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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 26th June, 1879, and was referred to a Select Committee:—

Bill No. 8 of 1879.

A Bill to provide for the grant of Probates of Wills and Letters of Administration to the estates of certain deceased persons.

WHEREAS it is expedient to provide for the grant of probate of wills and letters of administration to the estates of deceased persons in cases to which the Indian Succession Act, 1865, does not apply; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Probate and Administration Act, 1879":

Local extent.

It applies to the whole of British India;

Commencement.

and it shall come into force on the first day of January, 1880.

2. The following portions of the Indian Succession Act, 1865, as amended by Act No. XIII of 1875 (to amend the law relating to Probates and Letters of Administration, by Act No. II of 1877 (to amend Act No.

Portions of Indian Succession Act extended to grants of probate or administration in the case of Hindús, &c.

tion, by Act No. II of 1877 (to amend Act No.

XIII of 1875), and by the District Delegates Act 1879 (that is to say):—

sections 179 to 186 (both inclusive);
sections 188 and 189;
sections 191 to 199 (both inclusive):
part XXX;
part XXXI, except section 239;
parts XXXIII to XL (both inclusive),

shall, notwithstanding anything contained in section 331, or any order passed by the Governor General in Council under section 332, of that Act, apply in the case of every Hindu, Muhammadan, Buddhist and person exempted under section 332 of that Act dying on or after the said first day of January, 1880.

3. The portions of the said Act thus applied shall be read as if after Addition to section 199 of said Act. section 199 the following were inserted (that is to say):—

"199A. When the deceased has died intestate, administration of his estate may be granted to any person who, according to the rules for the distribution of the estate of an intestate applicable in the case of such deceased, would be entitled to the whole or any part of such deceased's estate.

"When several such persons apply for administration, it shall be in the discretion of the Court to grant it to any one or more of them.

"When no such person applies, it may be granted to a creditor of the deceased."

4. In section 256 of the said Act as applied by this Act, after the word "committed" the Amendment of section 256 of said Act. following shall be insert-

ed (namely): "and, if the Judge so direct, any person to whom probate shall be granted."

5. Notwithstanding anything hereinbefore contained, it shall, except in cases to which the Hindú Wills Act, 1870, applies, be in the discretion of the Court to refuse, for reasons to be recorded by it in writing, to grant any application for letters of administration made under this Act.

Saving clause.

6. Nothing herein contained shall

(a) validate any testamentary disposition which would otherwise have been invalid;

(b) invalidate any such disposition which would otherwise have been valid;

(c) vest in an executor or administrator any property of a deceased person which would otherwise have passed by survivorship to some other person;

(d) deprive any person of any right of maintenance to which he would otherwise have been entitled; or

(e) affect the rights, duties and privileges of the Administrator General of Bengal, Madras, or Bombay.

7. In this Act, and in the said sections and parts of the Indian Succession Act, as applied by this Act, all words defined in

Interpretation-clause.

section three of that Act shall, unless there be something repugnant in the subject or context, be deemed to have the same meaning as the said section three has attached to such words respectively.

8. No probate of a will or letters of administration to the estate of any Hindu, Muhammadan, Buddhist or person exempted as aforesaid dying on or after the said first day of January, 1880, shall be granted by any Court in British India except under this Act.

9. The following amendments shall be made Amendment of Act in the Hindú Wills Act, XXI. of 1870. 1870 (namely):—

(a). For the portion of section two commencing with the words "sections one hundred and seventy-nine" and ending with the words "administrator with the will annexed" the words "and section one hundred and eighty-seven" shall be substituted.

(b). In section three, for the words "one hundred and three and one hundred and eighty-two" the words "and one hundred and three" shall be substituted.

(c). The third clause of the same section and the last clause of section six shall be repealed.

Nothing in this section shall apply to the case of any testator or intestate dying before the said first day of January, 1880.

10. All grants of probate of the will or letters of administration to the estate of any deceased Hindu, Muhammadan or Buddhist, or any person

exempted by the Governor General in Council from the provisions of the Indian Succession Act, which may have been made since the first day of January, 1866, shall, whenever such grant would have been lawful if this Act had been in force, be deemed to have been made in accordance with law.

STATEMENT OF OBJECTS AND REASONS.

As the law of British India at this moment stands, there is, speaking generally, no means of conferring upon any one a complete and conclusive title as representative of the estate of a deceased Hindú, Muhammadan or Buddhist or other persons exempt from the operation of the Indian Succession Act.

The Hindú Wills Act is at present limited in its operation to the Presidency-towns and Lower Bengal; and, even if the proposal to extend it to other parts of British India, now under consideration, is carried out, it will still only apply to cases of testamentary succession among Hindús.

The grant of a certificate under Act XXVII of 1860 makes the person who has obtained it a representative only for certain very limited purposes; and, though in the Bombay Presidency a certificate purporting to confer larger powers may be obtained under Regulation VIII of 1827, it is by no means clear what the status of the holder of such a certificate precisely is.

In the Presidency-towns probates of the wills and letters of administration to the estates of deceased Natives can be granted under the Supreme Court Charters in cases to which the Succession Act and the Hindú Wills Act do not apply; but the representative status conferred by such grants falls far short of that conferred by similar grants in the case of deceased European British subjects.

2. From this state of things much trouble and litigation at times result. The heirs may be very numerous; their interests may differ in degree; some of them may be minors or otherwise incapacitated; others may be residing at a distance; the titles of some may be disputed; the settlement of claims against the estate may thus be a matter of endless complication; the making of a satisfactory title to any portion of it which it may be necessary to sell may be impossible.

3. The necessity of devising some means of removing these difficulties was brought to the notice of the Government of India some time ago by Mr. Broughton, then Administrator General of Bengal, and now a Judge of the Calcutta High Court; and a Bill drafted by him was circulated for the opinions of local authorities. That Bill, while guarding against any interference with the succession laws of the classes in question, went in effect to apply to them the provisions of the Indian Succession Act relating to probate and administration, and, amongst others, those provisions which make the grant of probate or letters of administration a condition precedent to the establishment of any right derived by succession from a deceased person.

4. The reports of the local authorities have now been received, and their purport may be

briefly described by saying that, while there is a considerable body of opinion in favour of providing the means of obtaining probate of the will or letters of administration to the estate of any deceased person when those interested desire to do so, the proposal to insist on probate or letters of administration as essential has been generally condemned, as tending to impose upon a multitude of poor and ignorant people in cases where there is no difficulty or dispute an unnecessary amount of trouble and expense.

5. The present Bill has been drawn on the lines thus indicated. It applies to the estates of all persons not at present governed by the Indian Succession Act, the portions of that Act relating to the grant of probate and administration and the powers, duties and procedure of executors and administrators, omitting, however, those sections (187 and 190) which make it compulsory to obtain probate or administration, and also those sections (200 to 207) which lay down the order according to which the various persons interested are entitled to administration on an intestacy.

6. These latter sections it would be impossible to apply, as they are in part based on a law of intestate succession differing from that of the classes for which the Bill has been drawn. The only rule it seems possible to lay down for these classes is the broad one that the grant shall follow the interest; that, when several persons inheriting portions of the estate claim administration, the Judge may grant it to any one or more of them as he thinks fit, and that, when no such person applies, he may grant it to a creditor.

7. This is the rule laid down by section 3 of the Bill; and, as it is apprehended that in some cases of family feuds a person entitled to a trifling share of the deceased's estate might apply for administration merely for the purpose of harassing his co-heirs by compelling them to apply, a full discretion has been reserved (in section 5) to refuse, for reasons recorded, to grant any application.

8. The Indian Succession Act, following the English law, provides for the taking of security for the due discharge of his office only from an administrator, it being considered that, in the case of an executor who is selected by the testator himself, such security can safely be dispensed with. But amongst the classes to which this Act will apply cases will, it is apprehended, occasionally occur in which it may be expedient to take security even from an executor; and accordingly a section (4) has been inserted in the Bill amending section 256 of the Succession Act in such a manner as to give a power to the Court to require an executor to give security.

9. Section 6 of the Bill saves in the fullest manner the substantive laws of succession of the classes to which the Bill applies.

10. Section 8 is intended to put an end to the imperfect grants of probate and administration under the old Supreme Court Charters already referred to.

11. The portions of the Hindú Wills Act specified in section 9 are repealed merely because they are re-enacted with a wider application in

the present Bill. Section 10 is intended to remove all doubt as to the validity of certain grants of probate and administration which have been made in British Burma.

(Signed) WHITLEY STOKES.

SIMLA;
The 16th May, 1879. }

D. FITZPATRICK,
Secretary to 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 26th June, 1879, and was referred to a Select Committee:—

Bill No. 9 of 1879.

A Bill to make further provision for the grant of Probate and Letters of Administration in non-contentious cases.

WHEREAS it is expedient to make further provision for the grant of probate and letters of administration in non-contentious cases; It is hereby enacted as follows:—

1. This Act may be called "The District Delegates Act, 1879":

Short title.

Extent. It extends to the whole of British India;

and it shall come into force on the first day of January, 1880.

Commencement. Addition of section after section 235 of Succession Act. 2. After section 235 of the Indian Succession Act, 1865, the following section shall be added:—

"235 A. The High Court may, from time to time, appoint such judicial officers within any district as it thinks fit, to act for the District Judge as Delegates to grant probate and letters of administration in non-contentious cases, within such local limits as it may from time to time prescribe:

Provided that, in the case of High Courts not established by Royal Charter, such appointment be made with the previous sanction of the Local Government.

Persons so appointed shall be called "District Delegates."

3. After Section 241 of the said Act, the following section shall be added:—

"241 A. Probate and Letters of Administration may be granted by Delegate. Addition of section after Section 241 of same Act. Probate and Letters of Administration may be granted by Delegate. tion may, upon application for that purpose to any District Delegate, be granted by him in any case in which there is no contention, if it appears by petition (verified as hereinafter mentioned) that the testator or intestate, as the case may be, at the time of his death resided within the jurisdiction of such Delegate."

4. To sections 244 and 246 of the said Act, respectively, the following words shall be added: "and when the application is to a District Delegate, the petition shall further state that the deceased at the time of his death resided within the jurisdiction of such Delegate."

Substitution of section for section 251 of same Act.

5. For Section 251 of the said Act, the following section shall be substituted:—

"251. Caveats against the grant of probate or administration may be lodged with the District Judge or a District Delegate; and immediately on any caveat being lodged with any District Delegate, he shall send a copy thereof to the District Judge; and immediately on a caveat being entered with the District Judge, a copy thereof shall be given to the District Delegate, if any, within whose jurisdiction it is alleged the deceased resided at the time of his death, and to any other Judge or District Delegate to whom it may appear to the District Judge expedient to transmit the same."

6. In section 253 of the said Act, after the word "Judge" the words "or officer," and after the word "made" the words "or notice thereof has been given of its entry with some other Delegate," shall be inserted.

Addition of sections after section 253 of same Act.

"253 A. A District Delegate shall not grant probate or letters of administration in any case in which there is contention as to the grant, or in which it otherwise appears to him that probate or letters of administration ought not to be granted in his Court."

"Explanation.—By 'contention' is understood the appearance of any one in person or by his recognized agent, or by pleader duly appointed to act on his behalf to oppose the proceeding."

"253 B. In every case in which there is no contention, but it appears to the District Delegate doubtful whether the probate or letters of administration should or should not be granted, or when any question arises in relation to the grant, or application for the grant, of any probate or letters of administration, the District Delegate may, if he thinks proper, transmit a statement of the matter in question to the District Judge, who may direct the District Delegate to proceed in the matter of the application, according to such instructions as to the Judge may seem necessary, or may forbid any further proceeding by the District Delegate in relation to the matter of such application, leaving the party applying for the grant in question to make application to the Judge."

"253 C. In every case in which there is contention, or the District Delegate is of opinion that the probate or letters of administration should

be refused in his Court, the petition, with any documents that may have been filed therewith, shall be returned to the person by whom the application was made, in order that the same may be presented to the District Judge; unless the District Delegate thinks it necessary, for the purposes of justice, to impound the same, which he is hereby authorized to do; and in that case the same shall be sent by him to the District Judge."

8. In the said Act, sections 254 and 255, respectively, after the words "I, Judge of the District of

Amendment of sections 254, 255 and 308 of same Act. "the words '(or Delegate appointed for granting probate or letters of administration in (here insert the limits of the Delegate's jurisdiction))'; and in section 308, after the words 'District Judge by whom' the words 'or by whose District Delegate' shall be inserted."

9. In the said Act, sections 246, 250, 255 and 259, after the words "District Judge," and in section 250 and section 254 (when it first occurs) after the word "Judge," the words "or District Delegate" shall be inserted respectively.

STATEMENT OF OBJECTS AND REASONS.

The Indian Succession Act, as originally framed by the Law Commissioners, empowered the District Judge to appoint judicial officers to act for him as delegates to grant probates and letters of administration in non-contentious cases much in the same way as the District Registrars appointed under the Court of Probate Act, 1857, do in England; but the provisions relating to this matter were struck out of the Bill by the Select Committee, partly because they were deemed unnecessary, and partly because it was apprehended that the power which was to be conferred on District Judges would give rise to abuse.

If, however, the Bill which has been drafted to provide for granting probate of the wills and administration to the estates of persons now exempted from the operation of the Indian Succession Act becomes law, it is probable that the business of granting probate and administration will increase to such an extent that the District Judges will be unable to dispose of it without assistance.

The present Bill has accordingly been framed with a view to replacing in the Succession Act, with some slight modifications in point of form, the sections removed from it by the Select Committee; but in order to avoid as far as possible the danger of abuse apprehended by the Select Committee, the power of appointing the delegates has been vested not in the District Judges, but in the High Courts, and its exercise has in the case of High Courts not established by Royal Charter been made subject to the previous sanction of the Local Government.

(Signed) WHITLEY STOKES.

SIMLA;
The 28th May 1879.

D. FITZPATRICK,
Secretary to 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 26th June, 1879, and was referred to a Select Committee:—

Bill No. 11 of 1879.

A Bill to provide for the holding of property by certain Religious Congregations.

WHEREAS it is expedient to simplify the manner in which certain congregations associated for the purpose of maintaining religious worship may hold certain property acquired for such purpose; It is hereby enacted as follows:—

Short title. 1. This Act may be called "The Religious Congregations Act, 1879":

Commencement. It shall come into force at once; and

Local extent. shall extend to the whole of British India;

but nothing herein contained shall apply to any Hindus, Muhammadans or Buddhists, or any persons whom the Governor General in Council may, from time to time by notification in the *Gazette of India*, exclude from the operation of this Act.

2. When any congregation associated for the purpose of maintaining religious worship has trustee in cases not acquired, or hereafter otherwise provided for. shall acquire, any moveable property, or any immoveable property for—

(a) a church, chapel, meeting-house or other place for religious worship,

(b) a dwelling-house for the minister of such congregation, with offices and garden,

(c) a hall or rooms for the meeting and transaction of the business of such congregation,

and such property has been or hereafter shall be vested in trustees in trust for such congregation,

and it becomes necessary to appoint a new trustee in the place of any such trustee or of any trustee appointed in the manner hereinafter prescribed,

and no manner of appointing such new trustee is prescribed by any instrument by which such property was so vested, or by which the trusts on which it is held have been declared, or such new trustee cannot for any reason be appointed in a manner so prescribed,

such new trustee may be appointed in such manner as may be agreed upon by such congregation, or by a majority of not less than two-thirds of the members actually present at the meeting at which the appointment is made.

3. Every appointment of new trustees under Appointment under section 2 to be recorded in a memorandum under the hand of the chairman of the meeting. section two shall be made to appear by some memorandum under the hand of the chairman for the time being of the meeting at which such appointment is made.

Such memorandum shall be in the form set forth in the schedule hereto annexed, or as near thereto as circumstances allow, and shall be executed in the presence of such meeting, and attested by two or more credible witnesses.

4. When any new trustees have been appointed Property to vest in new trustees without conveyance. whether in the manner prescribed by any such instrument as aforesaid or in the manner hereinbefore provided, the property subject to the trust shall forthwith, notwithstanding anything contained in any such instrument, become vested, without any transfer, conveyance or other assurance, in such new trustees and the old continuing trustees jointly, or, if there are no old continuing trustees, in such new trustees wholly, upon the same trusts and with and subject to the same powers and provisions as it was vested in the old trustees.

5. Nothing herein contained shall be deemed Saving of existing modes of appointment and conveyance. to invalidate any appointment of new trustees, or any conveyance of any property which may hereafter be made as heretofore was by law required.

THE SCHEDULE.

(See section.)

Memorandum of the choice and appointment of new trustees of the (*describe the church, chapel or other buildings and property*) situate

at a meeting duly convened and held for that purpose (*in the vestry of the said*) on the day of 18 , A. B. of Chairman.

Names and descriptions of all the trustees on the constitution or last appointment of trustees made the day of

(*here insert the same*).

Names and descriptions of all the trustees in whom the said (*chapel*) and property now become legally vested.

First.—Old continuing trustees:—

(*here insert the same*).

Second.—New trustees now chosen and appointed:—
(here insert the same).

Dated this day of 187 .

Signed by the said A. B. as Chairman of the
said Meeting, at and in the presence of the said
Meeting on the day and year aforesaid in the
presence of—

A. B.,

Chairman of the said Meeting.

C. D.

E. F.

STATEMENT OF OBJECTS AND REASONS.

Certain members of the Simla Union Church, so far back as the year 1873, drew the attention of Government to the hardship under which they laboured in being unable, without constantly recurring trouble and expense, to keep up a permanent and effective body of trustees to whom to commit the property of the Church. The Secretary to the Calcutta Missionary Conference about the same time made a similar representation to Government; and there are probably other bodies associated for religious purposes in India who experience like difficulties.

2. The present Bill is drawn on the lines of 13 & 14 Vic., c. 28 (commonly known as Peto's Act), which was passed to meet a similar difficulty felt by Religious Societies in England. It differs from that Act, however, first in applying only to Religious Congregations and not to Societies formed for purposes of education; and secondly, in providing for the case of moveable as well as immoveable property.

3. It simply provides that, if property of certain specified descriptions is conveyed to trustees in trust for any Religious Congregation, and no special provision is made for the appointment of new trustees, new trustees may be appointed in such manner as that Congregation may determine; and further, that on the appointment of new trustees whether in exercise of the powers thus conferred or otherwise, the property shall vest in them without any further conveyance.

4. Hindús, Muhammadans and Buddhists are excepted from the provisions of the Bill, as it is thought undesirable to interfere with the laws regulating their endowments.

(Signed) WHITLEY STOKES.

SIMLA;
The 30th May 1879. }

D. FITZPATRICK,
*Secy. to the Govt. of India,
Legislative Department.*

[Published with the "Bombay Government Gazette" on the 10th July 1879.]

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 26th June, 1879, and was referred to a Select Committee:—

Bill No. 8 of 1879.

A Bill to provide for the grant of Probates of Wills and Letters of Administration to the estates of certain deceased persons.

WHEREAS it is expedient to provide for the grant of probate of wills and letters of administration to the estates of deceased persons in cases to which the Indian Succession Act, 1865, does not apply; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Probate and Administration Act, 1879":

Local extent.

It applies to the whole of British India;

Commencement.

and it shall come into force on the first day of January 1880.

2. The following portions of the Indian Succession Act, 1865, as amended by Act No. XIII of 1875 (to amend the law relating to Probates and Letters of Administration), by Act No. II of 1877 (to amend Act No. XIII of 1875), and by the District Delegates Act, 1879 (that is to say):—

sections 179 to 186 (both inclusive);
sections 188 and 189;
sections 191 to 199 (both inclusive);
part XXX;
part XXXI, except section 239;
parts XXXIII to XL (both inclusive),

shall, notwithstanding anything contained in section 331, or any order passed by the Governor General in Council under section 332 of that Act, apply in the case of every Hindu, Muhammadan, Buddhist and person exempted under section 332 of that Act dying on or after the said first day of January 1880.

3. The portions of the said Act thus applied shall be read as if after section 199 the following were inserted (that is to say):—

Addition to section 199 of said Act.

"199A. When the deceased has died intestate, administration of his estate may be granted to any person who, according to the rules for the distribution of the estate of an intestate applicable in the case of such deceased, would be entitled to the whole or any part of such deceased's estate.

"When several such persons apply for administration, it shall be in the discretion of the Court to grant it to any one or more of them.

"When no such person applies, it may be granted to a creditor of the deceased."

4. In section 256 of the said Act as applied by this Act, after the Amendment of section 256 of said Act. word "committed" the following shall be inserted (namely): "and, if the Judge so direct, any person to whom probate shall be granted."

5. Notwithstanding anything hereinbefore contained, it shall, except by this Act, after the Power to refuse letters of administration. in cases to which the Hindú Wills Act, 1870, applies, be in the discretion of the Court to refuse, for reasons to be recorded by it in writing, to grant any application for letters of administration made under this Act.

Saving clause.

6. Nothing herein contained shall

(a) validate any testamentary disposition which would otherwise have been invalid;

(b) invalidate any such disposition which would otherwise have been valid;

(c) vest in an executor or administrator any property of a deceased person which would otherwise have passed by survivorship to some other person;

(d) deprive any person of any right of maintenance to which he would otherwise have been entitled; or

(e) affect the rights, duties and privileges of the Administrator General of Bengal, Madras, or Bombay.

7. In this Act, and in the said sections and parts of the Indian Succession Act, as applied by this Act, all words defined in section three of that Act shall, unless there be something repugnant in the subject or context, be deemed to have the same meaning as the said section three has attached to such words respectively.

8. No probate of a will or letters of administration to the estate of any Hindu, Muhammadan, Buddhist or person ex-

empted as aforesaid dying on or after the said first day of January 1880, shall be granted by any Court in British India except under this Act.

9. The following amendments shall be made
Amendment of Act in the Hindú Wills Act,
XXI. of 1870. 1870 (namely):—

(a). For the portion of section two commencing with the words "sections one hundred and seventy-nine" and ending with the words "administrator with the will annexed" the words "and section one hundred and eighty-seven" shall be substituted.

(b). In section three, for the words "one hundred and three and one hundred and eighty-two" the words "and one hundred and three" shall be substituted.

(c). The third clause of the same section and the last clause of section six shall be repealed.

Nothing in this section shall apply to the case of any testator or intestate dying before the said first day of January 1880.

10. All grants of probate of the will or letters of administration to the estate of any deceased Hindú, Muhammadan or Buddhist, or any person exempted by the Governor General in Council from the provisions of the Indian Succession Act, which may have been made since the first day of January, 1866, shall, whenever such grant would have been lawful if this Act had been in force, be deemed to have been made in accordance with law.

STATEMENT OF OBJECTS AND REASONS.

As the law of British India at this moment stands, there is, speaking generally, no means of conferring upon any one a complete and conclusive title as representative of the estate of a deceased Hindú, Muhammadan or Buddhist or other person exempt from the operation of the Indian Succession Act.

The Hindú Wills Act is at present limited in its operation to the Presidency-towns and Lower Bengal; and, even if the proposal to extend it to other parts of British India, now under consideration, is carried out, it will still only apply to cases of testamentary succession among Hindús.

The grant of a certificate under Act XXVII of 1860 makes the person who has obtained it a representative only for certain very limited purposes; and, though in the Bombay Presidency a certificate purporting to confer larger powers may be obtained under Regulation VIII of 1827, it is by no means clear what the status of the holder of such a certificate precisely is.

In the Presidency-towns probates of the wills and letters of administration to the estates of deceased Natives can be granted under the Supreme Court Charters in cases to which the Succession Act and the Hindú Wills Act do not apply; but the representative status conferred by such grants falls far short of that conferred by similar grants in the case of deceased European British subjects.

2. From this state of things much trouble and litigation at times result. The heirs may be very numerous; their interests may differ in degree; some of them may be minors or otherwise incapacitated; others may be residing at a distance; the titles of some may be disputed; the settlement of claims against the estate may thus be a matter of endless complication; the making of a satisfactory title to any portion of it which it may be necessary to sell may be impossible.

3. The necessity of devising some means of removing these difficulties was brought to the notice of the Government of India some time ago by Mr. Broughton, then Administrator General of Bengal, and now a Judge of the Calcutta High Court; and a Bill drafted by him was circulated for the opinions of local authorities. That Bill, while guarding against any interference with the succession laws of the classes in question, went in effect to apply to them the provisions of the Indian Succession Act relating to probate and administration, and, amongst others, those provisions which make the grant of probate or letters of administration a condition precedent to the establishment of any right derived by succession from a deceased person.

4. The reports of the local authorities have now been received, and their purport may be briefly described by saying that, while there is a considerable body of opinion in favour of providing the means of obtaining probate of the will or letters of administration to the estate of any deceased person when those interested desire to do so, the proposal to insist on probate or letters of administration as essential has been generally condemned, as tending to impose upon a multitude of poor and ignorant people in cases where there is no difficulty or dispute an unnecessary amount of trouble and expense.

5. The present Bill has been drawn on the lines thus indicated. It applies to the estates of all persons not at present governed by the Indian Succession Act, the portions of that Act relating to the grant of probate and administration and the powers, duties and procedure of executors and administrators, omitting, however, those sections (187 and 190) which make it compulsory to obtain probate or administration, and also those sections (200 to 207) which lay down the order according to which the various persons interested are entitled to administration on an intestacy.

6. These latter sections it would be impossible to apply, as they are in part based on a law of intestate succession differing from that of the classes for which the Bill has been drawn. The only rule it seems possible to lay down for these classes is the broad one that the grant shall follow the interest; that, when several persons inheriting portions of the estate claim administration, the Judge may grant it to any one or more of them as he thinks fit, and that, when no such person applies, he may grant it to a creditor.

7. This is the rule laid down by section 3 of the Bill; and, as it is apprehended that in some cases of family feuds a person entitled to a trifling share of the deceased's estate might apply for administration merely for the purpose of harassing his co-heirs by compelling them to apply, a full

discretion has been reserved (in section 5) to refuse, for reasons recorded, to grant any application.

8. The Indian Succession Act, following the English law, provides for the taking of security for the due discharge of his office only from an administrator, it being considered that, in the case of an executor who is selected by the testator himself, such security can safely be dispensed with. But amongst the classes to which this Act will apply cases will, it is apprehended, occasionally occur in which it may be expedient to take security even from an executor; and accordingly a section (4) has been inserted in the Bill amending section 256 of the Succession Act in such a manner as to give a power to the Court to require an executor to give security.

9. Section 6 of the Bill saves in the fullest manner the substantive laws of succession of the classes to which the Bill applies.

10. Section 8 is intended to put an end to the imperfect grants of probate and administration under the old Supreme Court Charters already referred to.

11. The portions of the Hindú Wills Act specified in section 9 are repealed merely because they are re-enacted with a wider application in the present Bill. Section 10 is intended to remove all doubt as to the validity of certain grants of probate and administration which have been made in British Burma.

(Signed) WHITLEY STOKES.

SIMLA; }
The 16th May 1879. }

D. FITZPATRICK,
*Secretary to the Government of India,
Legislative Department.*

to impound the same, which he is hereby authorized to do; and in that case the same shall be sent by him to the District Judge."

8. In the said Act, sections 254 and 255, respectively, after the words "I, Judge of the District of

," the words "(or Delegate appointed for granting probate or letters of administration in *(here insert the limits of the Delegate's jurisdiction)*"); and in section 308, after the words "District Judge by whom" the words "or by whose District Delegate" shall be inserted.

Introduction of the words "or District Delegate" in certain sections of same Act.

9. In the said Act, sections 246, 250, 255 and 259, after the words "District Judge," and in section 250 and section 254 (when it first occurs) after the word "Judge," the words "or District Delegate" shall be inserted respectively.

STATEMENT OF OBJECTS AND REASONS.

The Indian Succession Act, as originally framed by the Law Commissioners, empowered the District Judge to appoint judicial officers to act for him as delegates to grant probates and letters of administration in non-contentious cases much in the same way as the District Registrars appointed under the Court of Probate Act, 1857, do in England; but the provisions relating to this matter were struck out of the Bill by the Select Committee,

partly because they were deemed unnecessary, and partly because it was apprehended that the power which was to be conferred on District Judges would give rise to abuse.

If, however, the Bill which has been drafted to provide for granting probate of the wills and administration to the estates of persons now exempted from the operation of the Indian Succession Act becomes law, it is probable that the business of granting probate and administration will increase to such an extent that the District Judges will be unable to dispose of it without assistance.

The present Bill has accordingly been framed with a view to replacing in the Succession Act, with some slight modifications in point of form, the sections removed from it by the Select Committee; but in order to avoid as far as possible the danger of abuse apprehended by the Select Committee, the power of appointing the delegates has been vested not in the District Judges, but in the High Courts, and its exercise has in the case of High Courts not established by Royal Charter been made subject to the previous sanction of the Local Government.

(Signed) WHITLEY STOKES.

SMLA ; }
The 28th May 1879. }

D. FITZPATRICK,
Secretary to 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 26th June 1879, and was referred to a Select Committee:—

Bill No. 11 of 1879.

A Bill to provide for the holding of property by certain Religious Congregations.

WHEREAS it is expedient to simplify the manner in which certain congregations associated for the purpose of maintaining religious worship may hold certain property acquired for such purpose; It is hereby enacted as follows:—

Short title. 1. This Act may be called "The Religious Congregations Act, 1879".

Commencement. It shall come into force at once; and

Local extent. shall extend to the whole of British India;

but nothing herein contained shall apply to any Hindus, Muhammadans or Buddhists, or any persons whom the Governor General in Council may, from time to time by notification in the *Gazette of India*, exclude from the operation of this Act.

2. When any congregation associated for the purpose of maintaining religious worship has acquired, or hereafter shall acquire, any moveable property,

or any immoveable property for—

(a) a church, chapel, meeting-house or other place for religious worship,

(b) a dwelling-house for the minister of such congregation, with offices and garden,

(c) a hall or rooms for the meeting and transaction of the business of such congregation,

and such property has been or hereafter shall be vested in trustees in trust for such congregation,

and it becomes necessary to appoint anew trustee in the place of any such trustee or of any trustee appointed in the manner hereinafter prescribed,

and no manner of appointing such new trustee is prescribed by any instrument by which such property was so vested, or by which the trusts on which it is held have been declared, or such new trustee cannot for any reason be appointed in a manner so prescribed,

such new trustee may be appointed in such manner as may be agreed upon by such congregation, or by a majority of not less than two-thirds of the members actually present at the meeting at which the appointment is made.

3. Every appointment of new trustees under section 2 shall be made to appear by some memorandum under the hand of the chairman of the meeting at which such appointment is made.

Such memorandum shall be in the form set forth in the schedule hereto annexed, or as near thereto as circumstances allow, and shall be executed in the presence of such meeting, and attested by two or more credible witnesses.

4. When any new trustees have been appointed whether in the manner prescribed by any such instrument as aforesaid or in the manner hereinbefore provided, the property subject to the trust shall forthwith, notwithstanding anything contained in any such instrument, become vested, without any transfer, conveyance or other assurance, in such new trustees and the old continuing trustees jointly, or, if there are no old continuing trustees, in such new trustees wholly, upon the same trusts and with and subject to the same powers and provisions as it was vested in the old trustees.

5. Nothing herein contained shall be deemed to invalidate any appointment of new trustees, or any conveyance of any property which may hereafter be made as heretofore was by law required.

THE SCHEDULE.

(See section 3.)

Memorandum of the choice and appointment of new trustees of the (describe the church, chapel or other buildings and property) situate

at a meeting duly convened and held for that purpose (in the vestry of the said) on the day of 18 , A. B. of Chairman.

Names and descriptions of all the trustees on the constitution or last appointment of trustees made the day of

(here insert the same).

Names and descriptions of all the trustees in whom the said (chapel) and property now become legally vested.

First.—Old continuing trustees:—

(here insert the same).

Second.—New trustees now chosen and appointed:—
(*here insert the same*).

Dated this day of 187 .

Signed by the said A. B. as Chairman of the
said Meeting, at and in the presence of the said }
Meeting on the day and year aforesaid in the }
presence of—

A. B.,

Chairman of the said Meeting.

C. D.

E. F.

STATEMENT OF OBJECTS AND REASONS.

Certain members of the Simla Union Church, so far back as the year 1873, drew the attention of Government to the hardship under which they laboured in being unable, without constantly recurring trouble and expense, to keep up a permanent and effective body of trustees to whom to commit the property of the Church. The Secretary to the Calcutta Missionary Conference about the same time made a similar representation to Government; and there are probably other bodies associated for religious purposes in India who experience like difficulties.

2. The present Bill is drawn on the lines of 13 & 14 Vic., c. 28 (commonly known as Peto's Act), which was passed to meet a similar difficulty felt by Religious Societies in England. It differs from that Act, however, first in applying only to Religious Congregations and not to Societies formed for purposes of education; and secondly, in providing for the case of moveable as well as immoveable property.

3. It simply provides that, if property of certain specified descriptions is conveyed to trustees in trust for any Religious Congregation, and no special provision is made for the appointment of new trustees, new trustees may be appointed in such manner as that Congregation may determine; and further, that on the appointment of new trustees whether in exercise of the powers thus conferred or otherwise, the property shall vest in them without any further conveyance.

4. Hindús, Muhammadans and Buddhists are excepted from the provisions of the Bill, as it is thought undesirable to interfere with the laws regulating their endowments.

(Signed) WHITLEY STOKES.

SIMLA;
The 30th May 1879. }

D. FITZPATRICK,
Secy. to the Govt. of India,
Legislative Department.

[Published with the "Bombay Government Gazette" on the 17th July 1879.]

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 26th June, 1879, and was referred to a Select Committee:—

Bill No. 8 of 1879.

A Bill to provide for the grant of Probates of Wills and Letters of Administration to the estates of certain deceased persons.

WHEREAS it is expedient to provide for the grant of probate of wills and letters of administration to the estates of deceased persons in cases to which the Indian Succession Act, 1865, does not apply; It is hereby enacted as follows:—

Short title. 1. This Act may be called "The Probate and Administration Act, 1879":

Local extent. It applies to the whole of British India;

Commencement. and it shall come into force on the first day of January 1880.

2. The following portions of the Indian Succession Act, 1865, as amended by Act No. XIII of 1875 (to amend the law relating to Probates and Letters of Administration), by Act No. II of 1877 (to amend Act No. XIII of 1875), and by the District Delegates Act, 1879 (that is to say):—

sections 179 to 186 (both inclusive);
sections 188 and 189;
sections 191 to 199 (both inclusive);
part XXX;
part XXXI, except section 239;
parts XXXIII to XL (both inclusive),

shall, notwithstanding anything contained in section 331, or any order passed by the Governor General in Council under section 332 of that Act, apply in the case of every Hindu, Muhammadan, Buddhist and person exempted under section 332 of that Act dying on or after the said first day of January 1880.

3. The portions of the said Act thus applied shall be read as if after section 199 the following were inserted (that is to say):—

Addition to section 199 of said Act.

"199A. When the deceased has died intestate, administration of his estate may be granted to any person who, according to the rules for the distribution of the estate of an intestate applicable in the case of such deceased, would be entitled to the whole or any part of such deceased's estate.

"When several such persons apply for administration, it shall be in the discretion of the Court to grant it to any one or more of them.

"When no such person applies, it may be granted to a creditor of the deceased."

4. In section 256 of the said Act as applied by this Act, after the word "committed" the following shall be inserted (namely): "and, if the Judge so direct, any person to whom probate shall be granted."

5. Notwithstanding anything hereinbefore contained, it shall, except in cases to which the Hindú Wills Act, 1870, applies, be in the discretion of the Court to refuse, for reasons to be recorded by it in writing, to grant any application for letters of administration made under this Act.

Saving clause. 6. Nothing herein contained shall

(a) validate any testamentary disposition which would otherwise have been invalid;

(b) invalidate any such disposition which would otherwise have been valid;

(c) vest in an executor or administrator any property of a deceased person which would otherwise have passed by survivorship to some other person;

(d) deprive any person of any right of maintenance to which he would otherwise have been entitled; or

(e) affect the rights, duties and privileges of the Administrator General of Bengal, Madras, or Bombay.

7. In this Act, and in the said sections and parts of the Indian Succession Act, as applied by this Act, all words defined in section three of that Act shall, unless there be something repugnant in the subject or context, be deemed to have the same meaning as the said section three has attached to such words respectively.

8. No probate of a will or letters of administration to the estate of any Hindú, Muhammadan, Buddhist or person ex-

Probate and administration to be granted only under this Act.

empted as aforesaid dying on or after the said first day of January 1880, shall be granted by any Court in British India except under this Act.

9. The following amendments shall be made
Amendment of Act in the Hindú Wills Act,
XXI. of 1870. 1870 (namely) :—

(a). For the portion of section two commencing with the words "sections one hundred and seventy-nine" and ending with the words "administrator with the will annexed" the words "and section one hundred and eighty-seven" shall be substituted.

(b). In section three, for the words "one hundred and three and one hundred and eighty-two" the words "and one hundred and three" shall be substituted.

(c). The third clause of the same section and the last clause of section six shall be repealed.

Nothing in this section shall apply to the case of any testator or intestate dying before the said first day of January 1880.

10. All grants of probate of the will or letters of administration to the estate of any deceased Hindú, Muhammadan or Buddhist, or any person exempted by the Governor General in Council from the provisions of the Indian Succession Act, which may have been made since the first day of January, 1866, shall, whenever such grant would have been lawful if this Act had been in force, be deemed to have been made in accordance with law.

STATEMENT OF OBJECTS AND REASONS.

As the law of British India at this moment stands, there is, speaking generally, no means of conferring upon any one a complete and conclusive title as representative of the estate of a deceased Hindú, Muhammadan or Buddhist or other person exempt from the operation of the Indian Succession Act.

The Hindú Wills Act is at present limited in its operation to the Presidency-towns and Lower Bengal; and, even if the proposal to extend it to other parts of British India, now under consideration, is carried out, it will still only apply to cases of testamentary succession among Hindús.

The grant of a certificate under Act XXVII of 1860 makes the person who has obtained it a representative only for certain very limited purposes; and, though in the Bombay Presidency a certificate purporting to confer larger powers may be obtained under Regulation VIII of 1827, it is by no means clear what the status of the holder of such a certificate precisely is.

In the Presidency-towns probates of the wills and letters of administration to the estates of deceased Natives can be granted under the Supreme Court Charters in cases to which the Succession Act and the Hindú Wills Act do not apply; but the representative status conferred by such grants falls far short of that conferred by similar grants in the case of deceased European British subjects.

2. From this state of things much trouble and litigation at times result. The heirs may be very numerous; their interests may differ in degree; some of them may be minors or otherwise incapacitated; others may be residing at a distance; the titles of some may be disputed; the settlement of claims against the estate may thus be a matter of endless complication; the making of a satisfactory title to any portion of it which it may be necessary to sell may be impossible.

3. The necessity of devising some means of removing these difficulties was brought to the notice of the Government of India some time ago by Mr. Broughton, then Administrator General of Bengal, and now a Judge of the Calcutta High Court; and a Bill drafted by him was circulated for the opinions of local authorities. That Bill, while guarding against any interference with the succession laws of the classes in question, went in effect to apply to them the provisions of the Indian Succession Act relating to probate and administration, and, amongst others, those provisions which make the grant of probate or letters of administration a condition precedent to the establishment of any right derived by succession from a deceased person.

4. The reports of the local authorities have now been received, and their purport may be briefly described by saying that, while there is a considerable body of opinion in favour of providing the means of obtaining probate of the will or letters of administration to the estate of any deceased person when those interested desire to do so, the proposal to insist on probate or letters of administration as essential has been generally condemned, as tending to impose upon a multitude of poor and ignorant people in cases where there is no difficulty or dispute an unnecessary amount of trouble and expense.

5. The present Bill has been drawn on the lines thus indicated. It applies to the estates of all persons not at present governed by the Indian Succession Act, the portions of that Act relating to the grant of probate and administration and the powers, duties and procedure of executors and administrators, omitting, however, those sections (187 and 190) which make it compulsory to obtain probate or administration, and also those sections (200 to 207) which lay down the order according to which the various persons interested are entitled to administration on an intestacy.

6. These latter sections it would be impossible to apply, as they are in part based on a law of intestate succession differing from that of the classes for which the Bill has been drawn. The only rule it seems possible to lay down for these classes is the broad one that the grant shall follow the interest; that, when several persons inheriting portions of the estate claim administration, the Judge may grant it to any one or more of them as he thinks fit, and that, when no such person applies, he may grant it to a creditor.

7. This is the rule laid down by section 3 of the Bill; and, as it is apprehended that in some cases of family feuds a person entitled to a trifling share of the deceased's estate might apply for administration merely for the purpose of harassing his co-heirs by compelling them to apply, a full

discretion has been reserved (in section 5) to refuse, for reasons recorded, to grant any application.

8. The Indian Succession Act, following the English law, provides for the taking of security for the due discharge of his office only from an administrator, it being considered that, in the case of an executor who is selected by the testator himself, such security can safely be dispensed with. But amongst the classes to which this Act will apply cases will, it is apprehended, occasionally occur in which it may be expedient to take security even from an executor; and accordingly a section (4) has been inserted in the Bill amending section 256 of the Succession Act in such a manner as to give a power to the Court to require an executor to give security.

9. Section 6 of the Bill saves in the fullest manner the substantive laws of succession of the classes to which the Bill applies.

10. Section 8 is intended to put an end to the imperfect grants of probate and administration under the old Supreme Court Charters already referred to.

11. The portions of the Hindú Wills Act specified in section 9 are repealed merely because they are re-enacted with a wider application in the present Bill. Section 10 is intended to remove all doubt as to the validity of certain grants of probate and administration which have been made in British Burma.

(Signed) WHITLEY STOKES.

SIMLA ;
The 16th May 1879. }

D. FITZPATRICK,

*Secretary to 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 26th June 1879, and was referred to a Select Committee:—

Bill No. 9 of 1879.

A Bill to make further provision for the grant of Probate and Letters of Administration in non-contentious cases.

WHEREAS it is expedient to make further provision for the grant of probate and letters of administration in non-contentious cases; It is hereby enacted as follows:—

1. This Act may be called "The District Delegates Act, 1879":

Short title.

Extent.

It extends to the whole
of British India :

and it shall come into force on the first day of
Commencement. January, 1880.

Addition of section
after section 235 of
Succession Act.

2. After section 235 of the Indian Succession Act, 1865, the following section shall be added:—

"235 A. The High Court may, from time to time, appoint such judicial officers within any district as it thinks fit, to act for the District Judge

as Delegates to grant probate and letters of administration in non-contentious cases, within such local limits as it may from time to time prescribe :

Provided that, in the case of High Courts not established by Royal Charter, such appointment be made with the previous sanction of the Local Government.

Persons so appointed shall be called District Delegates."

3. After Section 241 of the said Act, the following section shall be added :—

“ 241 A. Probate and Letters of Administration may, upon application for that purpose to any District Delegate, be granted by Delegate.

any case in which there is no contention, if it appears by petition (verified as hereinafter mentioned) that the testator or intestate, as the case may be, at the time of his death resided within the jurisdiction of such Delegate."

4. To sections 244 and 246 of the said Act, respectively, the following words shall be added: "and when the application is to a District Delegate, the petition shall further state that the deceased at the time of his death resided within the jurisdiction of such Delegate."

Substitution of section
for section 251 of same
Act.

"251. Caveats against the grant of probate or administration may be lodged with the District Judge or a District Delegate; and immediately on any caveat being lodged with any District Delegate, he shall send a copy thereof to the District Judge; and immediately on a caveat being entered with the District Judge, a copy thereof shall be given to the District Delegate, if any, within whose jurisdiction it is alleged the deceased resided at the time of his death, and to any other Judge or District Delegate to whom it may appear to the District Judge expedient to transmit the same."

6. In section 253 of the said Act, after the word "Judge" the words "or officer," and after the word "made" the words "or notice thereof has been given of its entry with some other Delegate," shall be inserted.

Addition of sections after section 253 of same Act.

7. After section 253 of the said Act, the following sections shall be added:—

7. After section 253 of the said Act, the following sections shall be added:—

" 253 A. A District Delegate shall not grant probate or letters of administration in any case in which there is contention between parties as to who is entitled to administer the estate of the deceased." District Delegate when not to grant probate or administration.

“Explanation.—By ‘contention’ is understood the appearance of any one in person or by his recognized agent, or by pleader duly appointed to act on his behalf to oppose the proceeding.

“ 253 B. In every case in which there is no Power to transmit statement to District Judge in doubtful cases where no contention. contention, but it appears to the District Delegate doubtful whether the probate or letters of administration should or should not be granted, or when any question arises in relation to the grant, or application for the grant, of any probate or letters of administration, the District Delegate may, if he thinks proper, transmit a statement of the matter in question to the District Judge, who may direct the District Delegate to proceed in the matter of the application, according to such instructions as to the Judge may seem necessary, or may forbid any further proceeding by the District Delegate in relation to the matter of such application, leaving the party applying for the grant in question to make application to the Judge.

"253 C. In every case in which there is contention, or the District Delegate is of opinion that the probate or letters of administration should be refused in his Court, the petition, with any documents that may have been filed therewith, shall be returned to the person by whom the application was made, in order that the same may be presented to the District Judge; unless the District Delegate thinks it necessary, for the purposes of justice,

to impound the same, which he is hereby authorized to do; and in that case the same shall be sent by him to the District Judge."

8. In the said Act, sections 254 and 255, respectively, after the words "I, Judge of the District of

Amendment of sections 254, 255 and 308 of same Act. , " the words "(or Delegate appointed for granting probate or letters of administration in *(here insert the limits of the Delegate's jurisdiction)*"); and in section 308, after the words "District Judge by whom" the words "or by whose District Delegate" shall be inserted.

9. In the said Act, sections 246, 250, 255 and 259, after the words "District Judge," and in section 250 and section 254 (when it first occurs) after the word "Judge," the words "or District Delegate" shall be inserted respectively.

STATEMENT OF OBJECTS AND REASONS.

The Indian Succession Act, as originally framed by the Law Commissioners, empowered the District Judge to appoint judicial officers to act for him as delegates to grant probates and letters of administration in non-contentious cases much in the same way as the District Registrars appointed under the Court of Probate Act, 1857, do in England; but the provisions relating to this matter were struck out of the Bill by the Select Committee,

partly because they were deemed unnecessary, and partly because it was apprehended that the power which was to be conferred on District Judges would give rise to abuse.

If, however, the Bill which has been drafted to provide for granting probate of the wills and administration to the estates of persons now exempted from the operation of the Indian Succession Act becomes law, it is probable that the business of granting probate and administration will increase to such an extent that the District Judges will be unable to dispose of it without assistance.

The present Bill has accordingly been framed with a view to replacing in the Succession Act, with some slight modifications in point of form, the sections removed from it by the Select Committee; but in order to avoid as far as possible the danger of abuse apprehended by the Select Committee, the power of appointing the delegates has been vested not in the District Judges, but in the High Courts, and its exercise has in the case of High Courts not established by Royal Charter been made subject to the previous sanction of the Local Government.

(Signed) WHITLEY STOKES.

SIMLA; }
The 28th May 1879. }

D. FITZPATRICK,
Secretary to 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 26th June 1879, and was referred to a Select Committee:—

Bill No. 11 of 1879.

A Bill to provide for the holding of property by certain Religious Congregations.

WHEREAS it is expedient to simplify the manner in which certain congregations associated for the purpose of maintaining religious worship may hold certain property acquired for such purpose; It is hereby enacted as follows:—

Short title. 1. This Act may be called "The Religious Congregations Act, 1879":

Commencement. It shall come into force at once; and

Local extent. shall extend to the whole of British India;

but nothing herein contained shall apply to any Hindus, Muhammadans or Buddhists, or any persons whom the Governor General in Council may, from time to time by notification in the *Gazette of India*, exclude from the operation of this Act.

2. When any congregation associated for the purpose of maintaining religious worship has acquired, or hereafter shall acquire, any moveable property,

or any immovable property for—

(a) a church, chapel, meeting-house or other place for religious worship,

(b) a dwelling-house for the minister of such congregation, with offices and garden,

(c) a hall or rooms for the meeting and transaction of the business of such congregation,

and such property has been or hereafter shall be vested in trustees in trust for such congregation,

and it becomes necessary to appoint a new trustee in the place of any such trustee or of any trustee appointed in the manner hereinafter prescribed,

and no manner of appointing such new trustee is prescribed by any instrument by which such property was so vested, or by which the trusts on which it is held have been declared, or such new trustee cannot for any reason be appointed in a manner so prescribed,

such new trustee may be appointed in such manner as may be agreed upon by such congregation, or by a majority of not less than two-thirds of the members actually present at the meeting at which the appointment is made.

3. Every appointment of new trustees under Appointment under section 2 to be recorded in a memorandum under the hand of the chairman of the meeting. section two shall be made to appear by some memorandum under the hand of the chairman for the time being of the meeting at which such appointment is made.

Such memorandum shall be in the form set forth in the schedule hereto annexed, or as near thereto as circumstances allow, and shall be executed in the presence of such meeting, and attested by two or more credible witnesses.

4. When any new trustees have been appointed Property to vest in new trustees without conveyance. whether in the manner prescribed by any such instrument as aforesaid or in the manner hereinbefore provided, the property subject to the trust shall forthwith, notwithstanding anything contained in any such instrument, become vested, without any transfer, conveyance or other assurance, in such new trustees and the old continuing trustees jointly, or, if there are no old continuing trustees, in such new trustees wholly, upon the same trusts and with and subject to the same powers and provisions as it was vested in the old trustees.

5. Nothing herein contained shall be deemed Saving of existing modes of appointment and conveyance. to invalidate any appointment of new trustees, or any conveyance of any property which may hereafter be made as heretofore was by law required.

THE SCHEDULE.

(See section 3.)

Memorandum of the choice and appointment of new trustees of the (*describe the church, chapel or other buildings and property*) situate at a meeting duly convened and held for that purpose (*in the vestry of the said*) on the day of 18 , A. B. of Chairman.

Names and descriptions of all the trustees on the constitution or last appointment of trustees made the day of

(*here insert the same*).

Names and descriptions of all the trustees in whom the said (*chapel*) and property now become legally vested.

First.—Old continuing trustees:—

(*here insert the same*).

Second.—New trustees now chosen and appointed :—
(here insert the same).

Dated this day of 187 .

Signed by the said A. B. as Chairman of the
said Meeting, at and in the presence of the said
Meeting on the day and year aforesaid in the
presence of—

A. B.,

Chairman of the said Meeting.

C. D.

E. F.

STATEMENT OF OBJECTS AND REASONS.

Certain members of the Simla Union Church, so far back as the year 1873, drew the attention of Government to the hardship under which they laboured in being unable, without constantly recurring trouble and expense, to keep up a permanent and effective body of trustees to whom to commit the property of the Church. The Secretary to the Calcutta Missionary Conference about the same time made a similar representation to Government; and there are probably other bodies associated for religious purposes in India who experience like difficulties.

2. The present Bill is drawn on the lines of 13 & 14 Vic., c. 28 (commonly known as Peto's Act), which was passed to meet a similar difficulty felt by Religious Societies in England. It differs from that Act, however, first in applying only to Religious Congregations and not to Societies formed for purposes of education; and secondly, in providing for the case of moveable as well as immoveable property.

3. It simply provides that, if property of certain specified descriptions is conveyed to trustees in trust for any Religious Congregation, and no special provision is made for the appointment of new trustees, new trustees may be appointed in such manner as that Congregation may determine; and further, that on the appointment of new trustees whether in exercise of the powers thus conferred or otherwise, the property shall vest in them without any further conveyance.

4. Hindús, Muhammadans and Buddhists are excepted from the provisions of the Bill, as it is thought undesirable to interfere with the laws regulating their endowments.

(Signed) WHITLEY STOKES.

SIMLA; }
The 30th May 1879. }

D. FITZPATRICK,
Secy. to the Govt. of India,
Legislative Department.