sealed cover superscribed

Entry in Register of wills.

as is above provided, the District Registrar shall enter the same in the Register of deposits of wills and instruments giving authority to adopt, transcribing therein the superscription on such sealed cover, and noting in the Register and on the cover the year, month, day, and hour of such receipt, together with the name of the depositor and the names of the persons testifying to the identity of such depositor, and shall then place such sealed cover in a strong fire-proof box, to be supplied by Government for that purpose.

XXXI. Whenever on the death of any depositor

On death of depositor, sealed packet to be delivered up.

of any sealed packet, application may be made to any

District Registrar to deliver up such packet, such District Registrar, after satisfying himself that such depositor is dead, shall, in the presence of the person or persons making such application, open such sealed packet, and shall enter an exact copy thereof in the Register of wills, codicils, and instruments giving authority to adopt; and such copy so made shall be received in any Court of Justice as the will, codicil, or instrument of the depositor deceased. After a copy of such will, codicil, or instrument shall have been entered in the Register, the original shall be delivered to any person or persons applying for the same, his or their receipt being taken for the same.

XXXII. On the receipt in the General Register

Entry in General Register
Office of transcripts of entry
made by District Registrar.

Office of any transcript of any entry made in any Register by any District Registrar, the same shall be entered in the Book No. 1, 2, or 3 as the case may be.

XXXIII. An appeal shall lie from any proceeding

Appeals.

of any Deputy Registrar under this Act, if presented to the District Registrar within thirty days after the performance of the act appealed against; and the District Registrar shall have authority to call before him the parties to the instrument, in connection with the registration of which such appeal has been made, the persons who testified to the identity of such parties, and any other person whose evidence, in the opinion of such District Registrar, may be necessary to a right understanding of the matter in appeal; and the decision of such District Registrar on such appeal shall be final. For procuring the attendance of parties and witnesses, the District Registrar may exercise any or all the powers given to any Judge for procuring the attendance of witnesses by any law now in force or that may hereafter be enacted.

XXXIV. The Registers in the General Register

Inspection of Register.

Offices and in the Offices of the District and Deputy

Registrars, shall be at all times open to inspection by any person applying to inspect the same, and certified copies of any entry in such Registers shall be given to all persons applying for such copies. A fee of eight annas shall be paid by any person applying to inspect any Register before such Register is opened to his inspection; and a fee of one Rupee over and above the charge of making the transcript shall be paid by every person requiring a copy of any entry in any such Register. The charge to be made for making copies of entries in the Registry shall be regulated from time to time by the General Register Office.

XXXV. Priority of title shall be given to instru-

Priority of title.

ments affecting immoveable property in the date of their

registration; and when two or more instruments are presented for registration at the same time, they shall take precedence according to the date of their execution. But as delay may occur in the negotiation of a sale or other contract, and by reason of the absence of parties the written transfer of property may be delayed, any person may, after the operation of this Act shall have commenced, execute and register a caveat which shall have the effect of preventing the registration of any instrument within the period of six months from having any effect as against an instrument to be registered within such period by the party in whose favour the caveat may have been given. Any instrument registered within six months after such caveat shall have been granted, by the party in whose favour such caveat was entered, shall be entitled to the same preference and advantage as if such instrument had been registered at the time when such caveat was entered.

XXXVI. Every caveat entered as provided in the

Caveat to be copied in Register.

last preceding Section, shall be copied in the Register,

and entered in the Index to the Register, as though it were the complete instrument for the protection of which it may have been entered.

XXXVII. All claims founded on registered instru-

Enforcement of claims founded on registered instruments.

ments not affected by other instruments subsequently registered, or by decrees of Court or public sales, shall

be enforced on application to the Court having jurisdiction in the matter of such instruments, on a miscellaneous petition. But if it be found that the instrument is not conclusive as to the effect to be given thereto, or that judicial inquiry to warrant the enforcing the same is otherwise necessary, the party making the application shall be referred to a Civil action.

XXXVIII. No party to a registered instrument, sought as above to be enforced, and no heir, representative, or assign of such party, shall be allowed to dispute the act ascribed to such party in such instrument, or the obligation attaching to him thereunder.

XXXIX. Nothing in this Act shall be held to affect the right of Government to its Revenue, or to extend to Bills of Exchange, or to any other negotiable instruments or mercantile documents, or to written agreements known as pottahs and kuboolahs between landlords and their tenants, or to contracts between ryots and others for the cultivation or delivery of Indigo plant.

XL. No discharge of any contract for value, no discharge of any claim for or upon money or other moveable property, save what may arise from a running account or partnership, conferred, granted, or entered into, from and after the period of six months from the passing of this Act, shall

be valid, unless the same be endorsed on the instrument on which such claim is founded.

XLI. The provisions of this Act shall not be in force in any place within the jurisdiction of the Courts established by Royal Charter.

XLII. In the construction of this Act, unless the contrary appear from the context, the word "transfer" shall import every kind of instrument by which any property or interest therein is alienated, conveyed, assigned, or transferred, or given absolutely, or partially, or conditionally, or on the happening of any future event or contingency, or on the failure to do any act, or pay any money, or by way of mortgage or pledge; and words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; words importing the masculine gender shall include females.

M. WYLIE,
Clerk of the Council.